

VICTORIA

**Investigation  
of police action at the  
World Economic Forum  
demonstrations  
September 2000**

**Report  
of  
The Ombudsman**

**June 2001**

June 2001

The Hon B A Chamberlain MLC  
President  
Legislative Council  
Parliament House  
**MELBOURNE**

The Hon A Andrianopoulos  
Speaker  
Legislative Assembly  
Parliament House  
**MELBOURNE**

Dear Mr President and Mr Speaker,

A meeting of the World Economic Forum was held in Melbourne between 11 and 13 September 2000 at the Crown Towers Hotel. The event attracted several hundred delegates from around the world.

The meeting of the World Economic Forum was the focus of protest action by many groups and individuals. The protests were loosely organised around a group which called itself the S11 Alliance.

There were numerous clashes between demonstrators and police over the three days. I subsequently received over 100 written complaints alleging, among other things, that police used excessive force against demonstrators.

In accordance with Section 86I of the Police Regulation Act 1958 I now present a report of my investigation of these complaints.

Yours sincerely

**B W Perry**  
**OMBUDSMAN**

# **1. INTRODUCTION**

The report in *The Age* of the clash on September 11 between demonstrators and police referred to the allegedly indiscriminate use of batons by police and the throwing of missiles by demonstrators. Demonstrators claimed to have been assaulted by police and that a police car had been driven directly at them. One demonstrator was quoted as claiming to have been kned to the stomach and another claimed to have had his glasses broken when he was hit about the head a number of times.

In the following days the clashes became more violent and heated. In an incident which *The Age* described as a “battle”, police were reported to have charged at 200 demonstrators, knocking many to the ground with batons. One demonstrator had her wrist broken, others received “severe blows” causing injury. It was claimed that many police were not wearing identification badges.

*The Age* later published a letter from a witness who described the demonstration before the outbreak of violence as being “relaxed and amiable proceedings”. The writer went on:

*“Without further warning, more police congregated and immediately attacked with batons, beating [demonstrators] and making arrests. ... Violence appeared to be much in excess of that necessary to make arrests. ...resistance and assaults that followed were entirely a response to unwarranted and sickening use of force by police”.*

Another witness wrote to *The Age* describing the use of force by police as “thoroughly unjustified” and expressed his “complete disgust at the behavior of police”. He went on to argue that the “unjustifiably violent” police action had,

*“struck a blow against two basic principles of democracy, namely the right to express dissent and the proper exercise of law and order. The cheapening of*

*authority by its radical misuse brings not only the police but also the law itself into disrespect.”*

Some days later, a very graphic picture of the second clash appeared on the front page of *The Age*. It showed police swinging batons in an overhead motion at demonstrators who were clearly in retreat, or who had fallen to the ground. An editorial called for an enquiry into the incident.

\* \* \* \* \*

Many readers may have assumed that the above refers to demonstrations at Crown Casino, Melbourne, on 11 – 13 September 2000 during a meeting of the World Economic Forum (“WEF”). In fact, it is an account of reports and letters which appeared in *The Age* describing student demonstrations against Australia’s involvement in the Vietnam war which occurred on 11 and 16 September 1970, precisely 30 years to the day before the WEF demonstrations which are the subject matter of this investigation. It hardly needs to be said that the similarities are striking. There are allegations of sudden and violent baton charges by police against passive demonstrators, counter-allegations by police of the discharge of missiles, allegations that police failed to wear identity tags, a police car allegedly driven into demonstrators, and emotional claims in the following days that these clashes signalled the end of free speech and democracy as we have known it. The latter clash described above, the more violent of the two, has passed into folklore as the ‘Waterdale Road Riot’.

I raise this at the outset to make one simple but very important point which has become increasingly obvious to me in the course of this enquiry into complaints about the manner in which police dealt with protesters at the W.E.F. demonstration: “globalisation” and all that goes with it undoubtedly presents new problems and challenges, but there is nothing at all new about clashes between protesters and police.

## **2. THIS INVESTIGATION.**

### **2.1 THE EVENT.**

I do not think I need to describe in detail the event which was the focus of the demonstrations which have led to this report. The World Economic Forum, which is a private organisation based in Switzerland, conducted a forum in Melbourne on 11-13 September 2000. The event attracted several hundred delegates from around the world consisting mainly of business leaders and government representatives. The meeting became the focus of protest action by many groups. The protests were loosely organised around an alliance which called itself S11 (September 11).

There was a considerable build up to the event with a great deal of media speculation about the possibility of violent clashes between demonstrators and police and there were frequent references to the violent anti-globalisation demonstrations in Seattle and Washington.

The WEF and the protests took place over three days. The Crown hotel / casino complex in which the WEF was held was surrounded with concrete barriers topped with steel mesh. These barriers normally serve as protection from flying debris during the Melbourne Formula One Grand Prix. There were openings left at a number of strategic points around the barricades to allow passage in and out of the casino area. These openings, which I shall call gates, were closed off with plastic barriers which were about one metre high and which could be filled with water to weight them down.

Approximately 2400 police were rostered to be on duty in two shifts around the clock for the duration of the WEF meeting (about 1800 on day shift and 600 on nights). It was the biggest police operation seen in the state of Victoria for many years. Estimates of the numbers of demonstrators attending the protest vary, but it is clear that the demonstrations were well attended by citizens from all walks of life.

## **2.2      FUNCTIONS/TASK OF THE OMBUDSMAN IN THIS INVESTIGATION.**

I wish to make an explanation at the outset regarding the scope and purpose of this report. This document does not purport to be a report of an investigation of everything that happened minute-by-minute over the three days of protests during the World Economic Forum (WEF) at Crown Casino on 11 – 13 September 2000, nor a report of every clash or contact between police and the public with judgments regarding the propriety of each police action.

The statutory task of the Ombudsman is to investigate complaints of police misconduct. I received numerous complaints about police action at the WEF but, as I will explain below, relatively few of them have raised specific allegations of misconduct by identifiable police members. Those which have, will be investigated, and a response will be made directly to the complainant addressing the specific issues, as is the case with all complaints to the Ombudsman which are of a type capable of investigation.

Overwhelmingly, the general thrust of complaints received in the wake of the WEF is an expression of concern or outrage at police actions and tactics, with the majority of complainants referring over and over to the same broad issues and the same specific incidents and examples of alleged police misconduct. A number of complainants who were on the receiving end of police action expressed the view that they were not so concerned to ensure accountability of the individual police members who engaged in the allegedly improper action as they were to ensure accountability of the decision makers upon whose orders they were, presumably, acting. These complainants were, for reasons I will discuss elsewhere, more concerned that I should look at the ‘big picture’ of police tactics and decision-making rather than attempt to investigate the circumstances of their own particular situation. Many other complainants were not directly affected, being bystanders or having merely seen television coverage of the event, but nevertheless complained of police conduct and urged this Office to take investigative action.

Section 86I of the Police Regulation Act 1988 provides, in effect, that the Ombudsman may at any time cause a report on any matter arising in connection with complaints against police to be laid before each House of the Parliament. Given that the broad issue of police action during the WEF demonstrations remains a matter of very real public concern requiring a timely response by the Ombudsman, and given the focus of a substantial proportion of complaints on the wider issues, this report to the Parliament adopts the ‘big picture’ approach.

### **2.3      *SUBJECTIVE PERSPECTIVES ON POLICE ACTION AT THE W.E.F.***

This investigation touches on issues which are extremely subjective. The rights and wrongs of the existence and purpose of the WEF, the desire by some to host the meeting of WEF in Melbourne, opposition in general terms to corporatisation and globalisation, and the very act of publicly demonstrating and protesting are all ideas and actions loaded with individual motivation, belief and commitment.

There has been an enormous amount said and written about every aspect of the meeting of the WEF in Melbourne, and commentary about how police dealt with protesters is no exception. Snippets of news footage of violent confrontations between police and demonstrators has been broadcast over and over again. I would think there are very few people have not seen the image of two riot-helmeted police leaning over the high steel-mesh barricade apparently swinging batons at demonstrators. Indeed, it is clear that many complainants to the Ombudsman, including many of those who attended as demonstrators, have based their complaints on images they have seen on television and elsewhere. I have no argument with this as being a reasonable basis for a complaint. Some of the footage is very graphic and clearly shows conduct by police which is worthy of investigation. But the same images have given rise to vastly different interpretations and complaints. For example, I have received complaints that police failed community expectations because they were too lenient with demonstrators, one

complainant even expressing the view that demonstrators should have been hosed down the drains like all the other sewage. Some took up the notion, first mooted in the *Herald Sun*, that an Ombudsman's enquiry would be a waste of public money. On the other hand, it was urged by some complainants that police were unthinking thugs who, once again, had joyfully seized the opportunity to be a tool of oppression against the unquestionably and uniformly lawful and non-violent exercise by demonstrators of their democratic rights.

In this context, it is interesting to note in passing an observation made by the Press Council in its decision dismissing a complaint against the *Herald Sun* over its coverage of the WEF protests (*Herald Sun* 06/03/01). The Press Council concluded that, although there was clearly a good deal of violence in the protests against the WEF meeting, it was not clear who began the violence and who did what to whom. The decision went on:

*"The protesters see things one way, and the Herald Sun in another. ... Demonstrations, peacefully intended or not, often lead to disruption and violence. The passion they engender reflect the social cultural and political attitudes of the beholder. One man's law and order is another man's police brutality; one man's justifiable, peaceful demonstration is another's violent rabble running wild."*

One thing is very clear to me from my analysis of the complaints I received: in this case, more than most, the view taken by many complainants and commentators is not based on knowledge or evidence, but on the interpretation of media images as seen through the prism of their own political views, prejudices, or emotions.

I can only say that I hope my efforts in this case are, in the eyes of objective observers, distinguished from the cacophony of subjective opinion by three characteristics: the absence of an underlying political viewpoint; a thorough and impartial investigation, and a transparent and impartial analysis of all available evidence to support reasoned conclusions.



### **3. THE COMPLAINTS.**

#### **3.1 EARLY TELEPHONE CONTACTS.**

By Friday 15 September 2000 my office had been virtually swamped with telephone calls from members of the public concerning possible complaints against police. As always when first contact is made with this office, complainants were invited to attend my office to make a formal complaint or to make their complaints in writing including details of the conduct in question, details of the time and place of the incident and, if possible, the identity of the police member/s concerned. Many callers wished only to register a general complaint or expression of concern at what they had seen and experienced, and indicated they would not be pursuing a formal complaint. Many said they had already made a statement and provided other details to the S11 Legal Support Group and they intended to pursue their grievance through legal process.

#### **3.2 WRITTEN COMPLAINTS.**

In the following days and weeks this office received formal written complaints from over 100 complainants. As one would expect with such a large number of complaints arising out of an event which took place over three days, there was a range of complaints. Many specific incidents were described in detail by complainants and a number of specific allegations of police misconduct were made.

In cases where the complainant was able to identify, or to provide some evidence which might lead to the identification of the police member concerned, or where the circumstances were such that I might through investigation be able to identify the member/s, I will, as with any other complaint to this office which is in a form susceptible to investigation, take action and report directly to the complainant. Complainants to whom this situation applies have been so advised.

However, although most complainants making specific allegations were able to provide detailed descriptions of the time, place and general circumstances of the alleged misconduct, very few were able to identify the police member/s against whom the allegation was made. For example, a large number of complainants were involved in the clearance by police of the intersection of Queensbridge and Power Streets on the morning and evening of Tuesday 12 September 2000. A number of complainants emerged from those events with injuries which were clearly attributable to baton blows or other use of force by police but could not, for various reasons, identify individual police members who had allegedly used excessive force against them. These incidents, and several others which also generated complaints, involved large numbers of identically dressed police, many of whom displayed no identification, in fast moving and chaotic clashes. It is very clear that in such cases there is, at a time well after the event, even with the benefit of video evidence, almost no reasonable prospect of identifying the individual police members against whom the complaint lies. This is a difficulty which has nothing to do with any lack of power or capacity or will on the part of the Ombudsman. It is simply a reflection of the circumstances which gave rise to the complaints. I advised complainants to whom this situation applied as follows.

*“Your letter contains a description of events you have witnessed and/or experienced, but does not contain information which would enable identification of any individual police members. However, I have noted the contents of your letter and your description of events will be considered along with the video evidence I have secured to form a picture of the various incidents in relation to which complaints have been received.*

*I assure you that this Office will be conducting an independent, detailed and impartial investigation which will examine all factors, issues and circumstances relevant to a balanced determination concerning the propriety or otherwise of police actions. In particular, this Office will investigate complaints that police did not wear identity badges or tags,*

*and complaints concerning a number of confrontations over the three days in which the use of excessive force by police is alleged.”*

I wish to make it very clear that these complaints were not simply thereafter “written off”. In examining the enormous amount of video and photographic evidence I have secured, my investigators have attempted to identify any incident of misconduct which has the potential to be taken further, and have cross checked such incidents with complaints to establish whether any evidence exists to further any of the complaints to which I have referred above.

Notwithstanding the disparate nature of many of the particular complaints put to me, and the evidentiary difficulties with investigating many of them, there also were striking patterns of similarity. Almost without exception, complainants expressed concern in a general sense at the tactics adopted by police, referring in particular to various examples of allegedly excessive use of force and the failure of police to display identification. As I noted in the introduction to this report, quite a few complainants expressed the view that they were not so concerned to ensure accountability of the individual police members who engaged in the allegedly improper action as they were to ensure accountability of the decision-makers upon whose orders they were, presumably, acting. It was clear to me that these complainants were more concerned that I should look at the ‘big picture’ of police tactics and decision-making rather than attempt to investigate the circumstances of the complainant’s particular situation. There are, I think, several reasons for this approach by many complainants.

First, it is a recurring complaint that a significant proportion of police were not displaying identity tags. The accuracy of this claim is evident to anyone who cares to examine the video evidence. Many complainants understood and acknowledged the evidentiary consequences of this in relation to the investigation of their individual circumstance and concentrated their complaints on the wider issues. Second, I have no doubt that, in some cases, the shock of witnessing certain incidents transcended the complainant’s own individual grievances. Finally, it seems that many complainants had provided a statement and details to the S11

Legal Support Group, who were on-site for the three days of the demonstrations, and preferred to pursue their individual case by that means, making a complaint on the broader issues to the Ombudsman.

Even though complaints from individuals provided very little in the way of evidence which would lead to the identity of police who allegedly committed acts of misconduct, they were a rich source of descriptive evidence which complemented video evidence of the various incidents occurring over the three days.

### **3.3 SUBMISSIONS FROM INTERESTED GROUPS.**

In addition to written complaints from individuals, I have received submissions from interested groups expressing concern at various aspects of police action over the three days of the protests.

#### **3.3.1 REPRESENTATIVES OF S11.**

The first took the form of a meeting on 15 September 2000 between my investigators and a small group of people representing the “S11 alliance”. In the course of this meeting it was made very clear to my investigators that the main complaint was the use of excessive force by police, with particular reference being made to the Tuesday morning and Tuesday evening clearances of the Queensbridge/Power Street intersection. A number of additional but related issues were also identified.

- **Poor liaison.** Although there had been communication between police and representatives of the S11 alliance in the weeks leading up to the event, it was put to my investigators that police were not truly engaged and were only interested in discussing logistical issues, such as the access of Crown workers, rather than any discussion of likely police tactics. It was also put to my investigators

that this remained the pattern of protestor/police liaison over the three days of the protest. It was put to my investigators that the police officers whose task it was to deal with protest leaders were not in a position to make decisions, were not interested in providing any information to the protestors and did not give any indication or warning of the likely escalation of police tactics. It was said that the attitude of police was one of, “no blockade, nobody gets hurt”.

- **Lack of warning by police** prior to the allegedly sudden escalation of the use of force by police. My investigators were told that the Tuesday morning and evening actions in Queensbridge Street were entirely without warning. It was claimed that, had police indicated their intention to raise the stakes, there were many who, because of their age or because they were committed only to a symbolic protest, might have chosen to leave the blockade line but were denied this opportunity.
- **Identification badges.** It was put that the issue of the failure of police to display any identification was brought to the attention of the police liaison officers as early as the Monday, and that the S11 representatives were told it was a “grey area”.

The meeting between the S11 representatives and my investigators concluded with the agreement that the S11 representatives would provide a written submission with further details of their complaints, including details and notes of the meetings with police which they claimed to have been ineffective. Although no further information has been received to date from this group, the single meeting my investigators had with these people gave my investigators a clear understanding of their general point of view and grievances. However, the fact that I have not received further details, particularly in regard to the issue of the allegedly

unsatisfactory meetings and discussions with police, has left my investigators with little more than general propositions to put to police who have been questioned on this issue, and nothing to compare with the documentary and other evidence I have received from police on this issue.

### **3.3.2      *THE S11 LEGAL SUPPORT GROUP.***

The second submission from what might be termed ‘an interested group’ was from the S11 Legal Support Group.

I first heard from this group via a letter faxed to my office at 3.21 p.m. on Tuesday 12 September 2000. The letter set out a number of “*instances of police mistreatment of protesters and inappropriate action against protesters*”, including overhead baton strikes, punching, kicking, charging into seated protesters, and failure to wear identification badges in breach of the requirements of the Victoria Police Operating Procedures and of assurances made by Deputy Commissioner O’Loughlin in *The Age* of 12 September 2000 that this should not and would not occur. The letter went on to advise that, in due course, the S11 Legal Support Group would be lodging numerous complaints on behalf protesters.

My investigators subsequently met with representatives of the S11 Legal Support Group on 18 October 2000 to discuss the issues the Legal Support Group had raised in their faxed letter. It was explained to my investigators that the Legal Support Group had gathered a large amount of material including statements from injured protesters and other witnesses to alleged acts of misconduct by police. It was explained to my investigators that the Legal Support Group consisted of volunteers who were attempting to collate the materials, but this would take some time. It was also explained that the Legal Support Group would require the authority of the makers of the statements before any material could be passed to the Ombudsman. My investigators were anxious to get as much information as possible at the earliest possible time and it was agreed that the Legal Support Group would prepare a submission outlining the major issues emerging from the information which had

been provided to them and identifying incidents in which the available evidence suggested there may have been police misconduct.

It was not until 22 December 2000 that I received the further submission of the Legal Support Group. It was a concise, thoughtfully prepared and very constructive document which outlined 10 general issues and 14 specific incidents (7 on Monday, 4 on Tuesday, 3 on Wednesday) of concern to the S11 Legal Support Group. Rather than recite them here I have set them out at **Appendix 2**.

### **3.3.3      *PT'CHANG NON-VIOLENT COMMUNITY SAFETY GROUP.***

A third submission received from an 'interested group' came from the "Pt'chang Non-Violent Community Safety Group Inc.". The Pt'chang group organised a team of observers to "observe, record and monitor arrests and the actions of the Victorian Police and private security personnel at the WEF protests" in the apparent belief that this would "positively contribute to the safety of all people present at the event." The Pt'chang submission was a detailed document which covered much of the same ground as that covered by the S11 Legal Support Team and identified many of the same incidents and issues. Although it may be repetitive, I will, in the interests of completeness, make brief mention of all issues and incidents to which the Pt'chang submission referred.

The main thrust of the submission was that the decision by senior police to use force was unjustified and unprovoked, and was poorly and dangerously executed. It was put to me that the decision to use the Force Response Unit dressed in riot gear and mounted police to achieve the simple objective of clearing an access point stands out as particularly unjustified when the arrest of people engaged in unlawful obstruction could have been implemented without injury. Pt'chang also expressed the view that the use of batons in surprise charges and the use of containment lines of mounted police was "potentially lethal", resulting in a high level of serious injuries and creating a highly emotional, dangerous and provocative climate during and after each such manoeuvre.

The Pt'chang submission referred to many incidents which I will follow up where possible, but raised particular concerns about 8 incidents and 5 issues. As with the S11 legal support Group, rather than recite them here I have set them out at **Appendix 3.**

### **3.4 INCIDENTS AND ISSUES DISTILLED FROM COMPLAINTS.**

From all complaints received by my Office I have distilled the following list of incidents and issues which I believe will cover matters raised in complaints and submissions.

#### **Incidents**

##### ***Monday 11 September 2000***

- 1. Clarendon and Whiteman Streets, Monday, 8.00 am – 10.00 am.** (Pt'chang put it at 8.00 am).
- 2. Clarendon Street, Monday, 9.30 – 10.00 am.**
  - 'Push and shove' near the Tea House.
  - The 'Richard Court' incident.
- 3. Southern Kingsway entrance, Monday, 8.00 am – 10.00 am.** (Pt'chang put it at 9.20 am).
- 4. Police trapped in Whiteman Street, Monday morning.**
- 5. Siddeley Street, 1200 midday.**



6. **Queensbridge Street, 6.45 p.m. – 7.00 p.m..**
7. **Haigh Street, Monday.**
8. **Alleged use of Capsicum spray.**
9. **Occupation of the Herald and Weekly Times building.**
10. **Alleged change of tactics by police overnight.**

***Tuesday 12 September 2000.***

1. **Clearance of the Queensbridge / Power Street intersection  
Tuesday, 7.10 am**
2. **Clearance of the Queensbridge / Power Street intersection  
Tuesday, 7.30 p.m..**
3. **Clarendon Street at Planet Hollywood Entrance, Tuesday,  
8.30 am.**
4. **Kingsway, Tuesday, 11 am – 12 noon.**
5. **Queensbridge Street, river end, Tuesday, 4.05 p.m..**

***Wednesday 13 September 2000.***

1. **City Road and Power Street, Wednesday, 7.20 am.**
2. **Clarendon and Spencer Street, Wednesday, 7.30 am.**

3. **Spencer and Flinders Streets, Wednesday, 8.50 p.m..**

**Issues.**

1. **Use of force by police.**
2. **Use of batons.**
3. **Use of horses.**
4. **Failure to display identification.**
5. **Targeting of photographers.**
6. **Verbal abuse and intimidation**
7. **Encouragement of attacks on protesters.**
8. **Minimal communication with protest groups.**
9. **Unfounded allegations of protester violence.**

I shall return to consider the available evidence in relation to each of these incidents and issues later in this report.

## **4. THE EVIDENCE.**

### **4.1 VIDEO EVIDENCE.**

The arrival of complaints triggered my powers to investigate under the Police Regulation Act 1958. It was obvious that the event had been one of the most photographed events in recent memory and there was likely to be a great deal of video footage. I took immediate steps to secure as much of it as I could.

On 13 September 2000 I made contact with each of the five television channels and successfully sought their assistance in securing video footage of the three days of protests. My investigators subsequently obtained a large amount of “raw” news footage (i.e. uncut; as it was filmed by the camera operator). In some cases the entire raw footage was not available but I was provided with a compilation of all footage put to air.

I also obtained from Victoria Police copies of video footage taken by police video photographers, and copies of images received at the Police Operations Centre, which was located within the Casino, from the security cameras at various points around the Casino. I obtained video footage taken from police helicopters and I also obtained from the Victoria Police Media Unit a compilation of all relevant news and current affairs broadcasts on each of the five Melbourne television channels over the three days.

In all, my investigators obtained and closely examined over 150 hours of video footage of the event.

### **4.2 MEDICAL RECORDS.**

For the purposes of this report I obtained records from the co-ordinator of the S11 first aid team and from the Metropolitan Ambulance Service. Rather than

laboriously dissect these records in the text of this report, an analysis is attached at **Appendix 1.**

I am also in possession of medical records and reports of examinations conducted by the Victorian Institute of Forensic Medicine of certain complainants but, because they relate to complaints by individuals, I will make no specific reference to them in this report.

### **4.3 POLICE DOCUMENTATION.**

The following documentation was obtained from police.

- A copy of the WEF Operation Order. This is an enormous collection of documents weighing in at over 12 kilograms. In essence it is made up of what might be termed a 'head' document and a large number of appendices. The head document briefly describes the task presented to police by the meeting of the WEF, outlines a mission statement, and addresses in very brief terms the many policing issues involved in the execution of the task. These include the operational chain of command, threat and risk assessment, general police instructions, communications, medical facilities, crowd control and issues of administration, staffing and logistics. In regard to most of these issues the head document refers the reader to an appendix for full details. The appendices include, among other things, an Operation Order prepared by each unit of the Force which was to be involved in the WEF Operation setting out the particular unit's mission and a very detailed plan of execution, details of staffing, equipment, expected difficulties, contingency plans and so on.

- Documentation relating to liaison prior to the event with various bodies, including federal, state and local government agencies, Trades Hall, local traders and protest groups.
- A detailed briefing manual entitled “Police Action At Demonstrations and Protests.” This document was prepared and distributed to police members who were rostered for duty at the WEF. It contains very detailed information concerning the Force safety principles, principles of crowd control, powers of police, use of force, offences and difficulties likely to be encountered and brief statements of the relevant law.
- Police logs compiled at the Forward Command Post (“the FCP”) and the Police Operations Centre (“the POC”).

#### **4.4 INTERVIEWS.**

My investigators have conducted interviews, formal and informal, of both police and civilian witnesses. I do not propose to provide a list of those interviewed. Where I refer to the evidence of particular witnesses I have, wherever possible having regard to the requirements of confidentiality, identified that witness.

## **5. PREPARATION BY POLICE.**

### **5.1 PLANNING AND LIAISON.**

#### **5.1.1 PLANNING.**

I received evidence from a number of senior police on this issue, including then Chief Commissioner of Police N. Comrie; Deputy Commissioner N. O'Loughlin; Assistant Commissioner N. Perry, who was the Operations Commander for the WEF; Assistant Commissioner R. Shuey, Relieving Operations Commander; and Superintendent P. Halloran, the Forward Commander.

Mr Comrie told me that during the demonstrations he was not the person making the strategic decisions. That function was performed by Messrs. O'Loughlin, Perry, Shuey and Halloran. Mr O'Loughlin told me that he was appointed as Deputy Commissioner (Operations) in May 2000 and assumed responsibility for the policing of major events, including the WEF. He said he was regularly briefed by Superintendent Halloran who was attempting liaison with S11, trades unions and other parties. In July 2000 Mr O'Loughlin directed that Assistant Commissioners Perry and Shuey were to be Operations Commander and Relieving Operations Commander respectively, and that Mr Halloran was to be the Forward Commander for the WEF with Superintendent A. Dickinson as his reliever.

Superintendent Halloran is, and was prior to and during the WEF, the Superintendent of the Protective Security Division of the Victoria Police and had responsibility for the Witness Protection Unit, the Protective Services Unit and the Force Response Unit. Superintendent Halloran has stated to my investigators that he was nominated as venue commander for the WEF in late 1999 or early 2000 and, as such, was responsible for the planning of police involvement in the event. At that time there was no intelligence suggesting any major protest activity and he anticipated he would require about 60 police for the task but, as intelligence built

up, it became clear to him that there would be significant protest, although the likely extent of it could not be known until it actually occurred.

Superintendent Halloran stated that a group was established to plan security arrangements for WEF and the Olympic football games, which were to take place at the MCG at about the same time. My investigators have obtained agendas and other documents relevant to meetings of this group and it is apparent that there was input and consultation with a wide range of persons and bodies including, among others, the City of Melbourne, the Department of Infrastructure, Vicroads, the Victorian Taxi Directorate, public transport companies, Crown, local traders, Australian Federal Police and other security agencies.

As well as receiving intelligence from the usual sources, an examination was made of earlier protests in Seattle and Washington, and the S11 website was monitored. Mr Comrie told me that on a visit to the United States in early 2000 he received briefings from police in Washington and Seattle regarding their experience of the tactics employed by protesters. Mr Comrie said police were aware that demonstrators in Melbourne were in contact with, and receiving advice from, their overseas counterparts. He said police received information about certain groups, which he named to me, who were considered to have the potential to cause or incite violence.

Over time, police began to develop a picture of what might be expected. Mr Comrie told me he briefed the Major Events Sub-committee of Cabinet on police planning. He told me he emphasised that the police response would initially be low-key, but that police tactics would be flexible so that police could respond appropriately to the actions of demonstrators. He said he emphasised to the Cabinet Sub-committee that police response would involve a minimum of force.

Mr Halloran stated there was clear intelligence that there was likely to be extreme behaviour displayed. Planning was made for three levels of police response with a choice of the appropriate level to be made as the event drew closer. For example, Mr Halloran stated that the decision about the use of the Grand Prix barricades was

delayed until the last day allowed by the contractor who was to put them in place. Mr Halloran's view was that the barricades were a success and police could not have maintained security at the very large Crown complex without them.

The information received by police led to the point where, at the commencement of the operation on Sunday 10 September 2000, Superintendent Halloran expected the following.

- A total blockade of Crown, including denial of passage to Crown staff.
- A blockade of accommodation venues.
- An attempted invasion of the accommodation venues and of Crown.
- The release of smoke/noxious gases inside Crown.
- A blockade of the Yarra in the vicinity of Crown. Mr Halloran noted that damage to a nearby heliport in the week before the WEF was consistent with this information.
- Diversionary tactics would be used by protesters who would create problems outside the Crown complex, probably in the CBD, in an attempt to draw police out and thereby compromise the security of the venue.

Superintendent Halloran also stated he had knowledge that plans of the Crown complex had been obtained by protesters and he believed there would be attempts to get into the complex via the car park to damage something, possibly sewerage systems, causing the closedown of the complex. He stated he also knew there had been evidence of reconnaissance by unknown persons within the Crown complex, with an emphasis on fire security doors and other security within Crown.



Mr O'Loughlin stated that he had always been conscious of the possibility of extreme violence in the nature of that which had occurred at Seattle and Washington. He emphasised, as did Mr Comrie and Mr Halloran, that the minimum use of force by police was the focus throughout police planning and that he had advised the Government that in certain extreme conditions police would, if necessary, shut the WEF down themselves. He stated that at no stage during the event did he think police could not cope with the situation but he remained prepared to exercise the option if necessary.

Superintendent Halloran said he had liaised with companies contracted by the WEF to organise the event. He stated that his strategy was at all times directed at the minimising of risk and, when it became clear that a blockade was planned, it was commonsense that one way to minimise risk was to centralise the accommodation of delegates at Crown. This was emphasised to organisers verbally and in writing. One difficulty was that the contractors had no power to make decisions and had to refer matters to the WEF organisation in Switzerland or France. Superintendent Halloran stated that police did everything within their power to force the issue, even to the extent of "probably overstepping the mark" by commencing negotiations with Crown to have other guests moved out of Crown for the duration of the WEF to make room for delegates. Mr Halloran described this initiative as an attempt to make it easier for the decision makers in France and Switzerland to make the necessary decisions but stated that "for their own reasons they chose not to heed that advice except at the last minute".

Mr O'Loughlin confirmed Mr Halloran's account of these communication and planning difficulties, stating that police had difficulty dealing with WEF organisers in an attempt to have only one venue. He said police also anticipated difficulties arising from the planned continuance of gaming inside the casino and the intention that patrons would continue to come and go from Crown. In anticipation of the obvious security problems associated with these arrangements a wall was built inside Crown, police were posted inside Crown, and there were also ambulance and Fire Brigade services located inside Crown.

One aspect of police pre-planning which has received some public attention is the plan to cater for a large number of arrests. Mr Halloran stated that it was expected there might be diversionary tactics adopted by protesters to compromise the security of Crown by drawing police resources out of the complex to deal with mass sit-ins in city intersections, store invasions or similar events. A detailed system was devised to minimise the impact of such tactics whereby Crime Department detectives were to be utilised in prisoner processing groups. Various police stations in the metropolitan area were set up as prisoner processing points, and arrangements were made within the courts and prison system to deal with increased numbers. Arrangements were also made to have Ethical Standards Department teams on hand to deal on-site with any complaints. As has been widely observed, very few arrests were made. Superintendent Halloran considered that this accords with the decision taken prior to the event to instruct all police to avoid arrests unless such action was absolutely necessary. The instruction to avoid arrests wherever possible was intended to ensure optimum police resources were maintained on crowd control tasks, and to mitigate the potential for arrest action triggering an escalation of crowd behaviour.

The end result of police planning is the enormous WEF Operation Order to which I have referred above. I do not propose to relate its contents in detail but the following is a summary of some of the relevant issues covered in the Operation Order.

- The police mission was stated to be:  
*“To provide a safe, orderly and secure environment for the management of, and the attendance during the World Economic Forum whilst allowing the community to continue its business and recreation. This also acknowledges the right of peaceful assembly”.*
- Under the heading “Threat Assessment” the Operation Order declared the event to be “non-routine” due to the public interest, media interest and likely scrutiny of the police operation. The threat level was said to have been

assessed as “medium” because “protest action against the event is planned by and expected from groups and individuals where there is likely to be an intent to commit acts of violence and to disrupt normal functions”.

- Under the heading “Risk Assessment” reference was made to a an annexure containing the risk assessment prepared by the FRU. It is a detailed document containing a risk analysis of numerous factors, including various aspects of crowd conduct, accidents, conflict and occupational health and safety matters.
- Under the heading “General Police Instructions” the following appears.

*“Batons. The use of long batons in a crowd situation involves a risk of injury to innocent people. Long batons should only be used in accordance with approved instructions and only as a last resort to overcome violent opposition to a lawful arrest or to prevent indictable offences.*

*“Use of force. If it becomes necessary to use force in order to contain a situation, the force applied must be reasonable, having regard to the circumstances.*

*“Any use of force against passive demonstrators (Passive resistance means a non-violent refusal to co-operate, including a refusal to comply with directions but taking no further actions) must be specifically authorised by the Operations Commander.”*

In addition to the gathering of information and the preparation of a detailed Operation Order, planning also involved preparation of police personnel for the event. My investigators have been advised by Inspector Emmet Dunne, who was responsible for the training program, that from July 2000 some 2,600 members who were expected to perform duty at the WEF received training specifically for the event. Inspector Dunne said the training consisted of two sessions of four hours

duration. Attendees were briefed verbally on the law and Force policy and procedure concerning police action at demonstrations, justification for the use of force and the need to keep a balanced approach. Training was also conducted in authorised crowd control techniques. Each attendee was e-mailed a copy of a document entitled “Precis of Law, Policy and Procedures” prepared by Inspector Dunne containing a statement of the relevant principles. A version of this document, laid out in a pocket sized pamphlet form, was supplied to police members when they arrived for duty at the WEF. In addition, police of the rank of Senior Sergeants and above who were scheduled for duty at the WEF were given a two day training course in which they were also briefed on the law, policy and procedure, justification for the use of force and the need to keep a balanced approach. This group were taken on site inspections of Crown and were also given training in authorised techniques of crowd control. Attendees of this program were provided with a substantial folder entitled “Police Action at Demonstrations and Protests” containing the following.

- Introductory briefing signed by Superintendent Halloran.
- Detailed analysis of statutory and common law powers of police.
- A comprehensive guide to relevant legislation and possible offences.
- Extracts of the relevant sections of the Victoria Police Operating Procedures Manual. (Part 2.5 “Policing at Crowd Control Situations” and Part 1.3 “Command and Control”)
- A 57 page document entitled “Crowd Control Manual”. This is a composite document containing relevant extracts from the Victoria Police Operating Procedures Manual and the Operational Safety and Survival Tactics (“OSST”) manual.

In the interests of brevity I do not propose to go into further detail concerning the content of this folder of documents, but I shall make reference to it at relevant points elsewhere throughout this report. In addition to the above documentation, my investigators have examined videos of a training session conducted at the Melbourne Showgrounds.

The WEF was probably the biggest single policing action in living memory for the Victoria Police and there were no blue-prints for planning and training on the scale required. In my opinion the planning was well thought through and comprehensive. This includes the training provided for the event. There is no evidence that planning and training was underpinned by any general intent to deny protesters' rights, to suppress free speech, to resort to the use of force at the first chance, or to use force gratuitously. In my view the available evidence supports a conclusion that the primary aim of the planning was to minimise risk whilst attempting to cover all contingencies, even the most extreme, and that training was likewise directed at minimising risk and keeping any use of police powers at the lowest possible level. In my view, there is no evidence to support any allegation or suggestion that police were spoiling for a fight and trained themselves up accordingly.

### **5.1.2      *LIAISON WITH PROTESTER GROUPS.***

This might be seen as an integral part of planning for the event but, because it has been the subject of specific complaint and comment, I shall make a specific and detailed examination of liaison prior to the commencement of the WEF and liaison during the three days of the protests.

Paragraph 2.5.2.3 of the Victoria Police Operating Procedures provides that the Operations Commander must,

*“cause contact to be made with the organisers, leaders or management of all parties involved, to ascertain their intentions and to advise on the police role,*

*Force policy, including the Victoria Police policy on passive resistance. This may require the appointment of a liaison officer.”*

Paragraph 2.5.2.5 sets out the duties of the Liaison Officer and imposes on the Liaison Officer the same duties as imposed on the Operation Commander by paragraph 2.5.2.3 (quoted above), with the additional requirement that, “records must be maintained of liaison and police actions”, and the direction that the liaison officer reports to and through the Forward Commander.

### ***LIAISON PRIOR TO THE COMMENCEMENT OF THE W.E.F.***

The task of establishing liaison with prospective protester groups was undertaken by Superintendent Halloran and Chief Inspector John Winther who, as Officer-in-Charge, Community Advisory Units, has responsibility for, among other things, continuing police liaison with multicultural and aboriginal groups, parties to industrial disputes and pickets. A series of meetings, initiated by police, commenced in June 2000. It is clear from documentation I have obtained from Chief Inspector Winther that police had contact with a number of community groups, including representatives of the Trades Hall Council (THC), but I shall concentrate for the purposes of this report on police liaison with S11.

In the course of discussions with THC, it appears police discovered that representatives of S11 had told THC that the erection of a stage and other facilities on the southern side of the Yarra in the vicinity of the flagpole area outside Crown had been approved by police. Upon becoming aware of this police advised THC that no such permission had been granted. Police contact with THC continued and eventually, on 21 August 2000, a meeting took place at Trades Hall attended by Superintendent Halloran, Chief Inspector Winther, Superintendent Dickinson and Chief Inspector Norman. The THC was represented by Mr Leigh Hubbard Secretary of the Victorian Trades Hall Council; Mr Brian Boyd, Industrial Officer THC; and Mr Craig Johnson of the AMWU. Two people, to whom I shall refer as CW and JJ represented S11. So far as I have been able to establish, this was the first face-to-face meeting between police and S11 representatives. It is not entirely clear

to me, but it appears that the S11 representatives were invited by THC who was attempting to persuade S11 to allow access to the casino by Crown workers during the planned blockade. Notes of this meeting taken by police contain, among other things, the following points.

- *“Police support the right to protest and will facilitate that within reason. No violence and minimal disruption to the community.*
- *Non-violent protest with stated intention to blockade Crown for 72 hours to ‘shut down the World Economic Forum’.*
- *Queried the concept of non-violent protest whilst maintaining a blockade. Delegates have the right to freedom of movement as do staff and customers within the Crown complex.*
- *S11 want to establish stage and first-aid tent on the South side of the river. Advised that no tents or structures would be acceptable on the south side of the river.*
- *Point made if we don’t agree to something reasonable then they will set up anyway.”*

The next meeting of this group occurred one week later on Tuesday 29 August 2000. The same four police representatives and three union representatives attended. This time six people represented S11 – DG, JJ, AC, IC, PM, and one whose name remains unknown. Notes taken by police at this meeting record that there was further discussion regarding the location of a stage and first-aid tent, and a site inspection was arranged for 31 August 2000. The police notes of the meeting include the following.

- *“ Discussed issue of proposed blockade and the likelihood of conflict. Invited S11 reps to discuss options of achieving objective of non-violent protest with cooperation from police. Suggested ‘token’ blockade which would minimise disruption to community and avoid the need for police to break the blockade. Could still get publicity and their point of view across. Rejected by DG. S11 stance is non-violent and police will be the only ones to use violence.”*

The inspection of the proposed site for the stage occurred at 5.50 p.m. on 31 August 2000. Mr Halloran and Mr Winther attended, as did Mr Hubbard and Mr Boyd. Four S11 representatives attended – DG, AC, JJ and IC. Notes made by police of the meeting include the following.

- *“Quizzed why the need for a first aid tent when a peaceful protest planned.*
- *Emphasised the point that the proposed blockade and some of the issues coming out of S11 including what is on the website suggested an intention of violent protest. DG insisted that peaceful blockade was planned.*
- *Cautioned that police are the meat in the sandwich and are obligated to ensure people are free to go about their normal business. This included delegates proceeding to and from the World Economic Forum.*
- *S11 can make their point without violence and without breaking the law. Police have no desire to use force to break the blockade therefore it is preferable to reach an agreement their planned protest goes ahead in circumstances where there is not potential for violence. DG maintained that peaceful blockade was planned. When pushed on the proposed blockade and the high probability of conflict with police he suggested police try not to break the blockade. (Seems to be playing games).”*

The next meeting of this group took place at Trades Hall at 4.30 p.m. on Thursday 7 September 2000. Again, the same four police officers were present. THC was represented by Mr Hubbard and Mr Boyd. Also attending were Mr Martin Kingham of the CFMEU and Ms Sylvana Sgro of the Australian Liquor, Hospitality and Miscellaneous Workers’ Union. Six representatives of S11 were present – DG, JJ, AC, IC, PM and one whose name is unknown. The police notes of the meeting record some further discussion about the location of the first-aid tent. Police wanted the first-aid tent on the north side of the river while S11 wanted it on the south side near the area which had been agreed as the location for the stage. The THC people were apparently in agreement with S11 that the tent should be located on the south



side of the river near the end of the old rail bridge. The notes then record the following discussion.

- *“Discussed the proposed blockade and the dangers that represents. Opposite ends of the scale – S11 stated agenda of blockading the World Economic Forum confirmed. Police have obligation to ensure Forum proceeds and people can go about their business. Unless a compromise is reached police are in a position where they may need to use force to ensure the blockade is not successful. Need to compromise. Supposed to be a peaceful protest.*
- *Unimpeded passage for staff working in complex. S11 indicated 98% of the way to agreement re staff access and free passage for dream team. Would need to put to S11 meeting for formal response.*
- *Discussion ensued about concern that delegates may be smuggled in on staff buses. Sylvana Sgro indicated that union officers may ride on buses to ensure staff not harassed.*
- *Unimpeded passage for emergency vehicles – police, ambulance, fire brigade. DG indicated ambulance and MFB yes but not for police.*
- *Dream Team – nobody seemed to have any objection to free passage for Dream Team entering and leaving Crown.*
- *Compromise for first-aid post is under Sandridge railway bridge. Can use tarp. Stage and tent arrangements tied in with other arrangements.”*

Channel 10 cameras were present to film the various participants entering the meeting at Trades Hall and there were shots of them sitting around a table. On the Channel 10 evening news of Thursday 7 September 2000 an S11 representative who had attended the meeting said the following.

*“Police have made it clear that they’re not going to tell us what they’re doing, and really they’ve not asked us what we’re doing. We understand that our core business is to conduct the largest, most effective possible mass blockade of Crown Casino. They’re clearly going to do what they can in favour of big business getting delegates in, and there’s been no debate about that.”*

The final meeting of this group to take place prior to the commencement of the protest was at 5.30 p.m. at Trades Hall on Saturday 9 September 2000. Police were represented by Superintendents Halloran and Dickinson and Chief Inspector Winther. Five representatives of S11 attended – SJ, DG, CW, AC, PM. The notes record that the *“unions did not appear. Leigh Hubbard and Brian Boyd contacted via telephone and confirmed non-attendance. Reason S11 will not permit workers to enter and depart Crown complex”*. The police notes of the meeting go on as follows.

- *“Winther raised rumour that S11 had decided not to reach agreement on any of the issues discussed.*
- *Prepared statement read which summarized the decision of the National Convergence Council Meeting 7/9/00.*
- *No agreement to permit staff of the Crown complex to pass unimpeded through the planned blockade They will be subject to the blockade.*
- *No intimidation of staff.*
- *The issue of the Dream Team having unimpeded access through blockade was not discussed at S11 meeting. AC indicated they could pass through but DG interjected and said that was not the case and they would also be subject to the blockade.*
- *Emergency vehicles, ambulance and fire brigade to be given access but not police.*
- *Warned that objectives were at the opposite ends of the scale which would inevitably lead to conflict. Discussion ensued which started to debate the issues without meaning. Obviously not going to change their stated position because they are not empowered to make decisions or negotiate.”*

S11 gave police the names and mobile numbers of two representatives (DG and SJ) who would be the S11 police contacts. Chief Inspector Winther’s mobile number was provided and arrangements were made for the S11 representatives to meet with Mr Winther at 2.00 p.m. on each of the three days of the protest.

When questioned by my investigators about the process of liaison with S11 prior to the event, Superintendent Halloran said police had tried to indicate that they could facilitate the protest without causing serious inconvenience to the community and, at the same time, avoid violence. He said that right up to the final meeting on 9 September 2000 there had been ostensibly some scope for negotiation, but on the eve of the event it was clear that the issue of a total blockade was not negotiable. It was his view that as time went by the ‘hardliners’ had taken over. He said that at the outset the S11 people with whom he had been meeting said they had no capacity to make decisions and they would have to go back to their people for a decision, but prior to the last meeting he was well aware that issues raised by police had not been raised in their meetings when they had gone back. In his view they were playing a tactical game, stringing police along with no intention of cooperating at the end of the process. He stated that, in his view, these were the actions of the ‘hardliners’ and that not all groups were intent on confrontation but they seemed to have been intimidated by, or at least not able to resist, the ‘hardliners’.

Mr Halloran also made a point about the structure of S11 which he said was a “cell structure”, designed to avoid accountability for anything which might occur during the protest. Mr Halloran also stated that S11 were always changing negotiators in keeping with the notion that “no single person manages or controls all of this”.

I have also spoken to Mr Leigh Hubbard, Secretary of the Victorian Trades Hall Council, and with Mr Brian Boyd, THC Industrial Officer, who were present at the meetings described above (with the exception of the final meeting). Mr Hubbard said that the unions had never favoured blockading the WEF, preferring to make their anti-globalisation statement by way of a day of protest involving a march and speeches at the stage facilities which, it was pointed out, had been supplied by the unions. Mr Hubbard and Mr Boyd confirmed that a compromise had been negotiated between S11, the unions and police whereby the stage and first aid facilities could be situated on the southern side of the river rather than on the northern side as had been proposed by police. In my discussions with Mr Hubbard and Mr Boyd, the point was made that S11 was an “organic” body, and that

this was reflected in the manner in which the S11 protest action was organised. Mr Hubbard and Mr Boyd both expressed the view that a high level of organisation minimised the risk of any trouble, and said that they had tried to encourage S11 to deal with police in a way which would allow police to know when S11 were going to be there and when they had left. Mr Boyd said that, in his view, police encouraged S11 to follow the unions' approach of having a well managed event. Both Mr Hubbard and Mr Boyd said they did not have any sense of police telling S11 that, if they persisted with a blockade, there would be particular consequences.

Police may not have given any specific indication at these meetings about their likely response but, at a press conference on Saturday 9 September 2000, Chief Commissioner Comrie, having said that police would respect the right of people to protest but would not tolerate violent conduct, went on to say the following.

*“It may be that to allow people access to and from the Forum area we may need to make a path through the crowd at different times, but obviously we will do that with a minimum amount of force.”*

As I have explained above, S11 representatives – some of whom attended some of the meetings described above - met with my investigators on 15 September 2000 and were invited to provide details of their version of the meetings referred to above, which they have suggested were a charade on the part of police. They agreed to do so, but to date I have received nothing further. As I observed above, although I gained a good understanding of their complaint, the consequence of not having this material was that I had nothing specific or concrete to put directly to the other participants in the meetings.

Having regard to all of the above, it seems to me that there is nothing to suggest police did not negotiate in good faith prior to the event. There is evidence, for example, that police compromised on the question of the location of the first aid tent. It appears that THC had no difficulty in dealing with police. While it is true that S11 has a structure which might be described as a “cell structure”, it is not for me to comment on this other than to say that I cannot agree with the suggestion by

police that S11 kept changing negotiators throughout the pre-event discussions. There was some change in the S11 lineup over the process, but there was also a degree of consistency and stability. No single S11 person attended all meetings, but of the total of nine people who attended over the five meetings, three attended on four occasions, and it is clear that police had a stable point of contact. The issue of how much control these people had over what actually happened, given the structure of S11, is an interesting but entirely different question.

The issue which emerges very clearly from the available evidence regarding pre-event negotiations and discussions is that there was never any common ground reached on the question of a blockade. Police say they made their position very clear to S11 representatives and this seems to be implicit in the comments of the S11 representative on the Channel 10 news of 7 September 2000. If any doubt remained, Mr Comrie made the position of police clear at his media conference. In my view it was not necessary for police to be specific about the tactics they may employ, the how and where, nor even if they would attempt to break the blockade. Indeed, police probably had no detailed plans at that point other than an understanding of what was seen as an obligation to ensure access. This was, it appears, made very clear to S11 people.

In my view police took all steps which could reasonably be expected of them. There is no evidence that police conducted negotiations in an improper manner or that police approached the issues of preparation, planning and liaison in a frame of mind whereby protesters became enemies whose objectives were to be thwarted and defeated first by persuasion/intimidation and, failing that by use of force.

#### ***LIAISON DURING THE WEF.***

My investigators have obtained Chief Inspector Winther's notes of the various contacts made in connection with his role as Liaison Officer over the three days of the WEF.

It is clear that throughout the three days of the protests Chief Inspector Winther was being utilised by S11 as a point of contact with police. On the first day, Monday 11 September 2000, various people associated with S11 contacted him throughout the day concerning issues such as access to the stage area. The most relevant contact of that day, however, was the scheduled daily meeting which took place at 2.10 p.m. at the Victoria Police Centre in Flinders Street, a very short walk from the casino.

Again, the failure of S11 representatives to provide further details of their recollection of meetings, Chief Inspector Winther's notes are the only detailed record of the meeting. The notes record that the meeting was attended by Chief Inspector Winther and Inspector Pierce; two representatives of Green Block, DH and BT; and two representatives of S11, SJ and AC (DG having apparently resigned overnight from the role of police liaison). According to the notes Green Block representatives reported, *"the events of that particular group as peaceful, colourful, very good, no big problems. Their location has been Haig and Clarke Streets. DH added that liaison at this point with police has been good."* In relation to the matters raised by the S11 representatives Mr Winther's notes are as follows.

*"SJ stated that there were problems with communicating with police members in charge at specific incidents. He felt that if communications could be established it would assist. He spoke in relation to an incident at Whiteman and Clarendon Sts, in the morning where there was some baton pushing against the protestors. It was explained to him that it is difficult dealing with protestors group when no one is in control or does not speak out. If this is the case his marshals should be instructed to come forward to resolve issues ASAP. It was identified that the S11 Marshal identification was a problem. They were wearing grey T-shirts with the words, "Union First Aid" in green lettering. They were also wearing a blue sticker approx 30 cm by 10 cm with the words S11 Alliance, MARSHALL. They were reviewing their marshall identification, which will be renewed 12.9.2000. SJ advised that he would inform me of the new identification in due course. In the meantime it was agreed that all S11 Alliance Marshals would wear the blue stickers on their right upper arm. He*

*described the events of this morning as very good and made no complaints against police.*

*I raised the issue of traffic management particularly Kings Way for use by members of the community. He advised that it would be taken under consideration and he would get back to me.*

*I also requested that if possible arrangements be made to have the keys to the ambulance returned ASAP. The group stated that they knew nothing of this matter. I requested that should they become aware of the locations of the keys they can return them to me.*

*SJ stated that one of S11 Alliance had located a baton that has since gone missing. He is attempting to locate it to return to police.*

*Further meeting was scheduled 1400 hours 12.9.2000."*

On the second day, Tuesday 12 September 2000, the pattern continued with Mr Winther taking calls from a Green Block representative regarding a lost police baton which had been recovered, from THC officials concerning the planned rally of unionists, and from the S11 Legal Support Team regarding arrests made by police. Again, the scheduled daily meeting took place at the Victoria Police Centre, commencing at 2.30 p.m.. and attended by AC representing S11, and DH and BT representing Green Block. Chief Inspector Winther's notes record the meeting as follows.

*"Issues raised by S11:-*

*Members not wearing identification name tags and refusing to give their name, rank and number. They stated at one crowd control point approximately 30 members were not wearing name tags.*

*Violence* - *inappropriate use of baton, overhead strikes*  
 - *inappropriate use of police horses*  
 - *injuries to protestors.*

*Above issues endorsed by the Green Block liaison representatives.*

*They were advised that the policy in relation members supplying their names was contained within Operating Procedures Manual 12.1.2.1. and Section 456AA Crimes Act.*

*As to the aspects of violence, complaint can be lodged with the Ethical Standards Department and or the Ombudsman's Office.*

*They requested the Force's intention as to tactics to be used, particularly the use of force. I advised them that the Victoria Police had a duty to provide access and egress to the Crown Complex for the World Economic Forum. There would be no use of force if S11 and other protesting groups conducted a peaceful protest and stopped using blockade tactics, it is totally within their own hands to determine same.*

*Further meeting was scheduled for 1400 hours 13.9.2000."*

Mr Halloran also had some direct contact with S11 representatives on the Tuesday. His notes record a 7 p.m. conversation with an S11 representative as follows;

*"Spoke to [S11 rep] via telephone re potential conflict in attempt to minimise risk. requested he arrange protesters to step back so police could withdraw safely. He indicated situation was volatile but he would do what he could. Warned that protesters are detaining delegates and others against their wills therefore we are compelled to take action if they continue with the blockade. Requested free access and egress for delegates and complex staff."*



On the third day, 13 September 2000, the pattern of calls to Chief Inspector Winther continued. His notes record, among other things, calls from trade union officials regarding access for workers; from S11 representatives who “wanted to discuss entry points to minimise any further incidents” (Chief Inspector Winther passed this matter on to Superintendent Halloran who made contact with S11 re this issue – see below); from S11 enquiring about the seizure of a communications radio from a cyclist associated with S11; from the S11 Legal Support Group regarding details of arrests made by police, and from Green Block representatives who were apparently upset that Mr Winther had not returned one of their calls from the day before. (This issue was also raised with my investigators in a meeting with S11/ Green Block representatives on 15 September 2000. Mr Winther’s notes record his denial at the time and his insistence that he returned all calls. There is no evidence that Mr Winther shrank from contact with any protester group, and there is no basis on which one might suspect that he deliberately ignored any calls.) Mr Winther’s notes record that he continued to liaise with protesters throughout the day and into the evening with his last call being recorded at 7 p.m. in connection with attempts to clear the streets surrounding Crown of the last of the protesters.

The scheduled 2 p.m. meeting was cancelled, according to Mr Winther’s notes, by S11.

Mr Halloran also had direct contact with protester representatives on the Wednesday. His notes record a number of conversations with representatives of S11. The first was at 7.48 a.m. regarding “means of avoiding confrontation and conflict”. Mr Halloran noted that the representative was more conciliatory and there was some negotiation about protesters putting down or returning some mesh fencing as a sign of their good faith. Mr Halloran continued to speak with S11 representatives regarding the likely route of a march by protesters and, later in the day, about clearing the streets of protesters who seemed determined to party on after the protest had finished.

Again, in my view there is no basis in the evidence to support the allegation that police were unresponsive or improperly motivated in negotiations with protesters.

## **6. USE OF FORCE.**

Before moving on to examine the available evidence in relation to each of the main incidents and issues which I listed at the conclusion of Part 3 of this report, it is necessary to examine the issue of the use of force by police. This is clearly a fundamental or threshold issue which must be determined first.

The S11 Legal Support Group expressed its thoughts on this issue in the following terms.

*“Members of the Victoria Police do not have a general right to use force. The Victorian Crimes Act 1958 (s.462A) allows police to use reasonable force to overcome resistance to a lawful arrest or “to prevent the commission, continuance or completion of an indictable offence”. Police do not have the right to use force to prevent someone committing a summary offence, only indictable or serious offences.*

*Given this legal context one would have expected police, faced with large numbers of people standing or sitting in front of roadways, to arrest people or attempt to negotiate. There was no such attempt during the three days of protest. Rather senior police clearly made a decision to use large numbers of police (on Monday generally unarmed on Tuesday and Wednesday armed in riot gear) to move protesters through the use of substantial force. In addition, throughout the three days of protest individual and smaller groups of police engaged in assaults and lower level use of force which in most instances were excessive and unwarranted.*

*This inevitably led to a large number of serious injuries amongst protesters, it was fortunate that no one was killed. Potentially these*

*actions could have led to far greater conflict between protesters and police. From our observations, it was only the level of commitment amongst protesters to peaceful civil disobedience that prevented the various large scale assaults by the police from degenerating into a melee.*

*While we have seen a variety of approaches to policing of protest in Victoria over the last decade, the level and scale of paramilitary force used by police is unprecedented in Victoria's recent history. It is useful to contrast the police approach during the MUA industrial dispute including the blockade of East Swanson dock and the arrests at Albert Park protests with what occurred at the WEF. In this instance, senior police and the force in general seemed to approach the protest as if they were at war rather than engaging in keeping the peace and apprehending those who have breached the law. Statements to the media, the use of paramilitary equipment, tactics and units all contributed to increased conflict during the protest.*

*Despite this, overall the actions of the protesters were very restrained and generally peaceful and non-violent. However, such restraint is by no means guaranteed and is likely to change if the use of paramilitary force continues to develop into the standard approach to policing of protests."*

This submission raises a number of issues which go well beyond the scope of this enquiry. I shall first address the law as it relates to the use of force by police in the context of the WEF demonstrations and then move on to comment briefly on some of the more general issues. (For the purposes of this discussion I am assuming that demonstrators were committing summary offences such as "besetting premises" only, even though there is clear evidence that some committed indictable offences involving damage to property.)

## **6.1 USE OF FORCE - LEGAL ASPECTS.**

Section 462A provides as follows.

*“462A. A person may use such force not disproportionate to the objective as he believes on reasonable grounds to be necessary to prevent the commission, continuance or completion of an indictable offence or to effect or assist in effecting the lawful arrest of a person committing or suspected of committing any offence.”*

It should be understood that Section 462A is not concerned with the powers and immunities of members of the Victoria Police, but with those of members of the public generally (including Victoria Police members). Sections 459 and 459A of the *Crimes Act 1958* confer special powers of arrest, entry and search upon members of the Victoria Police which are more extensive than the powers of ordinary members of the public and, in particular, the powers of arrest conferred upon members of the public by Section 458 of that Act.

The argument put by the S11 Legal Support Group, as I understand it, is that police do not have a “general right to use force” and that Section 462A provides the sole, or at least the only proper and appropriate means, by which police may deal with persons committing summary offences. The S11 Legal Support Group asserts that, “police do not have the right to use force to prevent someone committing a summary offence, only indictable or serious offences.”

It seems to me that this argument based on Section 462A is only partially correct. It is certainly true that police do not have a “general power” to use force. Police may use force only where it is lawfully justified and it follows that, in some circumstances, use of force by police might be unlawful. It is also correct that one of the options available to police was to arrest protesters. But it is not correct to assert, as the S11 Legal Support Group appears to assert, that Section 462A exhaustively governs the use of force by police. This proposition fails to

acknowledge the well established common law powers of police. The argument put by the S11 Legal Support Group that, “Police do not have the right to use force to prevent someone committing a summary offence, only indictable or serious offences”, is simply incorrect in many circumstances.

Section 462A does not constitute an exhaustive statement of the functions, powers and immunities of members of the Victoria Police and does not, and was never intended to alter the pre-existing common law in relation to the powers, duties and immunities of members of the Victoria Police. It is my understanding that it is a clearly established principle at common law that police have a duty to preserve the peace, and to take all steps reasonably necessary to prevent a breach or threatened breach of the peace.

I do not propose in this report to embark on a detailed and technical analysis of the law. I have taken legal advice from Mr Douglas Graham QC, Solicitor-General for Victoria, regarding the nature and extent of the common law duty of police to prevent breaches of the peace, and the application of those principles to police actions during the WEF demonstrations.

In essence, Mr Graham’s advice confirmed that police have a duty at common law to prevent a breach or threatened breach of the peace, and that in some circumstances police may use force to effect this purpose. Mr Graham examined the application of these common law police powers to the specific issue of the removal of protesters who obstruct access to a site to which others have a lawful right of entry. Mr Graham advised that there is authority for the proposition that a remedy of self-help by abatement exists in cases of obstruction; that the use or threatened use of that remedy may itself create a breach of the peace or apprehension of breach of the peace, and that police may use minimum force to allow people to go about their lawful business. Mr Graham referred to the Tasmanian Supreme Court case of *Commissioner of Police for the State of Tasmania: Ex parte North Broken Hill Ltd* (1992) A Crim R 390 which suggests that the likelihood of a breach of the peace is sufficiently manifested by the refusal of picketers to make way when requested to do so and, even in circumstances where

those being obstructed manifest no intention of using the remedy of self-help, police may lawfully use the minimum force necessary to enable persons to exercise their right of entry. This latter proposition is based on a recognition of the absurdity of a principle of law which has the effect of allowing police lawfully to assist those prepared to resort to self-help, but which would not allow police to render the same assistance to persons of less resolute intention.

Having formed the view that a breach of the peace is threatened, it is clear police may take reasonable steps to prevent it. What is a reasonable step will be a matter for the discretion of police at the time, but arrest is not the only option. In the case of obstruction, police may physically remove the person creating the obstruction.

Finally, Mr Graham advised that the degree of force used does not effect the lawfulness of the removal *per se*, but might expose the police to a claim of the use of excessive force.

My investigators questioned Superintendent Halloran, the Forward Commander, about the use of force by police, particularly in relation to police actions directed at clearing a path to allow for the entry and exit of the delegates' buses. Mr Halloran's view was that the use of force by police was lawful and justified. Mr Halloran stated his position to my investigators as follows.

*"We've got people who are actually blockading an area and they have been told in negotiations leading up to the event that clearly if they engage in blockading tactics we could be forced, and would be forced, to use force, if necessary, to move them. ... These people are engaged in unlawful activity, obstructing, blockading, ... if they are causing obstruction and have to be moved, they will be moved if it's necessary, if it's essential to move them."*

Mr Halloran went on to explain his understanding of the justification for the use of force in these circumstances was the powers of police at common law to prevent breaches of the peace. Mr Halloran pointed out that this was an ever-present possibility throughout the WEF demonstrations and that bus access was not the only

source of potential for a breach of the peace. He said that police had to deal with unionists breaking the blockade by force or threats of force to get workers in, and the attempts of some individual delegates to penetrate the blockade. He said he had *“all of this bubbling along, this [possible] breach of the peace, not only in one dimension, but multi-dimensional”*.

Mr Halloran agreed it was unlikely that delegates facing obstruction by protesters would get off their buses and engage in conflict with protesters. He said the breach of the peace he anticipated was more likely to be protesters endangering delegates by surrounding and possibly damaging the buses. He agreed that police were in a position to avoid any conflict by preventing buses from approaching the casino, but went on to state the following.

*“Delegates have the legal right to enter and leave that conference, the same as protesters have a right to voice their opinion. Once the protesters have gone to the stage of obstruction and so on, and delegates still want to exercise their legal right, then we, as police, have to facilitate the rights of delegates to enter and leave that venue the same as we have to, within reason, facilitate the movement of traffic or the general populace.”*

It was abundantly clear from the documentary and oral evidence received from police that it was clearly understood by police at all levels that the use of anything more than such force as was reasonably required in the circumstances, sometimes referred to as “minimal force” and sometimes spoken of in terms of “proportionality”, would expose police to the possibility of civil liability, disciplinary action or criminal liability.

Before stating any conclusions on the question of the use of force by police I wish to make clear that the Ombudsman has no power to make definitive findings of law; that is the task of the courts. However, the Ombudsman is required to consider whether police conduct was appropriate having regard to all the relevant circumstances. What follows is not a finding concerning the state of the law, but the

Ombudsman's conclusion regarding the propriety of one aspect of police conduct in relation to the WEF.

In my opinion, having regard to all of the above, the belief held by police that they were lawfully entitled to use reasonable force to move demonstrators in order to prevent a breach of the peace, or a threatened breach of the peace, was a belief which was reasonably open to police. The available evidence suggests that it appears to be based on an understanding of fact and law which was reasonably open to police.

This is not to say I accept that on every occasion over the three days police were lawfully entitled to use force, or that where force was used it was in all respects justified. It seems to me the question of the lawfulness of the force used by police must be assessed on a case by case basis by reference first to its justification and then by reference to its reasonableness or proportionality.

## **6.2                      *OTHER ISSUES.***

The S11 Legal Support Group also raised the issue of the "level and scale of paramilitary force" used by police which is described as "unprecedented in Victoria's recent history." A contrast is drawn between police action at the WEF on one hand and, on the other, the M.U.A. industrial dispute, during which East Swanston Dock was blockaded by unionists, and the Albert Park Grand Prix track protests.

The danger with comparing police action at one event with action taken at another is that it can fail to take account adequately of differences in circumstances. For example, my recollection of the MUA dispute is that it arose from a completely different set of circumstances. First, it was an industrial dispute which was managed by the trade unions rather than being an "open" event organised by a loose alliance of affinity groups. Second, throughout its currency, there were court cases and



appeals which put the competing pressures for access and denial of access into a suspended state. By this I mean that, although there may have been some who wished to have the blockade swept aside for political purposes, in reality there was no great pressure from any source for immediate access. It seems to have been forgotten that, in fact, police did execute a manoeuvre to take control of a gate but this opportunity to move freight in and out of the site was not taken up. I am advised that the result was a “mexican stand-off”, a negotiated agreement whereby police remained in control of the gate for a number of days while picketers remained “in control”, by way of a blockade, of another gate. The issue was finally settled as a direct result of an order issued by the Federal Court whereupon the blockade simply dissolved with no further action required by police. In short there was never a situation at the MUA event whereby police were confronted with the necessity to make a choice between the use of force to allow access to someone lawfully entitled and requiring same, or to turn them away. One can only speculate, but it seems to me that a situation analogous to that faced by police at the WEF would only have eventuated if the court had not found in favour of the picketers. Police might then have been faced with one party demanding to exercise a lawful right of access, and another, with considerably less lawful justification, determined to deny access. But it did not happen that way.

Another interesting contrast is the events of 1 May 2001. I saw and heard news broadcasts in which comments were made by protesters that police conduct had been restrained and that police had not resorted to excessive force as they had during the WEF. It seems to me that, again, the comparison is misleading because the circumstances were completely different. The M1 protests were of limited duration and were directed at a limited number of specific targets. It appears that those whose access had been obstructed were able to make temporary alternative arrangements, and the blockade became something of a symbolic gesture rather than a sustained effort of the kind seen at the WEF which created more than temporary inconvenience. In my view, the only sensible context in which to make judgments regarding the propriety of police conduct in relation to the WEF protests is by reference only to the WEF. Comparisons are worse than useless, they are positively misleading.

The notion that policing in Victoria is becoming increasingly “militarised” has received some currency in recent times. It is an interesting analysis which can provide a useful framework for the examination of some aspects of police conduct and of long term trends, but I am not convinced of its application to the WEF demonstrations. It seems to me that the events of 11 and 16 September 1970, detailed in the introduction to this report, as well as observations of many other confrontations between protesters and police over many years, indicate that the use of force against protesters, the use of batons, kicking, punching and general brawling in the course of demonstrations - in other words all of the issues raised in complaints following the WEF - are not recent phenomena. It cannot be said that these are examples of police conduct which have appeared since the establishment of specialist counter-terrorist units in the Victoria Police in the mid-1970s, the development most often identified as the source of the claimed trend towards paramilitary policing. Given that there appears to have been no new behavioural trend evident in police conduct at the WEF which can be distinguished from “pre-paramilitarised times”, it is difficult to see upon what evidence the argument that the WEF demonstrations are further evidence of growing paramilitarism could be based. The only possibilities I can see are, first, the fact that the FRU, a specialist unit of particular interest and distaste to those disposed to conduct demonstrations, was prominent; second, that the FRU and some other police used protective helmets and some body padding and, finally, the very large numbers of police involved. I can only say that, in my opinion, this is very thin evidence. These comments should not be seen as an attack on the general theory, but rather expression of my opinion that the experience of the WEF cannot be used to advance further the theory of increasing paramilitarism in policing.

## 7. *INCIDENTS.*

I shall now examine the available evidence in relation to each of the main incidents which I listed at the conclusion of Part 3 of this report as being the matters of concern which I have distilled from complaints.

First, by way of background, I will provide a thumbnail sketch of the placement of the major actors and how they came to be there.

The logs kept at the Police Operations Centre (“the POC” - located at the Victoria Police Centre) and at the Forward Command Post (“the FCP” - located on-site at the casino) provide a very useful, almost minute-by-minute account of information received by police and the response. The POC log records a steady stream of incoming information throughout Sunday 10 September 2000, including reports on a rally in the Treasury Gardens, reports of incoming e-mails from protest groups, updates from the S11 website regarding proposed rallying points for the Monday, weather reports, intelligence about protest actions planned by various groups, and even complaints from police members on duty at a city hotel where delegates were accommodated that meals for the members were “late, not hot, not enough, and generally below standard”. The log records an incoming bomb threat at 10.00 p.m. threatening detonation at 9.00 a.m. if the concrete barriers were not removed. The response: “sweep being made by Crown Casino Security – well versed in procedures”. Throughout the night further intelligence trickled in about various groups and their intended protest actions. There were reports of some groups being in possession of protective clothing and body armour, a report of people seen carrying rappelling gear and a report that protesters may have entered ventilation ducts at the casino. At 10.35 p.m. police received a call from S11 because the lawn sprinklers at the stage site had automatically activated. Police were able to arrange for the sprinklers to be turned off and deactivated for the following three days. Throughout the night police monitored what they believed to be S11 communications and from about 5.30 a.m. onwards reports began to come in of protesters gathering. It would appear that the change of police shifts, which

obviously involved the movement in and out of large numbers of police, was accomplished with little or no interference from protesters.

The Force Response Unit (FRU) has figured prominently in media coverage and in many of the complaints received by this Office, and it is necessary therefore to give a brief explanation of the role of the FRU generally and its involvement in the WEF operation.

The FRU, which has existed for some time, was established in its present form in 1996 with the primary functions of providing support to police operations and to provide protection to witnesses at risk. Its policing support role may include attendance at incidents requiring crowd control or where serious disorder is anticipated, but FRU personnel are engaged for the majority of its time in general operational support tasks. The FRU has its own training wing which is responsible for the ongoing training of members in areas such as crowd and riot control, close personal protection, witness protection and negotiation. Training routines in crowd control are often conducted jointly with the Mounted Branch to ensure familiarity with horses and tactics used. In the WEF operation the FRU had a “reserve and response” brief whereby its members were to stand by in readiness for a rapid response if required to provide support to general policing members on the barricades. The advice provided to my investigators was that the total FRU establishment at the WEF operation was in the order of 180 personnel. This figure includes 50 former members of the FRU seconded back to the Unit for the duration of the WEF. In addition, personnel from the Transit Safety Division and the General Policing areas, who had received specific training in crowd control techniques prior to the WEF, provided support for a number of tasks undertaken by the FRU during the WEF.

As I have mentioned elsewhere, police had reason to believe there may have been protest action in the CBD as a diversionary tactic to draw resources away from the casino. In order to meet the possibility of the need for response to problems at the casino and elsewhere, the FRU was split into two divisions, one under the command of Inspector M. Reid, the other under the command of Inspector J.

Mawkes. On the first day Inspector Mawkes' division would be outside the barricaded area while Inspector Reid's division would be inside the barricades. The arrangement was that the two groups would alternate, with Reid's group on the outside on Tuesday, and inside again on the Wednesday.

At 6.50 a.m. on Monday morning 29 members of the Force Response Unit (FRU) were on standby in the North Eastern end of the CBD, and another 54 FRU members were on standby in the vicinity of the Victoria Police Centre at the South Western end of the CBD. Another 96 members of the FRU had earlier entered the casino and were on standby inside the barricaded area under the command of Inspector Reid. At about 7.30 a.m. Inspector Mawkes' division was directed by Superintendent Halloran to go to the car park adjacent to the red brick building known as "the Tea House" on the North-Western corner of the intersection of Whiteman and Clarendon Streets. Mr Mawkes left 12 FRU members on standby in the North-Western end of the CBD and joined up with a group of 36 general policing members at the Tea House car park.

At a time which I am unable to pinpoint, although it is said to be 8.00 am by the S11 Legal Team and Pt'chang, the first significant confrontation took place.

## **7.1 MONDAY 11 SEPTEMBER 2000.**

### ***INCIDENT 1.***

***CLARENDON / WHITEMAN STREETS, MONDAY, 8.00 AM – 10.00 AM.***

The S11 Legal Group submission on this incident reads as follows.

*"There were numerous incidents of excessive force by police at the entrances on Clarendon St. in particular the entrance to Clarendon and Whiteman. Large numbers of police attempted to push through the crowds blocking entrances*

*often punching and kicking. The use of police horses was particularly dangerous, with many instances of them being ridden through the crowd. Some people injured by the horses hooves and/or the body of the horses. Officers on horseback in some instances hit protesters with their baton or fists. It is important to note that while police actions may have been aimed at moving the crowd in many instances people who wished to move were unable to. For example one protester while in the middle of the crowd was surrounded by horses, police officers and protesters. They fell to ground and then were pulled up by their hair by police. They were then hit in the nose while being pushed the other way by another police officer.”*

The Pt'chang submission described the incident as occurring at approximately 8.00 a.m. and having a duration of approximately 10 minutes. The Pt'chang overview of the incident reads as follows.

*“Protesters were peacefully blockading at the Police area-cordon entrance at Whiteman and Clarendon Street intersection. Police on foot as well as police mounted on horses charged into the protesters in an attempt to secure access into the police area-cordon. Legal Observers witnessed several people being punched in the face and on other parts of their bodies by police officers. People were kicked, hit with batons, and pushed down onto the ground. Police horses were also ridden into the crowd, and in one report a female mounted police officer, identified as (named), reached down from her horse and dragged people below her by their hair. Most of the police officers involved were not wearing identification nametags and did not respond with this information when it was requested by Legal Observers.”*

The Pt'chang submission then went on to detail a number of reports of protesters allegedly eye-gouged by police, nearly trampled by police and horses, punched by a mounted officer, and one having a thumb twisted by police allegedly in an attempt to break it.

Although the two submissions, somewhat strangely, do not mention this point, the police action complained of appears to centre around an attempt by a police four wheel drive (“4WD”) and a red sedan to enter the casino via the gate located a short distance east along Whiteman Street from the intersection of Whiteman and Clarendon Streets. Surprisingly, given the free-for-all suggested in the S11 Legal Group and Pt’chang submissions, not one of the complaints received by this Office from individual complainants makes specific reference to this incident, although several make general references to the use of force by police at the Clarendon Street end of the casino on Monday morning. Fortunately, there is quite a bit of video footage of the incident from various sources and angles which provide a reasonable view of the action. I have examined this footage carefully and my understanding of the incident is as follows.

It appears the two vehicles were initially confronted by relatively few protesters who stood across the opening, two or three deep, facing the 4WD vehicle which was some 10 or so metres from the gate. There followed a stand-off during which time a protester with a megaphone gave instructions to those blocking the gate about linking arms and holding the belt of the person in front of them, “otherwise they’ll pull you apart”. It is apparent that protester numbers were growing during this hiatus, with many standing off to the sides of the brewing confrontation. Police numbers were also swelling on the other side of the gate and, after a short time, the inevitable push outwards by police, clearly expected by everyone present, commenced. By weight of numbers police forced their way through the line of protesters and formed a cordon up to and alongside the 4WD. It is not clear whether the cordon stretched as far back as the red sedan. Police did not have their batons drawn and there is no evidence of any blows being struck by police who simply used their mass to force a way through the line of protesters. The cordons created a clear space between the 4WD and the opening, and the vehicle began to inch forward. At about this time mounted police can be seen in the background somewhere behind the red sedan near the entrance to the Clarendon Street intersection.

Protesters were vocal and persistent, and a great deal of pressure was applied to the cordons as protesters attempted to re-enter the area which had been cleared between the vehicle and the opening. The cordons held briefly but, with the 4WD still five metres or so from the gate, the police line was breached on the southern side and protesters poured into the open space once again blocking the path of the vehicle. Although it is not entirely clear, it appears to be at about this time, when protesters were fighting back, that the red sedan was attacked. Protesters can be seen beating vigorously on its boot and sides, and at least one protester climbed onto the roof of the car causing considerable damage.

Police at the front of the 4WD attempted to re-establish the cordons and remove protesters from the space they had reoccupied. The footage I have seen provides views only of the activity on the northern side of the vehicles where police can be seen grabbing hold of protesters and ejecting them from the police line onto a flower bed which normally forms the median strip in Whiteman Street. The protesters were ejected forcefully and, again, protesters were not passive. They vigorously resisted being removed, although I have been unable to see any evidence of any blows being struck by police or protesters. Many of those removed attempted to come back through the police line to reoccupy the space from which they had just been ejected. The noise is very intense but police can be heard telling spectators to stay back.

At this moment, mounted police entered the picture, riding up both sides of the vehicles with the obvious aim of forcing protesters away from the vehicles, and of forming a barrier along the side of the vehicles up to the barricades. By this time police appear to have finished ejecting protesters from the space in front of the 4WD and to have re-formed a tight cordon. Police can be seen pressed tightly together, chest-to-back, with their right hands held up to protesters. Mounted police can be seen to have found a path between protesters and police, separating the two groups. As the first horse arrived at the barrier to the left side of the gate, it turned to the left to stand on the flower bed facing the crowd with its rump towards the police line. The following two or three horses followed suit, but before the next horse turned there appears to have been a slight gap and, suddenly, two or three



protesters can be seen on the ground directly under the hindquarters of the turned police horses. Screaming with fright, the protesters were quickly pulled to their feet by protesters and police and ejected by police through the line of horses. It is not possible to see if the protesters were trodden on by the horses. I have carefully examined the videos and it is not possible to determine with certainty where these protesters came from, but it seems most likely that they attempted to squeeze through the gap in the line of mounted police as the horses were turned and were knocked to the ground by a turning horse. It is much less likely that they were pushed under the horses by police who, it appears, had by this time finished ejecting protesters from the area in front of the 4WD. The vehicles then moved forward through the opening.

It is very apparent that the crowd was unhappy about the successful entry of the vehicles. Police began to withdraw back through the opening with the assistance of mounted police who walked the horses backwards towards the gate forming a semi-circular barrier between the withdrawing police and protesters. The semi-circular formation of horses drew closer together as they drew nearer the gate. While there were still gaps between the horses, and between the horses and the barricades, determined protesters pushed their way in behind the line of horses and took a position between foot police, who had now withdrawn behind the barriers, and the mounted police. At this point one protester who was very close to the barrier facing police can be seen to have his hair pulled by an unidentifiable police member behind the barrier.

It is clear that mounted police were intent on forming a line across the opening to create a buffer between the very angry protesters and police. Mounted and foot police can be seen to be motioning to protesters to move to the southern side of the opening, and police can also be heard above the tremendous din of voices to be instructing protesters to move to the side. Finally, mounted police turned the horses and attempted to push the crowd to the southern side of the gate. During this manoeuvre hands can clearly be seen to be grabbing at the reigns of at least one of the horses, causing the mounted policewoman to strike downwards with her hands and then to point at a protester and issue a warning. So far as I can see, this is the

only time a mounted police member can be seen on video to have taken a hand from the reins of a horse. I have been unable to identify any action by a mounted member consistent with the allegations that mounted police used batons and fists and pulled protesters' hair.

After a very short time, mounted police suddenly appeared to abandon the strategy of pushing protesters away from the barricaded opening and took up a position a few metres away, lined up side-by-side on the flower bed to which I have referred above. I estimate the whole incident to have taken 10 – 15 minutes from the time police pushed their way through the line of protesters.

My investigator was told by a member of the Mounted Branch who was present at this incident that, in her opinion, protesters were aggressive and hostile. Attempts were made to grab hold of her reins, which she was able to deflect by moving the horse slightly away. Of greater concern to her was the attempt by two male demonstrators to dismount her by grabbing and pulling on her left leg. The force of this action started to move her off the horse and, in her view, it was only the quick action taken by a nearby mounted colleague to reach over to lift her back on the saddle that enabled her to remain on her horse and move closer to other mounted police.

There is no mention of the struggle at the gate in the POC or the FCP logs. When questioned about this, Mr Halloran explained that there were problems with police communications on the Monday morning and he had no knowledge of the incident until it was all over. Mr Halloran said that the area around the casino was divided into sectors, each having an officer in charge who was well briefed and who had the capacity, without seeking Mr Halloran's authority, to respond to any incident which required immediate attention, particularly if there was property damage or welfare issues involved. Mr Halloran said that, in his opinion, this incident warranted intervention and, had communication been possible, he would have instructed police to get the cars into the casino. Police involved in this action were general policing members who had been on night shift, not members of the FRU.

As for injuries, it seems that there are seven first-aid treatments recorded prior to 10.00 a.m. which might be attributed to this incident (Appendix 1, Group 3, cases 78, 92,33, 34, 31,32,36), although there is no certainty that any or all of these arise from this incident or other incidents occurring prior to 10.00 a.m. at that end of the casino (see below). Three injuries are recorded as horse stomp injuries, one is recorded as a baton injury, two are unspecified head injuries and one a nose bleed. In my view, with the exception of the alleged baton injury, these injuries are not inconsistent with the interpretation of the footage I have set out above. They seem to fall short of what might be expected from the free-for-all suggested in the S11 and Pt'chang submissions.

In my view there is no evidence that the tactics employed by police, or the execution of those tactics by police, involve any impropriety or misconduct. It is my opinion that police were, for reasons outlined elsewhere in this report, entitled to use force to remove protesters from the path of the vehicles without being compelled by law to arrest protesters. Indeed, the threatened breach of the peace, upon which the legal justification for the use of force rests, very quickly became a reality when some protesters not-so-peacefully inflicted extensive damage to the vehicles, including staving in the roof and other panels of the red sedan. Police at first applied force by forming a wedge to push protesters aside so police could form a pathway for the cars between police cordons. It was very apparent that protesters were aware of what police intended to do before the first push outwards from the gate was made by police. Protesters were not taken by surprise. Protesters were initially pushed back but soon stepped up their resistance and broke the cordons. In my view police had ample justification for the continued use of force in the form of grappling with protesters to remove them once again. In my view police also had good reason to resort to the use of mounted police to strengthen the cordons in order to facilitate the entry of the vehicles. In my view, the tactics adopted by police were a reasonable and proportionate response to the situation.

Although I have been unable to find video or other evidence of individual acts of misconduct (subject to one possible exception) by individual members, I cannot eliminate the possibility that this occurred "off-camera" in the course of this

episode of “push-and-shove” which became quite fierce at times. The one possible exception is the hair pulling incident to which I have referred above. In the overall context of the incident it is a minor matter, but it seems to have been unjustifiable to the extent that occurred after police had retreated through the gate and completed their task.

One additional matter of interest came to light during my examination of this incident. When examining the video footage my investigators were aware of the presence of an ambulance in the background, somewhere in the intersection of Clarendon and Whiteman Streets. My investigator was told by Inspector D. Hocking, the sector supervisor at the relevant time, that this ambulance was waiting to come into the casino to replace another ambulance which was waiting to come out carrying a Crown employee with a suspected broken jaw received when he was entering the casino to go to work. Inspector Hocking said that the ambulances were denied passage in and out by the crowd. Inspector Hocking later managed to negotiate an agreement with protesters at the gate to allow ambulances passage in and out provided they were searched by protesters. I have included this as an illustration of the determination of the crowd, at that gate at least, to maintain a total blockade – “no one in, no one out” – apparently including ambulances carrying injured civilians requiring hospitalisation.

***INCIDENT 2.******CLARENDON STREET, MONDAY, 9.30 – 10.00 AM.***

Following the early struggle at the Whiteman Street gate described above, Clarendon Street became a very busy place. Although complaints I have received concentrate almost exclusively on the incident in which the car carrying Western Australian Premier Richard Court was surrounded by protesters, my investigation has found that this incident was only one of a series of incidents throughout the morning in Clarendon Street. The following is a brief review of the available evidence relating to those incidents.

***‘PUSH AND SHOVE’ - TEA-HOUSE CARPARK, 8.00 a.m.***

During the struggle over the entry of the 4WD and the red sedan, Inspector Mawkes’ FRU contingent of 54 plus 36 general policing members were standing by in the Tea House car park. At approximately 8.00 a.m. three police motorcycles turning left into Clarendon Street from Normanby Street, apparently intending to go north in Spencer Street to the Victoria Police Centre, were surrounded by protesters and prevented from moving. Inspector Mawkes stated that this occurred in the left turn lane about 15 – 20 feet from the Tea House car park. Inspector Mawkes’ FRU members moved out to put a cordon around the motorcycles to allow them to move back into Normanby Street. Inspector Mawkes stated that there was *“lot of push and shove and a few punches thrown”*. Police eventually got the motorcycles out of the situation but held the cordon. There was then, according to Inspector Mawkes, a *“mexican stand-off for ten minutes or so and then the crowd turned their attention to someone else and I withdrew the troops and put them back in the car park.”*

The crowd at this stage was by Inspector Mawkes’ estimation about 300 – 400. Inspector Mawkes stated that everything seemed to calm down and police continued to stand by in the car park.

I have examined video footage of this incident taken from the police helicopter and at ground level. The footage from the helicopter is slightly indistinct or blurred due to rain on the lens. The ground level footage shows only one motorcycle, but there is no reason to suppose that there was not three as stated by Inspector Mawkes. The helicopter footage commences at a point after the motorcycles had cleared the scene. There is a certain amount of pushing and shoving, no evidence of baton use and, although a number of horses were standing by in the Tea House car park, they appear not to have been involved in the incident.

***THE ‘RICHARD COURT’ INCIDENT, CLARENDON STREET,  
9.00 a.m. – 10.00 a.m.***

***THE COMPLAINTS.***

It was claimed by the S11 Legal Support Team that,

*“The use of batons by police to indiscriminately hit members of the crowd around the car of Premier Court was clearly excessive and in some cases unlawful. It seems that while Premier Court’s driver was unable to move the car at that time, the protesters posed no direct threat to the car’s occupants. Certainly the use of fists and batons by police on anyone in their path as they moved to the car was clearly indiscriminate and unjustifiable in the circumstances.”*

The submission went on to state that overhead baton blows injured several people, including causing permanent damage to the teeth and jaw of one man, and that the use of horses also led to injuries. It was also claimed that people were unable to move out of the way of the horses and baton wielding police.

The Pt’chang submission on this incident is as follows.

*“Protesters were blockading a car. A large number of police on foot moved in to unblock the car. Mounted police then charged the crowd. Throughout this incident batons were used by police to beat protesters. One reported acts of violence, including the elbowing, hitting and kicking of protesters by police. Some serious injuries were sustained and ambulances had to be called to treat injured people.”*

The Pt'chang submission then went on to describe various aspects of the police action, including police "urging their horses on ferociously". It is also alleged that one woman was bitten by a female police officer.

***POLICE EVIDENCE.***

Mr Halloran stated his understanding of the background to this incident was that two or three cars carrying delegates attempted to reach the casino via Spencer Street. Traffic police at the northern end of the Spencer Street bridge directed them not to proceed, but Mr Court's car apparently continued toward the casino.

Helicopter footage shows the vehicle's path being blocked by protesters whose numbers increased to the point where the vehicle was completely surrounded and stationary almost on the corner of Whiteman and Clarendon Streets in the southbound lane.

Mr Halloran, whose live video feed from the helicopter was effectively inoperative, could not see the incident. His recollection was that he was advised by the Police Operations Centre ("the POC") that two cars were trapped in Clarendon Street. He requested information from police in the vicinity, but none could see a trapped vehicle.

I have extracted the following references to this matter from among the many other messages and events recorded in the POC and FCP at about this time. I have arranged them in chronological order according to the time recorded in the log. The POC log entries are in bold type.

- "0910      To Sec 138 – Is there a vehicle surrounded in Clarendon St / Whiteman St area?*
- 0916      Sec 138 – Whiteman and Clarendon – no vehicle surrounded.*
- 0920      W.A. Premier can't get his car in.*

- 0926**      *Report from Olive 610 at 0910. One delegate vehicle surrounded o/s Planet Hollywood, Clarendon and Whiteman.*
- 0929**      *Report from traffic Solo at 0923. 300 protesters surrounding delegate's vehicle Clarendon and Whiteman. Solo requests assistance.*
- 0933**      *Richard Court's car surrounded. Trying to get members there to get him out.  
Security 139 make assessment please re entrance.*
- 0934**      *Report from Grey 400 at 0910 and 0919*
- 1. Leader of Opposition car blockaded in by protesters at Gate M.*
  - 2. Mounted 860 & 16 horses arrived at Gate M and Opposition  
Leader's car now free.*
- 0936**      *Update re Richard Court's vehicle in trouble plus 2 members.*
- 0939**      *Security 139 – situation 2 crews to around car. Back out. Numbers swell when crews get through.*
- 0943**      *Report from #24 at 0924 and 0933*
- 1. From #24 require assistance o/s Planet Hollywood – have vehicle surrounded by protesters.*
  - 2. Vehicle is delegate's who is stuck inside.*
  - 3. Mounted 853 arrived at above.*
- 1009**      *Report from MTD 860 at 0956 – crowd getting ugly. Vehicle has been moved – require megaphone to address crowd.*
- 1021**      *Report from Grey 300 at 0959 Clarendon St re surrounded car. Car now clear. Protesters dispersed.”*



Inspector Mawkes' contingent, having returned to the Tea House car park after assisting the police motorcycles, was standing by and being left alone by the crowd. Inspector Mawkes stated that he had not seen the car surrounded by protesters but, when he received a query, sent a detail to "have a look around". The detail came back with confirmation that there was a vehicle surrounded by protesters and that there were two traffic police at the vehicle. Inspector Mawkes said he was subsequently advised that the occupant of the car was Mr Court.

Inspector Mawkes stated that he walked from the Tea House car park onto the footpath and saw that the crowd were standing around the car and nothing more. His assessment was that there was no immediate danger and he decided he would send a team in to attempt a peaceful, negotiated release of the car. He sent Senior Sergeant Weller and a detail of five members to attempt this. At the same time he moved the rest of his contingent to stand by in three lines on the footpath near the Tea House.

Senior Sergeant Weller and the detail of five were all trained negotiators. Senior Sergeant Weller can be seen on video footage attempting to negotiate with protesters surrounding the car. I am advised that the five members of the detail also attempted to engage in discussions with protesters. The negotiations were unsuccessful. One protester can be seen on the video shouting more than once at Senior Sergeant Weller, "He's a murderer!". Another protester, apparently a union marshal, can be seen attempting to persuade other protesters to allow the car to go, saying, "You've had your time, let the car go." Like Senior Sergeant Weller, his appeals were unsuccessful.

Inspector Mawkes stated that, at about this time, the situation changed and one of the crowd climbed onto the car. It was also known that the tyres had been deflated, possibly slashed. Senior Sergeant Weller's detail came under increasing pressure from the crowd pushing towards the car and began to be crushed. Their discomfort, and that of some of the crowd near the car, is clearly visible on the video footage. Sergeant Weller has stated to my investigators that the situation was beyond the capacity of his detail to control and he requested assistance. Inspector Mawkes

stated that he came to the conclusion that negotiation would not succeed, the crowd was beginning to “arc up” and intervention was required.

Mr Halloran’s recollection was that negotiations were not succeeding. He received advice that a protester had climbed onto the car and he came to the view that the situation was getting out of control. Mr Halloran said he had a conversation with Inspector Mawkes via mobile telephone to obtain Mawkes’ assessment. Mr Halloran said he instructed Inspector Mawkes to get the car out using the FRU at “level 4” crowd control category (i.e. with batons out). Mr Halloran said he authorised batons to be drawn as a self-defensive mechanism in a situation where the potential existed for demonstrators to become very aggressive quickly, rather than for offensive purposes. By this time, mounted police had joined Inspector Mawkes’ contingent near the Tea House. Inspector Mawkes spoke to Senior Sergeant Williams, the officer in charge of the Mounted Branch, who was one of the mounted police. Inspector Mawkes said he favoured sending the horses in first to make a path through the crowd, but Senior Sergeant Williams was of the view that it would be better for foot police to go through the crowd and put a cordon around the car first, and then the horses could clear a path for the car to move out. Inspector Mawkes stated that the technique in these situations is to “push and shove” through the crowd using body mass to penetrate the crowd. He said the action had to be “dynamic and fast” to push a hole through the crowd and put a cordon around the car as quickly as possible.

### ***VIDEO EVIDENCE.***

I have examined the video of police forcing their way through the crowd to the car. Police were using the standard issue long batons. With one exception, there is little evidence of overhead baton use. The one exception is a particular member, Sergeant W, who can be seen on more than one occasion to use his baton in what appears to be an overhead striking action from the second row of the advancing police. Where, or on whom, these blows landed cannot be determined from the video footage available to me. I have identified this member and will be investigating this issue in detail. The actions of this member are the only instances of overhead baton use I

have been able to detect in this incident from the available footage. Inspector Mawkes has stated that he, too, has observed the actions of the member using the baton and has taken steps internally to address the issue. I do not intend to take this matter any further for the purposes of this report other than to note it and to assure the reader that I will follow the issue up, and pursue it to a conclusion.

The video shows some police holding their batons horizontally with a hand at each end pushing the crowd back to prevent protesters re-entering the passage created by police. There is no doubt that police used momentum and body mass to create a considerable amount of pushing force to make their way through the crowd. Having reached the car, police can be seen surrounding the car standing in the approved stance with batons pointed at protesters. Near the left front section of the car police can be seen with the ends of their batons against a lightweight barrier which appears to be made of polystyrene. Protesters standing behind the barriers appear to be pushing it towards police. While some police kept their batons propped against the barrier to resist its movement towards them, other police tapped their batons along the top of the barrier in an effort to force protesters to remove their hands, presumably to prevent them pushing the barrier. Although these baton taps were not gentle, they were, in my opinion, no more than was required to effect the purpose and were unobjectionable in the circumstances. Tempers flared and one police member can be seen to push a protester standing behind the barrier. Before the issue developed any further Senior Sergeant Weller stepped forward with a conciliatory gesture and a few words to the protesters standing behind the barrier and further conflict was avoided.

The video shows two police standing in the cordon around the car with spots of what appears to be blood spattered on their faces and jackets. This shot has been shown widely on television coverage of the protests. Senior Sergeant Weller has told my investigators that a protester was seen to bite a capsule which then sprayed what was then believed to be blood over himself and the FRU members. The protester was seen to spread the “blood” on his face and forehead prior to screaming out that he had been assaulted by police. I have been advised that a photograph of this protester was shown in the Herald Sun “Weekender” supplement (page 3) on 16

December 2000. Senior Sergeant Weller, who said he was aware the substance was a chemical and not blood, tried to recover the discarded capsule for evidentiary purposes but was unable to do so due to the aggressive actions of demonstrators. I have examined the photograph in the Herald Sun. A red substance can be seen to have run out of the mouth and over the bottom lip of the pictured protester, apparently in copious quantities, but is not evident above the mouth. There is a large amount of the substance evident right across the forehead below the hairline but there is no evident source of the “blood”, the hair not being matted with congealed blood. The photograph was shown to Dr David Wells, a practitioner in clinical forensic medicine, who stated that it is not possible from an examination of the photograph to state whether the substance over the protester’s face was blood or something else. Dr Wells said that it is plausible that the substance was obtained from a capsule and applied by the protester to his own face. The positioning of the substance and its apparent downward travel and route from the protester’s hairline do not detract from such a claim of self administration. Dr Wells said that, because he had not actually examined the protester in question, it would not be possible, on the basis of the photograph alone, to refute any counter claim that the protester had in fact suffered an injury to the head which had bled down his face. I should add that the protester pictured is the same person who was observed on the video to have referred to Mr Court as a murderer.

Senior Sergeant Weller mentioned that the crowd aggression and violence towards the FRU members, both during the police attempt to extricate the car and following its removal, was in his “firm” opinion, the most violent and aggressive he had experienced in his 24 years as a member of the Victoria Police and, he believed, was by far the most violent of the incidents he was directly involved in over the three days.

Mounted police can be seen to approach the car through the gap in the crowd made by the passage of the FRU and then attempt to force a clear path between the FRU cordons around the car and the protesters. The video shows two mounted police moving into the crowd of protesters surging towards the driver’s side of the car. One of the two mounted police retreats or is pushed backwards before again trying to

enter the crowd by backing the horse into the front line of protesters. The rider rotates the horse to deflect some protesters attempting to re-enter the space behind the horse. A couple of the protesters can be seen to come into contact with the left rear flank of the rotating horse and are pushed away or themselves move out of the way of the horse. Other protesters can be seen trying again to advance towards the driver's side of the car by pushing plastic barriers towards the horses. One protester, attempting to evade the rear flank of a horse, stepped backwards onto the base section of a plastic water filled barrier which caused him to lose his balance and fall to the road. Mounted police then moved forward to clear protesters away from the barriers. A path was finally cleared for the car which, surrounded by FRU members and flanked by mounted police, moved free of the crowd.

One incident worthy of mention in the course of this action is the interference experienced by mounted police. This was referred to by a complainant who wrote that mounted police "forged" their way through the crowd without warning, and the complainant saw a "look of utter distress on a horse's face when it tripped and fell", knocking two people over. I do not accept, having regard to my examination of the video evidence, that there was no warning that mounted police were coming through, but I have made enquiries in relation to the incident of the fallen horse. My investigators have spoken to the police woman who was riding the horse. Her recollection was that she was part of a mounted detail of 6 members assisting foot police to place a cordon around the car to allow its removal. The mounted detail entered the crowd from the direction of the Tea House in a 2x2x2 formation with her horse being one of the rearmost pair. The police woman expressed the view that demonstrators were particularly hostile and aggressive at the scene and were pushing foam barriers into the way of the entering mounted police. As her horse neared the car, a female demonstrator threw a foam barrier under the front legs of her horse. The policewoman stated that she believes this action was deliberate. The horse lost its footing and fell to the left to the roadway, throwing her onto the road surface. When she got to her feet, realising that she was surrounded by protesters, she grabbed the reins of her horse and, on foot, pushed through the crowd of protesters towards a group of foot police she had sighted in the distance in Clarendon Street to the south. She stated that while moving through the crowd she

was subject to verbal and physical abuse in which she was jostled and some protesters attempted to take the reins from her grip. After reaching the safety of the foot police, her mounted police partner joined her and they returned to assist other mounted police to extricate the car. The police woman stated that in her 13 years in the Mounted Branch she had not experienced any crowd of the size, violence and aggression of protesters at the WEF.

Having moved the car clear of the crowd, police formed a circle and, according to Inspector Mawkes, there was a “bit of push and shove”. The crowd can be seen on the video to be pushing polystyrene barriers into the retreating police. Slowly, according to Inspector Mawkes, the crowd’s anger dissipated and police again retreated to the Tea House car park.

### ***MEDICAL RECORDS.***

The medical records are, in my opinion, inconclusive in regard to the Richard Court incident. The available evidence suggests that the police action took place between 9.45 am and 10.00 am. The S11 CFMEU first aid records contain five cases which most probably are a result of this police action (Appendix 3, Group 3, cases 34, 31, 28, 26, 30), and a further five cases which could possibly be attributed to this action (Appendix 3, Group 3, cases 32, 36, 29, 95, 35). Of these ten cases, three are recorded as crush injuries to the foot caused by horses, one as a broken hand caused by horses, three as head injuries, one sprained ankle, one crushed finger and one baton jab to the breast. The head injuries are not recorded in detail: one is unspecified, one as “*hit face with hand, elbow, possibly baton*”, and the third as “*police knocked head onto ground and hit to head*”. There is an ambulance record of a member of the public being transported to the Alfred Hospital for “*head injury/lost teeth*”.

In my opinion this evidence does not support a conclusion that police charged into the crowd freely flaying with their batons. It is consistent with my observation of the video evidence which indicates to me that, generally speaking, the crowd was not passive; that there were clear signs that elements of the crowd were intent on

agitation and confrontation; that police used a reasonable and proportionate degree of physical force to make their passage to the car and then, by use of the horses, to clear a path for the car to leave; and that at least one member can be seen using his baton overhead.

### ***CONCLUSIONS.***

Having regard to all the available evidence, it is my opinion that the strategy adopted by police to deal with this incident was reasonable in the circumstances. Mr Court's car, like the police 4WD and red sedan which had been surrounded and extensively damaged only metres away an hour or so earlier, like the car of the Leader of the Opposition which had been surrounded and extensively damaged only minutes before in the same area, was not so much blockaded as besieged. The available evidence suggests that the car had been surrounded by protesters for the best part of an hour before police took forceful action to free it and its occupants. I note that, other than a claim by the S11 Legal Support Team that the crowd "posed no direct threat to the car's occupants", references to the conduct of the crowd appear to have been avoided in the submissions. On the evidence available to me I cannot accept mere assertions that the crowd presented no threat to the occupants. Although it appears the crowd was not at first overtly threatening, that situation deteriorated rapidly. The first response by police was to attempt to negotiate. In my view this was a measured and reasonable response. It failed through no fault of police. It is very clear that the crowd could not be persuaded to move peacefully aside and let the car go, and it is equally clear that certain elements in the crowd regarded Mr Court as a trophy. A protester climbed onto the car and began performing to the crowd and the cameras in a way which, in my opinion, police could reasonably have regarded as being likely to incite the crowd further. The car was being damaged and the tyres were deflated by means then unknown, but thought by police possibly to have been slashed. As the pressure of the crowd increased on those nearest the centre of the crush, it all added up to a dangerous situation which, in Mr Halloran's assessment, was getting out of control. The occupants of the car – and it appears to have been forgotten by nearly everyone that Mr Court was not the only occupant – had every right to fear for their safety. It was,

by any objective measure, a breach of the peace requiring action by police. In my opinion it was reasonably open to police to resort to the use of force to penetrate the crowd and to clear a path for the removal of the car. Police were in the circumstances reasonably entitled to have assessed the required response at “level 4” (batons out) for defensive reasons.

There is a post-script to the Richard Court incident which is worthy of recording. After withdrawing to the car park, police needed refreshment but had no drinks available. Mr Mawkes called the 12 members he had left on standby in the north eastern part of the CBD to pick up water bottles at the Victoria Police Centre and to bring them to the Tea House car park. At about 10.20am Inspector Mawkes’ attention was attracted by a commotion to the north of where he was standing. Inspector Mawkes stated that he saw members of the crowd attempting to drag the bags containing the water bottles from the FRU members who were, according to Inspector Mawkes, recognised as FRU members by elements in the crowd because of their baseball caps. According to Inspector Mawkes we *"sort of rushed in, virtually a Level 3 response, and there was a lot of punching and pushing and shoving, and we rescued our water and again we had a five minute stand-off"*. When the crowd settled down enough to allow police to retreat to the car park they did so.

### ***INCIDENT 3.***

***SOUTHERN KINGSWAY GATE, MONDAY, 8.00 – 10.00 a.m.***

*(Pt'chang put this incident at 9.20 a.m.).*

### ***THE COMPLAINTS.***

The S11 Legal Support Group submission alleged “numerous attacks on protesters by police” over the course of the morning in which people were punched, dragged by the hair, eye-gouged, and one protester was allegedly bitten by a police member.



It was also alleged that horses were ridden into the crowd and one protestor pushed over a barrier onto a road below.

The Pt'chang submission made similar allegations. The incident was described as one in which *“people were blockading to try to prevent a bus load of delegates from getting through the police area-cordon”*. It was alleged that police had two lines, including 12 mounted police, with protestors in the middle, and that horses were charged into the line of protestors. Pt'chang received reports of people falling near horses' hooves, being crushed against barriers and having their hair pulled.

I received four individual complaints concerning this incident. Two were concerned about the use of horses. One described, in a very general way, how protestors were *“caught between the horses and the very large number of people behind them”*, describing this as a *“dangerous situation”* and expressing the view that *“this confrontation by the horses was totally unnecessary, dangerous for large numbers of people in a confined space and outrageously confrontational”*. The other complainant concerned with the use of horses was positioned at the gate under the Kingsway bridge. This complainant expressed the view that, at the relevant time, there was no confrontation or movement out of the gate and that the only possible explanation for police using horses and officers outside the gate to crowd protestors into the fence was *“provocation”*. The other two complainants were concerned at the use of excessive force by police. One conceded that police removed a group of protestors, of which he was one, with *“reasonable force”*, but complained that he was punched to the side of the head by a police officer whom the complainant identified. I have facilitated the complainant's desire to discuss the matter with the police member concerned. The fourth complainant described an incident in which an unidentified policeman allegedly pushed a protester off a narrow ledge over a five foot drop to the ramp below and held the protester suspended by the hair.

### ***POLICE EVIDENCE.***

From the perspective of police, this incident was a very alarming development. Mr Halloran recalled that there was a number of buses waiting in Normanby Street for

an attempted entry at the Whiteman/ Clarendon Street gate. The presence of the buses was causing some excitement among the crowd in the vicinity and police decided an attempt to enter at Whiteman Street would be too dangerous. It was decided that an alternative entry point was from the Kingsway ramp via the multi-deck carpark. The three buses were taken to the top of the ramp where the delegates alighted and walked through the car park into the Casino. According to Mr Halloran's recollection, the crowd became quite angry when they became aware of what had occurred. They began pushing on the police lines and pushing back up the ramp. He stated that there was considerable confusion as a result of the communications problems being experienced at that time and that the police logs would show confusion about whether delegates got in. He said that part of the problem was that police at the barricades could not see what was happening 10 metres up the ramp and he was getting conflicting information.

The Sector Commander, Inspector D. Hocking, recalled that the original idea was for the buses to be driven down the ramp through the gate and into Whiteman Street where the delegates would alight. General policing members under his command, supported by Inspector Reid's FRU contingent, formed two cordons from either side of the gate to the end of the safety rails on either side of the ramp. Inspector Hocking said that he was concerned that a group of protesters were in possession of a wheeled steel industrial waste bin which had been taken from somewhere in Queensbridge Street and wheeled around to the Kingsway ramp area (there are references to its progress in the logs). Police feared that it may have been used as a battering ram. Inspector Hocking told my investigator that this threat did not materialise but he watched a group of protesters form a "wedge" and break one of the police cordons at its weakest point - the centre of its span - an action which he said exhibited organisation and tactical thought. When the cordon was broken, the corridor which had been cleared for the buses to move along was flooded with protesters. Some police were stranded in among the protesters and, according to Inspector Hocking, were receiving some rough treatment. At some time during this struggle the delegates alighted from the buses, which were by this time parked near the entrance to the multi-story car park at the top of the ramp on Kingsway, and were taken into the casino via the multi-story car park.

### ***VIDEO EVIDENCE.***

The video footage of this incident is very difficult to follow. It is disjointed and discontinuous. It shows the breaching of the police cordons by protesters, although it is not possible to see the protesters' use of the wedge described by Inspector Hocking. The crush which followed appears to have been very dangerous. There are scenes of police behind the barricades helping colleagues back over the steel mesh of the barricades. One policewoman in particular was very distressed, apparently suffering back or rib injuries. Although it is not clear from the video, there must have been a police cordon across the roadway at the foot of the ramp to prevent protesters running up the ramp to the buses. Mounted police arrived and the horses were used to push the crowd in an attempt to relieve some of the pressure against the concrete barricades. Although their efforts seem to have been successful initially, the crowd surged back against them and the horses – there were 12 of them in line – were pushed backwards towards the gate. Both Inspector Hocking and Inspector Reid stated to my investigators that they had never seen this occur in their long policing experience.

At some point, the cordon across the foot of the ramp was breached and protesters ran up the ramp toward the buses. Shots from above show protesters attempting to grab onto the buses and the accompanying police motorcycles and police cars as they drove off northwards along the elevated section of Kingsway. One police car can be seen with protesters on the bonnet and boot. In the later stages of the incident protesters can be seen leaning over the safety rails of Kingsway immediately above the gate in the barricades at the bottom of the ramp. Inspector Hocking and Inspector Reid each stated to my investigators that missiles were thrown at police. Inspector Hocking picked up nuts and screws which he said he gave to Deputy Commissioner O'Loughlin and which, presumably, were the ones displayed subsequently on television news services.

Inspector Reid stated to my investigators that many police who had not been in a crowd control situation before this incident found it very frightening. Inspector Reid

stated that neither the FRU nor general policing members involved in this incident drew batons at any time.

The police logs, particularly between 9.00 a.m. and 9.15 a.m. give an indication of the sense of urgency and concern this incident caused for police. There are calls for, “More horses ASAP, barriers moved but can’t be held for long, get here ASAP” and, at 9.15 a.m., the terse message, “Ramp lost, right across road”. As Mr Halloran stated, the confusion and obvious anxiety about whether delegates were safely off the buses is clearly evident in the logs.

### ***MEDICAL EVIDENCE.***

There appears to be only one first-aid treatment recorded in the S11 records which is clearly referable to this incident (Appendix 1, Group 3, case 28). It describes the injury as, “*concussion, superficial bruising right arm above elbow*”. There is reference in the FCP log at 2.28 p.m.. recording that “*one protester fell from car park lower ramp, Whiteman Street and broke ankle. Ambo taken*”. Ambulance records show that one person was taken to the Alfred Hospital with a fractured ankle but records I have received from The Alfred record only one ankle injury – a sprain/strain of the ankle. There is no evidence that this injury was anything other than an accident. So far as I can see there was no confrontation at the Kingsway ramp area at or near this time.

### ***CONCLUSION.***

There can be no doubt that this incident was a serious struggle during which a considerable amount of force was exerted by both sides. For reasons I have set out elsewhere in this report, it is my opinion, the use of force by police in an attempt to facilitate access for delegates was a course which was reasonably open to police. On the basis of the evidence available to me I am unable to agree with allegations that police used excessive force in pursuit of their objective. This includes the use of the horses in an attempt to push the crowd back. Indeed, it appears that protesters used even greater force and defeated attempts by police to clear a path for the buses.

It was only because of the availability of an alternative entry from the top of the ramp that police successfully got the delegates into the casino. Even then, force applied by protesters to the cordon at the bottom of the ramp - unlawful force by any definition – overcame such counter-force as police could apply and protesters rushed up the ramp to “blockade” the empty and retreating buses. In my opinion the use of the words “attacks” by the S11 Legal Support Group to describe the police action is a tendentious misdescription of the facts.

I have been unable to detect any evidence of the alleged punching, kicking, hair pulling, and biting alleged, but I cannot say that none of these occurred in the course of this fiercely contested “push and shove”. In my view, even though considerable force was used by police, there is no basis on which I could reasonably conclude that police acted improperly in a strategic or general sense, or individually.

***INCIDENT 4.***

***POLICE TRAPPED AT WHITEMAN STREET ENTRANCE.***

It has been put to me by various people throughout this investigation that police were unwilling to negotiate with protesters and that many opportunities for negotiated non-violent solutions were ignored. This incident is an example of a negotiated peaceful outcome which avoided what might have been a very violent confrontation.

At approximately 10.45am, having had a short respite in the Tea House car park, Inspector Mawkes was instructed by Superintendent Halloran to bring his FRU contingent inside the casino complex. The nearest gate was the Whiteman Street entrance. Inspector Mawkes noticed that protesters had moved away from the gate and the number of protesters had reduced to about 40. He instructed his contingent to move in two rows southwards in Clarendon Street, and then to turn left and move across the intersection to the Whiteman Street gate. Inspector

Mawkes said police were about half way across the intersection when the crowd began to close in on them. Police began to move quickly toward the gate but were deflected by the crowd to the South side of the gate and became cornered by protesters against a building on the south side of Whiteman Street and the concrete barrier to the south side of the gateway.

Inspector Mawkes stated that his people produced their batons once they came under “attack” from the crowd and stood facing the crowd with their batons out, instructing the crowd to back off. Inspector Mawkes said that there were some baton jabs given to members of the crowd in an attempt to move the crowd back and to keep some space between police and the crowd. He described the position of police at this point as being “in dire strife” and “very dangerous”.

I have received two complaints from individuals arising out of this incident, one from a 55 year old male and one from a 67 year old male. One complainant described his view of the event as follows.

*“Shortly afterwards a loudhailer announced that an assault on the crowd by police was anticipated. People began running to the Clarendon/ Power Street intersection from all directions. We were caught up in the throng. I noticed people linking arms to present a united front. But [being older] I was slower to move.*

*I saw the 20 or so police, having run across from the other side of Clarendon Street, charging headlong towards the group, screaming loudly, “Move, move.” ...but I was in no man’s land, not linked in with the crowd. The next moment I was knocked to the ground by charging police pushing before them a bulky white plastic street barricade which crashed into my legs from behind felling me instantly. As I hit the ground I became aware of the melee surging over and all around me. ... some young people reached down and yanked me upright. ... The back of my hand was deep purple and black from being scraped along the asphalt ...”*

The second complainant described the scene as follows.

*“I was not and had not been blocking any entrance/exit to the Forum premises. I arrived at the point of the assault because I followed out of interest/ curiosity a ‘force’ of perhaps some thirty or more police carrying ‘batons-drawn-at-the-ready’ that I observed running past me in a two file formation along Clarendon Street into Whiteman Street. I and perhaps hundreds of others unknown to me were then behind those police as they became ‘trapped’ within the crowd whilst we were still then behind the traffic barricade.”*

The complainant then goes on to describe how he was struck deliberately by a baton,

*“swung down in an arc of approx. three metres from above and behind the head of the offending policeman, once across the knuckles of my right hand as it rested on a protective traffic barrier between myself and the police, and once to the (protective) back of my raised right forearm”*

I have no video footage of the attempt made by police to get in through the gate. The video footage I have seen, taken by a police video unit from inside the barricades, commences at a later stage of the incident and clearly shows police being crushed forcefully into the corner. Some police and members of the crowd are visibly distressed by the pressure. It was, as Inspector Mawkes said, a very dangerous situation. Inspector Mawkes told my investigators he was fortunate that a well known leader of S11 happened to be nearby with a megaphone. Mawkes began to negotiate with the S11 leader to stop the crowd pushing. The S11 leader calmed the crowd and stopped the pushing, but made it clear that police would not be going into the casino. Police agreed to withdraw to their original position and did so to the generally good-natured jeering of the crowd.

Inspector Mawkes stated the only injuries were “a bit of bark off the guys, one sergeant got really crushed up against the GP barrier, but it was just the usual aches and pains from pushing and shoving.” Inspector Mawkes decided that the Tea House car park was “too close” because it was very obvious that the crowd were targeting the FRU, so he withdrew all the way to Siddeley Street which runs through the middle of the VPC.

In my view, the injuries to the two complainants are matters which, having regard to the circumstances, I cannot take any further. I am unable to identify the members concerned and there is, in any event, an argument that police were using lawful force to defend themselves against the crowd which by all accounts was closing in on them.

It seems to me that this incident is noteworthy for three main reasons. First it indicates a willingness on the part of police, and the FRU in particular, to make a strategic withdrawal where necessary. Second, it lends some weight to Inspector Mawkes’ belief that protesters were aware of the FRU, could identify them, and strategically targeted them. Third, as I said above, this incident is an example of what could be negotiated.

But if it is to be seen as such, it must also be seen as an example of what could not be negotiated: namely, access to the casino through the blockade.

#### ***INCIDENT 5.***

***VPC (SIDDELEY STREET), MONDAY, MIDDAY.***

#### ***THE COMPLAINTS.***

The Pt’chang submission describes this incident as follows.

*“Protesters attempting to blockade a bus load of delegates. Police charged with batons and punched and grabbed protesters. Protesters were split off into rows*



*by police. Some were then pushed between the bus and a row of police horses and trapped there. None of the police were wearing identification.”*

The Pt'chang submission went on to allege that two people were concussed due to baton strikes and one was taken away by ambulance. Pt'chang also refers to the allegation that one woman was abused by police who called her a 'fat cow' and a 'fat bitch' and was also grabbed around the throat and pushed with a baton. There was another report of a man claiming to have been punched by police who also grabbed his index finger and tried to break it. The submission states that this man received first aid for the blow to the head and the sore finger.

### ***POLICE EVIDENCE.***

Having withdrawn from their entrapment at the Whiteman Street gate, Inspector Mawkes and his contingent walked back over the Spencer Street bridge to Siddeley Street. Upon arrival Inspector Mawkes contacted Superintendent Halloran who confirmed that they were still required inside the casino complex. Inspector Mawkes stated that he was devising a plan to “infiltrate” the casino when, “out of the blue a delegates’ bus turned up in Siddeley Street”. It seems that this bus was one which had been repelled by demonstrators from entering the casino. Very shortly afterwards, according to Inspector Mawkes, fifty or sixty protesters came rushing through the car park on the river side of Siddeley Street, surrounded the bus and began banging on the windows. Inspector Mawkes stated that protesters picked up rocks from the median strip in Siddeley Street and threw them at the bus. The missiles cracked but did not penetrate or shatter the bus windows. The FCP log contains a reference to three broken windows and a punctured fuel tank. It was purely by coincidence that Inspector Mawkes’ contingent were on the spot when protesters found the bus. The FRU members formed a “diagonal” and, in the words of Inspector Mawkes, “carved them off the bus”. The bus then moved in an easterly direction down Siddeley Street.

### ***PROTESTERS’ COMMUNICATIONS.***

Inspector Mawkes stated to my investigators that the appearance of protesters so soon after the arrival of the bus confirmed his belief about the effectiveness of the protesters' communications. The evidence available to me supports the opinion held by Inspector Mawkes. I have received evidence from the Assistant Commissioners Perry and Shuey and from Mr Halloran that protesters were monitoring police radio communications and vice versa. Some police radio communications were in encoded digital form but many were not and police were able to listen to the contents of their non-digital communications being repeated over the protesters' radio channels. This reinforced the view of police that protesters were active and mobile in their blockading efforts.

### ***VIDEO EVIDENCE.***

I have examined a video of this incident. A camera followed a group of protesters running along the walkway on the northern bank of the river to the west of Spencer Street. It seems very clear from the video that the protesters were on a mission and that they knew the bus was in the vicinity. They reached the car park and turned right, saw the bus and ran towards it. The rest is as described by Inspector Mawkes above. The bus was parked in Siddeley Street facing east. Protesters can be seen pressed against the front of the bus and pressed against the southern or driver's side of the bus. Police approached the bus from the eastern end of Siddeley Street, made a triangular formation and squeezed their bodies between the bus and the protesters. The protesters resisted strongly and police had to apply considerable force to wedge them away from the bus. There is no evidence of the use of batons by police. So far as I can see police did not draw batons throughout the incident. Missiles can be seen striking and damaging the bus windows. Police quickly formed a cordon along the side of the bus and, as the bus moved off, mounted police rode in a formation, two abreast with one horse slightly ahead of the other, between the line of police who had been standing with their backs to the bus and protesters. The mounted line appears to have been put in place with little or no physical contact with protesters who appear to have stepped back to make way for the horses.

The camera stayed in Siddeley Street after the bus had gone. There is footage of a protester with a bleeding head. There is also footage of a police car further down Siddeley Street which has had its rear passenger window smashed by protesters. One person appears to have been arrested.

Inspector Mawkes stated that there was another “mexican stand-off” for a considerable time while things calmed down. One protester asked Inspector Mawkes for the identity of every member of his contingent. Mawkes stated that he invited the protester to contact him at his office at a later date but heard no more. Another female complained that she had been called a “fat pig” but could not say by whom. She was invited by Mawkes to call him at a later time, which she did, and, Inspector Mawkes says, the matter was conciliated. There is video footage of Inspector Mawkes conversing calmly with a woman protester after the bus has left the scene. Another male complained to Inspector Mawkes that he had been punched to the head. The protester identified the member allegedly responsible and, according to Inspector Mawkes, was supplied with the member’s name. This office has received no complaints from individuals regarding this incident.

### ***MEDICAL EVIDENCE.***

The S11 medical records available to me contain only four cases treated on the Monday afternoon. In my opinion none of these cases can be concluded to have been a result of this incident (Appendix 1, Group 3).

### ***CONCLUSION.***

It is difficult to accept the description offered by Pt’chang that protesters were “attempting to blockade” this bus. The bus was a considerable distance from the casino and was not making any attempt to enter. In fact, it was apparently hunted down by protesters who then surrounded and damaged it. The actions of protesters in this incident were not passive or peaceful. The situation confronting Inspector Mawkes was one which required immediate action. There is no evidence to support

allegations that the action taken by police was unwarranted or excessive in the circumstances.

***INCIDENT 6.***

***QUEENSBRIDGE STREET, MONDAY, 6.45 p.m. – 7.00 p.m.***

***THE COMPLAINT.***

It was alleged in the S11 Legal Support Team submission that approximately six police motorcycles accompanying a number of buses continued at high speed along Queensbridge Street towards the Yarra after the buses had entered the casino. The motorcycles were ridden through a crowd running back up Queensbridge Street towards the gate through which the buses had entered the casino. It was alleged that several people were knocked over or fell in an attempt to avoid the motorcycles.

***VIDEO EVIDENCE.***

I am unable to shed much light on these allegations regarding the police motorcycles in Queensbridge Street on Monday evening. I have received no other complaints about this incident, and have no further details. It is correct that a contingent of police motorcycles were in Queensbridge Street at about this time. They had been escorting buses which entered the casino at the Queensbridge/Power Street gate. Video footage taken from the police helicopter shows that the police escort vehicles peeled off left and right into Queensbridge Street as the buses and some police escort vehicles went straight ahead and through the gate into the casino. Footage taken by a Channel 7 camera at the river end of Queensbridge Street shows police cars travelling north in Queensbridge Street in what would normally be the southbound lane, and police motorcycles can be seen going in the same direction along the tram tracks in the centre of Queensbridge Street. At one point protesters walking along the tram tracks can be seen extending their arms and hands at the last moment into the path of an oncoming police motorcycle in a very

dangerous manner, dropping them only at the last second, in one case causing the rider to take evasive action. In my opinion the video footage provides no support for the allegation that the police vehicles were travelling at excessive speed or in a dangerous manner. The incident complained of does not feature on any video footage in my possession. It seems to me that there is little prospect of usefully pursuing these particular allegations. However, the background to the complaint and the reason for the presence of the motorcycles in Queensbridge Street at that time is a matter of considerable interest.

#### ***A PLAN TO GET BUSES IN.***

The motorcycles were escorting buses carrying partners of delegates who were entering the casino to attend a dinner. The available evidence suggests the buses entered the casino with a minimum of fuss, and the means by which this was achieved is worthy of examination for reasons which will become clear.

The FCP log records a meeting at 3.50 p.m. on Monday attended by Deputy Commissioner O'Loughlin; Superintendent Halloran; Inspectors Reid, Mawkes and Davis, and Senior Sergeant Joy. The purpose of the meeting was to consider options for the entrance of the spouses' bus and the exit of delegates returning to their hotels. The notes are brief and sometimes slightly cryptic, but the following is a fair statement of what the notes convey.

The meeting considered exit via Kingsway or Haigh Street but it was argued that these options would require too many police to maintain the necessary cordons. The possible use of ferries and helicopters was considered but then rejected as being unable to cope with the numbers of exiting delegates. Mr Halloran expressed the view that buses were the only option. Some discussion then took place about the use of mounted police to move protesters. There appears to have been discussion about the likely resistance. Inspector Reid is recorded as saying, "*we got pushed back this morning with 12 horses*". The notes go on as follows (I have done some editing to make them easier to read).

- “Reid            Power St - come out valet car park.*
- Mawkes        The buses have to be ready to go when FRU are there. If we have the numbers go.*
- Mr H            We have no option but to get buses in and out. If there is any indication to protesters of our intentions then they will most likely sit down on mass and that will make it almost impossible to move them. Organisers have made it clear they want secure passage so we cannot have these people detained against their will. We have considered all options unfortunately there is no other practical way.”*
- O’L             Have we got the 300 to do the gate?*
- Mr H            We have 240 - 250. Change of shift will give us the numbers.*
- Reid            Plus 40 who are in the vicinity. Paul Evans' crew.*
- O’L             Have we got 2 lines to go in Power St?*
- Reid            With intersection blocked, cordon across both property lines. Mounted to clear the people in middle behind cordons.*
- O’L             To flank the buses.*
- Reid            Imperative that once the cordons are in place, buses must be ready.*
- Mr H            Numbers will swarm around the Force Response Unit.*
- Mawkes        Put in white caps O.K*

*O'L                Full riot gear?*

*Mr H              Preferable not to use full riot gear tonight.*

*Mawkes          If we get cordons do we use batons to keep away from line.  
Back off jabbed with baton is softest of heavy approach.*

*O'L                Barricades have caused problems. Is it dangerous?*

*Reid                Lucky to get barricades."*

The meeting then went on to devise a strategy to deal with the entry of Crown staff later in the afternoon, before returning to the issue of equipment.

*"O'L                Are there enough batons?*

*Mr H                Not enough.*

*Reid                Monodocks*

*O'L                In store room at FRU.*

*Mawkes          Give up FRU batons for Monodocks."*

It can be seen that this meeting was the birthplace of the basic plan which was to be used three times to clear the intersection of Power and Queensbridge Streets to allow access for buses which would approach along Power Street from the City Road intersection. Although many are familiar with the execution of the plan on the Tuesday morning and evening, the fact that it was also employed on Monday evening appears not to be widely known or acknowledged. It also appears that the decision for the FRU to carry the controversial side-handled batons was made at this meeting. The log corroborates evidence given to my investigators that this was a decision based not on a perceived need for the use of these batons but rather

because there were not enough of the long batons to go around among the large number of police who were to be engaged in this operation. Inspector Mawkes explained to my investigators that many police had reported for duty without batons even though they had been instructed to bring batons. It seems that the side-handled batons were not even available for use at the casino and remained locked away in the FRU store at the Victoria Police Centre. It was decided that the long batons used by the FRU throughout Monday should be redistributed to the Transit and general policing personnel and the FRU would use the side-handled batons.

The plan, as it was finally executed at 6.30 p.m., was that Inspector Reid's contingent (96 in all), would form a cordon from the right-hand (i.e southern) end of the gate to the block of flats at the south-eastern corner of the intersection, while Inspector Mawkes' contingent of similar size would form a cordon from the left-hand (northern) side of the gate to the building on the north-eastern corner of the intersection. Superintendent Halloran was to coordinate the movement of the buses and, when they were close to the casino, give the go-ahead. The FRU were to run out from the valet car park ramp shouting the standard instruction of "Move! Move!". It is essential to note that it was always understood that a number of protesters would be left in the intersection between the two FRU lines. These people were to be removed from the intersection by Transit Police who were to follow the FRU into the intersection and, after removing any protesters, were to form a second, reinforcing cordon behind the FRU members. Inspector Reid's recollection was that batons were not drawn during this exercise but the video footage clearly shows this recollection to be mistaken.

It has been impressed upon my investigators that the police action to secure the intersection had to be quickly executed. It was also seen as important that police should wait until the buses were close to the intersection so police would not have to hold the intersection for too long before their arrival, possibly allowing protesters to swarm, rally their resources and to push back in an attempt to re-establish the blockade. At the same time, it was seen as very dangerous to allow the buses to have to stop and wait because this would leave the buses as sitting targets. Lock-on tactics which would immobilise the buses were seen as a particular danger which



would inevitably lead to escalating confrontation. The fear of lock-on tactics, sometimes used in anti-logging protests, was not wild or unrealistic; there is evidence that workshops in lock-on tactics were conducted in the days leading up to the protests. It can be seen that the balancing process of these various factors places police responsible for securing the intersection under considerable pressure with regard to timing.

### ***EXECUTION OF THE PLAN.***

Inspector Reid told my investigators that the instruction to members was that they were to force passages through the protesters at the gate, one to the left and one to the right. He did not himself do any reconnaissance prior to emerging from the valet carpark ramp because *“we did not want to show ourselves outside the car park and declare our hand”*. Instead he relied on receiving information from general policing members standing at the gate. The information received was that the numbers of protesters was falling. His recollection was that the information he received put the number of protesters at about fifty. Inspector Reid has stated that it was his belief there would not be any need to use significant force because police would have the element of surprise. He explained it was his expectation, based on experience, that protesters at the gate would be surprised at the sudden appearance of police and would get out of the way. Instructions had been sent to police at the gate that when they heard police coming towards them shouting, “Move! Move!” they were to pull the plastic barriers aside. He stated that protesters stepped aside and there was very little contact or resistance. Police remained in the intersection for a short time, estimated to be about 10 minutes by Inspector Reid, and then withdrew. Both Inspectors Reid and Mawkes stated that the number of protesters built up while police were in the intersection. Inspector Reid stated that after police had withdrawn, missiles such as eggs and stubbies or bottles were lobbed from the back of the crowd.

The video footage of this incident largely supports the account given by police of the plan, but the way in which it unfolded is worth recounting in detail. The helicopter footage follows the approach of three buses from St Kilda Road, down

Southbank Boulevard and into City Road rather than concentrating on the preparations at the Queensbridge/ Power Street intersection for their arrival. As the buses move along Power Street towards the gate a small contingent of mounted police can be seen moving down Power Street at a brisk pace. The images are not very clear but it appears that three buses arrived before the FRU were in the intersection and before mounted police were in position. The three buses can be seen entering the gate while FRU members were only beginning to emerge from the valet car park ramp. It seems that the general policing members on the gate moved out into the intersection, apparently removing the very few protesters there without any difficulty, and directed the buses through the gate. After the three buses entered the casino, police can be seen continuing to go out into the intersection to form the two cordons. A small contingent of mounted police can be seen in the southern side of the intersection. They appear to be standing-by rather than taking an active part in the operation. When the cordons were complete and in place, one more bus arrived along Power Street and entered the casino. Police can be seen withdrawing back through the gate. Throughout, it is possible to see protesters approaching the intersection from both directions along Queensbridge Street, fulfilling the expectation of police that there would be “swarming” of protesters. The Channel 7 footage shows the crowd approaching the intersection from the northern end of Queensbridge Street, including the scenes of members of the crowd holding their hands out in front of the southbound police motorcyclists, and records the crowd closely following police, face-to-face at a distance of about a meter, as police withdrew. There appears to have some push and shove between police and protesters. The crowd, by now apparently quite large, can be seen chanting slogans at police, who withdrew and took up a position behind the barricaded gate. The Channel 7 footage contains no evidence of any kind of missile being thrown at police. Police did not wear helmets although they did go out at “level 4” with the standard issue long batons drawn. In my opinion this was not unreasonable having regard to the expectation of police, based on experiences of earlier in the day, that they may have to hold cordons against the determined efforts of protesters to enforce the blockade.

This operation seems to have been successful and peaceful. There were no complaints arising from it. Indeed, I was not aware it had taken place until some time into my investigation. Before moving on to the next incident, there are a number of features of this operation which are worth noting. First, it was clearly the blueprint for the Tuesday morning and evening operations. Second, surprise and speed of execution were seen as important elements. Third, the evidence suggests that the buses arrived before the FRU and supporting Transit police had entered the intersection to form the cordons. No doubt this latter aspect caused some concern and underlined the perceived need for speed of execution.

***INCIDENT 7.***

***HAIGH STREET, MONDAY.***

It was alleged in the Pt'chang submission that, although Haigh Street was relatively quiet, there were reports of police occasionally hitting protesters through the day.

This is quite a vague allegation and no further detail or evidence is provided in support of it. There has been no similar complaint coming from the S11 Legal Support Group, nor have I received any complaint regarding police actions in Haigh Street on Monday. The only evidence I have seen relevant to activities in Haigh Street on Monday is contained in Chief Inspector Winther's notes of his meeting with S11 representatives on Monday afternoon where a representative of Green Block who had apparently been active in Haigh Street reported "*no big problems*" and that "*liaison at this point with police has been good*".

***INCIDENT 8.***

***ALLEGED USE OF CAPSICUM SPRAY, MONDAY.***

This complaint appeared in the S11 Legal Support Team as follows.

*" There was one reported use of capsicum spray by police during the protest. A woman was treated for exposure to the spray by a member of the S11 first aid team.*

*If capsicum spray was used it is a serious breach of the Chief Commissioner's Instructions which stipulate that the spray must not be used or carried during demonstrations or industrial disputes."*

I agree that the use of the spray certainly is a serious matter but the allegation is very vague and made without any detail or supporting evidence. I have copies of the S11 first aid records and I have been unable to find a record of a treatment for the use of capsicum spray. My investigators put this matter to Mr Halloran who stated that spray containers were not issued to members but were stored at the casino for deployment upon his authority if necessary. Mr Halloran stated that none were issued. Mr Halloran and Inspectors Reid and Mawkes confirmed that some FRU personnel were designated as "chemical dispersal units" and carried backpacks with OC foam. Again, this was not used.

***INCIDENT 9.***

***OCCUPATION OF HERALD AND WEEKLY TIMES BUILDING.***

It was alleged in the S11 Legal Support Team submission that one woman was pushed to the ground by police and suffered injuries.

There is a certain amount of video evidence of this incident which occurred at approximately 2.00 p.m.. The video footage provides no evidence of any incident which might have caused injury to a protester. So far as I can see the occupation of the Herald and Weekly Times building was noisy but involved no physical confrontation. I have received no complaints arising out of the incident and in the absence of any further supporting evidence I can take this matter no further.

***MATTERS EMERGING FROM THE EVENTS OF MONDAY.***

Before moving on to consider the allegations concerning the change of police tactics overnight, it is worth going briefly over the events of Monday and their

significance. It seems to me there are a number of things emerging from the evidence concerning the events of the Monday.

- Demonstrators were committed to a total blockade; “no-one in and no-one out” (Incidents 1 – 4).
- Protesters were prepared to resist police efforts to form cordons to allow for access to delegates and others, and were prepared to attempt to renew their efforts to break established police cordons in order to reinstate the blockade (Incidents 1, 2, 3).
- Some elements of the crowd had shown that they were not passive and not peaceful (Incidents 1, 2, 5).
- Protesters had good communications, were mobile and responsive to police actions (Incidents 1, 4, 5).
- Police had failed to get all delegates in, and had failed in their efforts to establish and hold cordons at the Kingsway ramp entrance.

#### ***INCIDENT 10***

#### ***ALLEGED CHANGE OF POLICE TACTICS OVERNIGHT.***

This is an issue which has been the subject to some speculation and has been mentioned to me with a kind of knowing wink several times in the course of my investigation. The general thrust of the speculation is that police were subjected to heavy pressure on the Monday night to lift their game and to use whatever means were necessary, including the allegedly unlawful use of force, to ensure that the WEF went ahead successfully. This speculation is based on knowledge of a meeting in the early evening between senior police, the Premier and organisers of the WEF. The change of tactics manifested in the police action on Monday

morning at the Queensbridge/Power Street intersection are seen as proof of the truth of the theory that police were “leaned on”. I have investigated this issue in some detail. I can confirm that there were two meetings on Monday afternoon which are relevant to this issue. The first was at 4.30 p.m. and the second at 5.00 p.m.

The earliest reference to these meetings in the logs is an entry in the FCP at 3.40 p.m.: *“Briefing with Premier Bracks at 1630 room 710 at Crown re update plans for spouses, plans for tomorrow morning and plans for exit tonight”*. A second entry at 4.27 p.m. reads as follows: *“ Mr H – had a meeting with Premier Bracks, D/C O’Loughlin, Brumby and Moran re discussed resourcing issues and security issues.”* A third entry at 5.53 p.m. records, *“Mr Halloran returned from meeting: - In attendance Premier Bracks, Brumby, Moran, D/C O’Loughlin, Michael Roux, Claude Smadja, Klaus Schwabb”*. The following is a brief description of the evidence I have received in relation to these meetings and how they came about.

Then Chief Commissioner, Mr Neil Comrie, has told me he was not personally involved in the strategic decision making throughout the WEF but he was continuously briefed and attended the police operations centre on numerous occasions. Mr Comrie said that as the events of Monday unfolded it was obvious that things could not continue in this way. Mr Comrie recalled speaking to Mr Moran and the Premier during the day. He recalled that he was advised the government had received complaints from organisers of the event who were concerned for delegates’ safety and about the inability of many to get into the forum. Mr Comrie stressed that, although these concerns were raised, at no time on the Monday, or at any other time, had the Premier or any Minister or anybody else directed him on how police should conduct their planning for, or response to, the actions of demonstrators.

Mr Terry Moran, Secretary of the Department of Premier and Cabinet, confirmed there had been a series of exchanges throughout the day between himself, the Chief Commissioner, representatives of his Department and representatives of Crown. The essence of these exchanges was that police would take action to make it

possible for delegates to get into Crown for the rest of the day's events and would also make it possible for delegates to get in on Tuesday morning.

Mr Moran stated he arranged a meeting at 5.00 p.m. between police, WEF officials, himself and the Premier because the WEF officials had expressed concern to him about the fact that some delegates had been stranded on buses and had been unable to get into Crown. Mr Moran stated that there was also a meeting at 4.30 p.m., not attended by WEF officials, which was held for the purpose of ensuring that when police and government sat across the table from the representatives of the WEF at the 5.00 p.m. meeting they would speak with one voice. He said this took only a matter of minutes. Mr Moran stated that in the early afternoon it had already become clear that police tactics adopted until that time had not succeeded and would not be persisted with. Mr Moran stated that there was no direction issued to police on operational matters.

Mr O'Loughlin stated to me that prior to the 4.30 p.m. meeting he had already met with Superintendent Halloran and other police and had started to plan new strategies. (This meeting has been described in detail above in discussion of "Incident 6 – Queensbridge Street, Monday 6.45 - 7.00 p.m."). Mr O'Loughlin said that on the Monday afternoon he felt police had done a reasonable job and did not feel that police had been "beaten". In his assessment, police had been successful to the extent that the Forum had gone ahead, most of the delegates who wanted to get in had done so, and police had been able to adjust their tactics as necessary, quoting as an example the use of boats to get some delegates in. He agreed that there may have been a view among some members of the public that police had been beaten, but he did not agree. Mr O'Loughlin said that police were concerned that some basic requirements for the success of police plans and tactics were not being met by the organisers. He saw a single movement of delegates as being advantageous for police because it would avoid the need to provide for numerous movements in and out and would, he said, give everyone a chance to 'settle down'. He said he went into the meeting with the Premier, government officials and the WEF organisers with the aim of attempting to get organisers to agree that delegates should move together at the one time.

I have spoken to the Premier about his recollection of the meetings. His recollection was that the 4.30 meeting was an “update” because there were logistical questions about which the organisers had to be advised. The Premier said the issues involved arrangements for the assembly of the delegates to arrange for their attendance and transport and how these arrangements should be transmitted to delegates. He said the Treasurer and Finance Minister were in touch with the delegates who had to be informed of the arrangements.

The 5.00 p.m. meeting involved frank discussions. Mr O’Loughlin stated that the WEF organisers were critical of police and took the attitude that police should simply use more force against protesters so that delegates could come and go freely. Mr O’Loughlin stated that the WEF representatives did not understand the Australian policing and law enforcement attitude and expected a much stronger response. Mr O’Loughlin indicated that he spoke bluntly with WEF organisers, pointing out that a multiplicity of entries and exits by delegates was creating difficulty for police. Mr O’Loughlin said he had some difficulty convincing them that the more movement there was of delegates in and out of the venue, the bigger would be the policing problems. Eventually, Mr O’Loughlin said, they were convinced and organisers accepted that delegates should all be on the buses at the one time. Mr O’Loughlin said that one of the results of the meeting was an agreement that a liaison officer should be nominated to facilitate better communication between WEF organisers and police.

Mr O’Loughlin said that there was no criticism of police performance at either meeting from the Premier or from any other government official, and that police were never directed in regard to any operational matters.

Mr Moran’s recollection of the meeting supported Mr O’Loughlin’s account. Mr Moran said that the WEF representatives were a “bit bothered” about the inability of some delegates to get in. They saw it as the job of police to get delegates in, and that police had failed. Mr Moran said he could understand their frustration but felt they could have been a bit more understanding of the *“predicament which police*



*had faced where, rightly in our sort of society, police had attempted an absolutely low key management of the situation".* He went on to say that the WEF people "*did not understand that, in our sort of society, the way police handled it was not only reasonable but necessary*". He recalled that Mr O'Loughlin attempted to explain that the problem had been that some delegates had come along late and it was they who could not get in and that delegates had to move together. Mr Moran said that the WEF representatives argued that it was not necessarily convenient for everybody to come at once, but they were told that was the way it had to be. Mr Moran said of Mr O'Loughlin, "*Neil can be a bit blunt, and probably was.*" Mr Moran said the WEF representatives agreed they would do their best to get the delegates to assemble in the morning, and the meeting concluded at this point. Mr Moran stated that no direction was given to police on the issue of what action they could or should take.

The Premier said that this meeting was again to organise the logistics of the conference. The Premier said that he only stayed for part of this meeting because he had to attend the Forum as a presenter. The Premier denied giving any direction to police on operational matters at any stage. He said that, "...what we sought at times was information so that we could at least, so organisers could understand the logistics and how people were to be moved". The Premier concluded by saying that he was "not qualified to, and appropriately should not be" involved in any operational decision made by police.

The FCP log contains the following entries at 6.00 p.m. (they are in fact recorded as being made at 1700 but this is clearly an error and they were made at 1800).

*"Delegates at Hyatt and Spouse program to be bused to venue casino at 1815 hrs for arrival at 1830 hrs. Tonight egress to be effected by force if necessary.*

*Breakfast tomorrow delegates to leave hotels by 0700 to be at Crown by 0715 by whatever force necessary.*

*Bill gates at Jeff's Shed to be done via live link rather than by Gates attendance.*

*To do:*

*Change of shift start time now 0600*

*Safety helmets and equipment to be bought to Crown*

*DVP radios and spare batteries to all Officers*

*Booze buses cancelled. Staff to be redeployed to concourse level 0600*

*Buses transporting members in to be available to assist with movements for tomorrow to the CBD*

*Liaison Officer to be appointed for Mr Smadia and D/C O'Loughlin to arrange same.*

*Horses to be on site by 0630 hrs*

*Dogs to be on site at 0700 hrs"*

This is clearly a series of entries recording decisions taken as a result of the outcome of the 5.00 p.m. meeting. It does not necessarily follow that they are the result of a direction, or "heavy" suggestion, to police in that meeting by government officials. These entries contain many elements which first appeared in discussions which are on the record prior to the 4.30 p.m. and 5.00 p.m. meetings, in particular the 3.50 p.m. meeting attended by Messrs. O'Loughlin, Halloran, Mawkes, Reid, Davis, Joy in which the plan to push out from the Queensbridge / Power Street gate was first raised.

It seems to me that there is no evidence to support the view that pressure was improperly applied to police. More importantly from the Ombudsman's point of view, there is no evidence that police improperly buckled to any pressure to interfere in operational decisions for political purposes. In my view the available evidence suggests that the basis of the strategy which was ultimately used on the Tuesday morning and Tuesday evening had been devised prior to 4.30 and 5.00 p.m. meetings. The available evidence strongly suggests that police themselves recognised, in the light of the experience of the Monday, that the entry and exit of delegates could be better handled. It appears that police went into the 4.30 meeting with the Premier and senior government officials, and into the later meeting with

WEF organisers, with the objective of bringing organisers around to their way of thinking. The available evidence suggests that, in the face of some resistance, police succeeded in convincing WEF organisers to make new arrangements for the entry of delegates on the following morning.

I mentioned earlier that Mr O'Loughlin stated that there was a point at which police would have shut the WEF down. However, he also stated that at no time during the event did he think police were anywhere near that point and he was always confident that police could manage the situation. There is no basis upon which an objective observer could conclude that the change of tactics on the Tuesday provides evidence that police were reluctantly pushed to go beyond a point they would not otherwise have passed.

One very visible aspect of the change of tactics on Monday night concerns the decision by police to use protective headwear and to execute the plan to clear the Queensbridge / Power Street intersection at "level 4" (with batons drawn). This issue was first raised at the 3.50 p.m. meeting but the decision in respect of the Tuesday morning plan was confirmed at a meeting at the Police Operations Centre at 9.00 p.m. attended by Messrs Halloran, O'Loughlin, Mawkes, Shuey and Perry. Mr O'Loughlin recalled this meeting finalised the details of the tactics to be used on Tuesday morning to get the buses in at the Queensbridge / Power Street gate. He said the decision to execute the plan at "level 4" was taken at this meeting and was based on the experiences of the Monday. The decision was taken with his approval and with the authority of the Operation Commanders, Assistant Commissioners Perry and Shuey.

## **7.2 TUESDAY 12 SEPTEMBER 2000.**

### ***INCIDENT 1.***

#### ***CLEARANCE OF QUEENSBRIDGE / POWER STREET INTERSECTION AT 7.10 a.m.***

### ***THE COMPLAINTS.***

Several individual complainants provided very detailed descriptions of the Tuesday morning clearance of the intersection of Queensbridge and Power Streets. Their descriptions are largely consistent with one another and with the video evidence I have examined. The following are edited extracts from the descriptions provided by four complainants. They are lengthy but, in my opinion, are an excellent starting point in the examination of this incident.

*“At around 7am, I was seated on the road on the corner of Queensbridge and Whiteman Streets ... There were between fifty and one hundred protestors sitting with me in a large circle and we had our arms and legs linked together. More protestors were standing around the roadside edges of the circle. A line of police officers in normal uniforms filled the gateway in the police barricades. ... at this time two lines of mounted police arrived ... In response to the arrival of horses, the protestors standing up moved aside and those sitting down huddled more closely and held each other more tightly.*

*“Without notice, the police line in the gateway opened and many rows of officers with visors on and truncheons out ran over the top of the sitting blockade. It appeared that many of the officers made an effort to hurt people as they stepped on them. Some officers hit people with truncheons.*

*“My arms were tightly linked with other people's and for a short time I was unable to respond. My head was stepped on and pushed to the side by a police officer, hurting my neck. ... The line of people I was linked to was facing the oncoming officers. We were pushed on to our backs and the woman next to me said several times, “ I need to sit up.” I was unable to help her due to the weight of police officers continuing to step on us.*

*“When I freed my arms, I quickly moved towards a foetal position and protected my head with my arms. I was rolled onto my back by the flow of officers still rushing over us and I sustained several blows to the head from officers' shoes. I was hit once on the head by a truncheon.*

*“When all of the riot police were outside the fence, they started to remove people from the blockade. I crouched in fear and did not move. An officer started to move me by the upper arm and said, “On your feet”. I did not respond. An officer took the collar of my shirt and lifted. ... Some officers held my wrists and ankles and dragged me along the ground, which caused me no injury due to my many layers of clothing. After about five seconds the dragging stopped and I was kicked approximately twice in the ribs and the officers appeared to leave.”*

\* \* \* \* \*

*“... We seated ourselves on the ground at the main entrance at the end of what I believe is Power Street. ... At the time there were already approximately forty police officers manning the barricade. ... a column of approximately twenty mounted police, two abreast, moved down Power Street and turned left heading up Queensbridge St. heading away from our position. At the sight of cavalry, we all sat down and interlocked arms and legs so that if they charged us the horses would baulk at stepping into our circle.*

*“At roughly 7.05 am, without warning (I cannot express this strongly enough, at no time did I hear any order for us to disperse, any kind of legal direction from*

*anyone in command of the police, or from any police officer at all) the police officers forming the barricade parted and a column of what I later estimated to have been 150 riot police in helmets and with batons, who were already moving at speed, literally ran over the top of our seated party. They kicked and stomped, stood on peoples heads and beat them with batons. I was hit in the ear and side of the head with a baton. My head and back were stepped on or kicked at least ten times as were my legs and feet. I count myself lucky as some of those around me sustained broken arms, ribs and one young man was knocked unconscious. One of my companions aptly described it as 'a hailstorm of policemen'.*

*"Witnesses who were not directly involved later told me that the normal police officers who were still manning the barricade appeared to be utterly appalled by the brutality of the attack and some of the officers within the attacking column also appeared to be less than willing participants. (Others seemed to take a great deal of delight in their work).*

*"After what seemed like several minutes of this I was dragged upside down by the foot through the lines of police that were forming on the river side of Power St and through a line of mounted police and dumped on the road."*

\* \* \* \* \*

*"On September 12th I arrived at the south Queensbridge St. entrance to the casino at approximately 6.30am and sat down in the 3rd row of people facing the police line.*

*"I linked arms with the people around me and put my legs around the waist of the person in front of me. Soon after several police arrived on horseback to the rear of us, creating a feeling of panic and distraction. Then, without prior warning, the line of police, perhaps 15 across, suddenly broke open and herds of police came charging violently and furiously from behind them. There*

*seemed to be an endless amount of them jumping from the plastic barricades and onto our heads and faces.*

*“In the ferocity of it all it was impossible to identify individual officers and from what I did see, none of them were wearing badges or identification. I saw police kick people in the heads and beat them with their batons. All the time this was happening we all remained sitting down, linking arms and shouting "non violent" in unison.*

*“A policeman jumped aggressively on my face and shoulders and I lowered my head so as not to be exposed to facial injuries. Within seconds I was hit from behind with a police baton and was dragged away and left under a police horse. I was fazed and dizzy and couldn't see properly. Nearby first aiders and protesters came to my rescue ...”*

\* \* \* \* \*

*“By 7am our numbers had swelled to maybe 50 (at a guess) sitting, another 10-20 standing around. Those sitting were well linked up, most arms linked with neighbours, feet in the lap of person in front. There was very little room to move. ... I was sitting with my mate on my left, with the northern most fence edge on his left. We were in the back row, police directly behind us. ... Just after 7am the word went up that police horses were approaching (I think from down Power St). A bit of a shiver went through us, and we tightened up. Then we heard that they had turned down Queensbridge St., and relaxed. Next thing, the cap-wearing 'ordinary' police behind us peeled away, and the helmet wearing padded up police appeared. ... They had no badges, no numbers, no name tags.*

*“There was definitely no order to move away. No warning or announcement that force would be used. There was no attempt to arrest (which I'm sure some protesters would have complied with and gone quietly). From here details are confused. I'm not certain they had batons drawn from the first moment, but it certainly wasn't long after they appeared that I felt the first blows from batons.*

*The kicks started immediately. The stomping started immediately. Big blokes were stepping, running, hopping and jumping into and onto the sitting protesters. I am certain they targeted body parts; I have bruises on my inside thighs where I kept deflecting their boots to as they aimed for my genitals. Over my shoulder I saw police steadying themselves against each other so they could step up onto our backs, heads and shoulders. ...*

*“We were all ready to go, to arrest or whatever, within a minute of the start. Screaming, crying, and shouting were the only 'resistance' I observed from protesters. At the beginning we were screaming 'we are not resisting', 'this is a nonviolent demonstration', 'no violence', 'what about civil rights' (funny but true), but this soon changed to, 'take us away', 'help', 'stop kicking me', 'my neck my neck'.*

*“I felt many individual baton blows to the head, neck and shoulders. One time I specifically counted six consecutive head blows which must have come from the same policeman. I had numerous lumps on my head; one 2 inches across, behind my right ear which I believe came from a kick. I was kicked many times, mostly to back and sides; 9 times in a row to the right kidney at one point. I was kicked when sitting, when lying flat on my back (something I tried, hoping I would be less targeted), and when rolled onto my side. I had police step on my back, neck, hands and my chest (from which I have a fractured sternum) and my head. I believe the footprint on my forehead though, may have come from a kick rather than being stepped on. ... at no stage did I see any protester near me stand up. There wasn't time to stand. I remember policemen shouting 'move' at the same time as they stepped on me or struck down on me with their baton.*

*“At the end there was some space around me, and a policeman gestured to get out. But I literally couldn't get up, and was dragged out and dropped on the ground in front of the protester line on the outside of the horse/police cordon. I felt the episode from when the FRU first appeared to when I was tossed out was maybe 15 mins. I found it difficult to believe how long it lasted; I couldn't understand why they were dragging it out so long. I remember shouting, 'I give*



*up, take me away', and hearing, 'not yet'." ... Notable injuries amount to a fractured sternum, extensive bruising on back & neck, and a boot print on my forehead."*

\* \* \* \* \*

*"I arrived at Crown Casino, at about 6.45 am. ... When I arrived, there were three rows of protesters seated and linking arms. I sat down, and shortly afterwards was joined by the 'affinity group' members I had been with the previous day, who sat in two rows and linked arms facing each other. We were then joined by [named] who uses an electronic wheelchair.*

*"The S11 organiser who had been present the previous day briefed us that there were no buses anywhere near our gate, and that they were parked near an adjacent gate. She said our gate was the only one effectively blockaded, and that our blockade would be largely 'symbolic' as a police water barricade (which it appears was not filled with water) at the end of the street (Power St? Powell St) would have prevented buses entering by our gate in any case. There was some discussion as to whether or not we should move to blockade a usable gate, but we decided to stay, as we were happy to have a 'symbolic' protest.*

*"Some people with red flags tried to join us, and we told them to sit down peacefully, or go away. They eventually moved to one side.*

*"Someone called out that they had seen a car, and we all linked arms. I looked and saw a dark car with its headlights on, moving slowly. It did not try to enter. We did not block the passage of this or any other car.*

*"Shortly after that, I heard a commotion behind me, and I saw the first officers appear through the gate from inside the complex. One of them reached the street, and took hold of [named person's] wheel chair. Later I saw an officer stumble and fall on her.*

*“The commotion got worse, and I looked around and saw a wave of officers beginning to run through, and on, the seated protesters. They ran from the gate towards the street, stumbling as they went. sometimes they stepped with feet or knees on protesters' backs, shoulders, necks and heads. Our group at the front began to chant 'om' - a long, calming meditation noise. I joined in, and closed my eyes for part of the time. Others screamed, or called out for calm, or called out to the officers that it wasn't necessary. There were lots of calls of "you don't have to do this". Nobody retaliated with any violence, and I didn't see anyone even try to protect themselves.*

*“I don't recall how the row in front of me were removed, or the people to my immediate right. When I looked forward, I saw the lights of TV cameras, so I know there is footage of the incident.*

*“I was hit often, on my back, neck and head, often taking the full weight of an officer on my bent over form. Some officers stepped or climbed over me. Others stumbled and fell on me. At least one officer trod on my head, on the left hand side. My head was bent down almost to the ground with the weight of officers. They mostly stood or kneed my shoulders and back, or fell on, or put their hands on, my neck. I have abrasions and bruises on my head, shoulders, upper arms and back. I kept thinking "this can't be happening! surely they will stop soon!".*

*“There were several officers in front of me, facing me, assisting the stumbling stampeding officers to their feet.*

*“I felt sharp pain in my neck and head, and called out to one of the officers in front of me that I was injured. By this stage I was crying hysterically. I called out "I'm injured! Let me out! Help me!" over and over. I caught the eye of one of the officers in front of me, who was facing me, and begged him to let me out. I think I held out my hand to him so he could help me to get up. I asked over and over. But he told me to stay still, and motioned with the palm of his hand 'stop'.*

*“A protester then appeared to launch himself from behind that officer, to his left, and flung himself on top of me, protecting my head and neck by holding up his body with his arms. He was partially dragged away, but got free and threw himself on top of me again. I could feel the weight of police officers on top of him, but he mostly protected me for maybe 30-60 seconds.*

*“He was dragged away by police, and I saw him on the ground being held by several officers. One was pulling him by the hair. The others appeared to be beating him. ... Police continued to tread and stumble on me and I continued to beg to be allowed out.*

*“Later the officer I had been pleading to called out ‘If you want to go, go now’. I immediately got up, and he directed me to the right, and I found myself trapped between one row of police tightly formed, shoulder to shoulder, with batons facing outwards, and another tight row of police horses with their back-sides to me.*

*“I couldn’t get away. I was dazed and in extreme pain. I kept sobbing and moaning and calling out ‘help me! help me! I’m injured, please! I need help. Please call an ambulance! (etc)’”, over and over to any of the baton wielding line of police. All their faces remained stony. They would not meet my eye. I feared if I approached them too closely they would hit me. I feared if I approached the mounted police from behind, the horses would kick or trample me. I knew my neck injury was serious, and feared most of all being knocked down or dragged by the hair. I was, having trouble remaining upright, and was moving in circles, dazed and confused.*

*“I saw a few protesters huddled together – they indicated that I should join them to try and get out, and one tried to put an arm around my shoulders. This hurt so much, and I knew that I would be unable to ‘huddle’ with them (heads down, backs facing outwards, arms around shoulders) so I pulled away. Soon I was alone, dazed and confused, still crying for help, still stumbling around in*

*circles, still trapped. ... A mounted officer moved his/her horse to one side, creating a gap, and I went through immediately.”*

\* \* \* \* \*

I will state at the outset that, in my opinion, any objective viewer of the video footage of this incident would find it very difficult to fault the general picture painted by the above extracts. Some of the details in the complainants’ accounts are slightly inaccurate, but many details are clearly corroborated by the video images. I have examined video footage taken from behind police barricades, from outside the barricades on Queensbridge Street and from the police helicopter hovering above. However, before turning to my view of this event gleaned from my examination of the footage, I will first consider the evidence of police in relation to the incident.

## ***POLICE EVIDENCE.***

### ***Planning.***

Having enjoyed success with the Monday evening action to clear the Queensbridge/Power Streets intersection a decision appears to have been taken, at least provisionally, at a meeting on Monday evening to use the same plan on the Tuesday morning. At a meeting at 7.10 p.m. attended by, among others, Inspectors Mawkes and Reid, Mr Halloran is recorded in the log as saying,

*“Tomorrow morning delegates moving 0700 by bus. It is quite clear they must come in. We may be required to use whatever force is necessary. The risk is that this may escalate protest activity so minimal force will be used.”*

As detailed elsewhere in this report, a meeting at 9.00 p.m. on Monday evening attended by Messrs. O’Loughlin, Perry, Shuey, Halloran and Mawkes confirmed the decision to use the plan and also confirmed that it should be conducted at “level 4”, which means police were authorised to have batons drawn. Mr Halloran stated to my investigators that he did not expect batons to be used in an offensive mode.

Police evidence received by my investigators was that it was considered the Tuesday crowd could be much bigger and may have been much better prepared. It was felt that the use of helmets and batons would be justified based on the experiences of Monday where there had been strong resistance to police, missiles had been thrown and there had been signs of crowd organisation to the extent that protesters had been highly mobile, had good communications and the FRU had been identified and targeted.

Inspector Reid told my investigators that a quick assessment on Tuesday morning confirmed the best option was to go out through the Queensbridge/Power Street gate again. This decision was based on the fact that this plan had already been successfully used on the Monday evening. Inspector Reid stated that the plan had been refined slightly to take account of the possibility that protesters might run up Southbank Boulevard from the S11 stage area to cause problems for the buses in City Road as they approached the Power Street intersection. It was arranged for Transit Police, who had received training to provide support for the FRU, to move along Power Street and to put a cordon across Power Street at City Road.

Inspector Mawkes stated that the total police numbers used to achieve the objective were as follows.

FRU	2	inspectors
	6	senior sergeants
	32	sergeants
	149	other ranks
Transit	1	inspector
	2	senior sergeants
	10	sergeants
	50	other ranks
General Policing	2	inspectors
	4	senior sergeants

50 sergeants  
250 other ranks

He stated this was the number of police required to establish and hold double cordons over the distances required by the plan.

The plan was the same as that employed on the Monday evening. Police were to wait, out of sight of protesters, on the valet car parking ramp which goes from a point next to the fountain at the hotel entrance to an underground carpark. The two sections of the FRU under the command of Inspectors Reid and Mawkes were to be the first police out. Inspector Mawkes' people were to force a passage through the crowd to the left to form a cordon from the northern end of the gate to the building on the north-eastern corner of the intersection. Inspector Reid's people were to force a passage through the crowd to the right to form a cordon from the southern end of the gate to the block of flats on the south-eastern corner. Transit police were to follow and form a cordon across Power Street further up towards the intersection with City Road. General policing members were to follow, clearing the intersection of any protesters left in the middle, and then reinforcing the FRU and Transit cordons by forming additional lines behind them. Again, it was anticipated by police that there would be protesters left in the middle once the left and right lines had been pushed through the crowd. Inspector Mawkes stated that he briefed the general policing personnel on this issue, telling them that there would be people left near the gate and that their job would be to eject them from the cordoned area.

My investigators questioned Assistant Commissioner Perry, Superintendent Halloran and Inspectors Reid and Mawkes about whether alternative strategies to a push outwards from the Queensbridge/Power Street gate were considered. It was clear that alternatives were considered but were, for various strategic reasons, regarded as less suitable. Mr Halloran said it was considered unwise to commit the buses to a course of action where there was no alternative. He said that the Kingsway ramp approach was ruled out for this purpose. He explained that protesters had people on the lookout for buses and had very good communications. To enter via the Kingsway ramp, buses would have to approach from Kingsway, go

up onto the bridge and then down the ramp. That gave protesters time to swarm the ramp or possibly the bridge and adopt sit-down tactics. He acknowledged that buses could have continued along Kingsway, but pointed out that there was also a gate on the northern end of Kingsway and the buses would have been trapped on the bridge and exposed.

My investigators put to Mr Halloran that, at the time of the Tuesday morning police action at the Queensbridge/ Power Street gate, there was a gate to the north in Queensbridge Street at the end of Southbank Boulevard attended by very few protesters, perhaps as few as ten judging by the helicopter video. This was pointed out by an S11 spokesman to a Channel 9 television news crew very soon after the Tuesday morning incident. The spokesman said that, “... *right next to the picket line they attacked were empty gates – empty gates – where there were no problems and they could have gone in and out at will.*” When asked about this, Mr Halloran put the view that this gate was not a good option for police because there was very little room for the buses once they entered the casino. He also pointed out that the approach was very close to the S11 stage area where there was an unknown number of protesters. It was put to Mr Halloran that police could have run from the hotel foyer adjacent to the northern gate, exited through the gate, run the 150 metres or so to the Queensbridge/Power Street intersection, cordoned it with the 50-80 protesters inside the cordon and invited them to move, or be ejected or arrested. Again Mr Halloran expressed the view that this was not a good option for police. Although it avoided the need to go out through protesters, in his view it was tactically unacceptable because of the delay caused by running the extra distance, and because police would be exposed to potential threat while running between the two gates without a clear line of retreat, such as a gate, behind them. Mr Halloran also expressed the view that encircling the group of protesters at the gate from the outside would not have avoided conflict. In his view it was clear from the pattern of protest on Monday that protesters would not simply get up and walk away. Police would have been forced to lift and carry them, a slow process requiring four police per protester. His assessment was that the delay, the noise and the sight of physical contact would have led to a situation where protesters on the outside of the cordons would try to break through the cordons. Inspector Reid also stated that other options

had been considered and rejected. He candidly stated that police had failed at the Kingsway ramp on the Monday morning and to do that again exposed too big an area; in his view there were too many police too far away from the casino complex. The Whiteman Street gate near Clarendon Street was not considered a good option because of the size of the intersection.

Alternatives to entry by bus were also examined but were considered not to be viable. Mr Halloran said that, although boats had been used on Monday, they were viable only as a supplement to the buses when required. There were several problems with water transport. The river was running high because of recent rain and the tidal movements of the river created problems getting large vessels under the very low bridges near the casino at the necessary times. There were also security concerns related to passing under bridges. In Mr Halloran's view there was no better option than the push by police out from the Queensbridge/Power Street gate on the Tuesday morning (and evening) to allow delegates to move in and out by bus in the one movement. It was clear to my investigators that he was supported in this view by Deputy Commissioner O'Loughlin, Assistant Commissioners Perry and Shuey and Inspectors Reid and Mawkes.

### ***Execution of the plan.***

The FCP log records that at 6.59 a.m. Inspector Mawkes was, "in tunnel ready to go. Need two minutes notice to get Mawkes out."

Inspector Reid told my investigators that, while they were waiting on the ramp, they had information conveyed to them about the crowd. The method of obtaining this information was, as it had been on the Monday evening when the same plan had been used, somewhat *ad hoc*. According to Inspector Reid the waiting FRU were obtaining information from the general policing members standing at the gate by sneaking up to the top of the ramp, pulling someone over, and asking what was going on.



The information received by this method was that there were about eighty protesters at the gate. One additional piece of information passed to waiting police concerned the presence of a woman in a wheelchair in the middle of the opening with her back to police. Inspector Reid gave Sergeant Mark Reid and his detail of five members the job of being first out with the task of removing the woman to safety. Sergeant Reid stated to my investigators that he successfully completed this task. Inspector Reid told my investigators,

*“The information we got back from when we said, you know, what’s the crowd like, the information we got back, she was at that position, and that’s when we made this quick alteration or adjustment to the plan to have her taken out of harm’s way at the opening.”*

As has been explained elsewhere, the FRU had been split into two sections for the WEF with Inspector Reid in command of the even numbered details and Inspector Mawkes in command of the odds. Inspector Reid has stated that, with the exception of Sergeant Reid’s detail, he did not specifically pick the biggest members to go out first but simply ran the details out in numbered order, an arrangement he said reflected his confidence in the members and their training. Inspector Reid told my investigators that a message was sent to the general policing members at the barricade telling them that they would hear the FRU coming, that they should immediately take the barriers across the gate out of the way and the first group would bring the wheelchair back behind the barriers to the right. At a time when the buses were approximately two minutes away from the entrance the signal was given and, at approximately 7.10 a.m., the FRU ran from the ramp towards the opening through which they intended to pass.

It is worth repeating here that it was impressed upon my investigators by police that the action to secure the intersection had to be quick. It was seen as important that police should wait until the buses were close to the intersection in order to minimise the time for which cordons would have to be held, thereby avoiding the need to resist a swarming of protesters who could rally their resources and attempt to re-establish the blockade by breaking police cordons as they had done on occasions on

the Monday. At the same time, it was seen as very dangerous for the buses to have to stop and wait until the intersection was secured because this would leave the buses as targets for lock-on or sit-down tactics which would immobilise the buses and, in the view of police, inevitably lead to escalating confrontation. It can be seen that the balancing process of these various factors placed those responsible for clearing and securing the intersection under considerable pressure with regard to speed and timing.

Inspector Reid and Inspector Mawkes each told my investigators that they were not aware until they arrived at the gate that the protesters were sitting down. My reaction to this when I first heard it was nothing less than astonishment. Inspector Reid said the following to my investigators.

*Inspector Reid: "That was a little bit of a surprise when we got there. Our information was that they hadn't been sitting down. We got the situation that she was there [i.e. the woman in the wheelchair], and there was about eighty people there. I relayed that back to the Command Post, we get the 'go, go, go', we get there and they are sitting down, so that came as a little bit of a surprise."*

*Investigator: So you hadn't asked specifically 'What are they doing?'*

*Inspector Reid: No, not that I can recall. Only that it was a belief that they were standing.*

*Investigator: No one had described to you what they were doing, just numbers?*

*Inspector Reid: No, just numbers.*

Inspector Mawkes also stated to my investigators that he was also unaware that the protesters were seated until his group had commenced to enter the intersection.

Mr Halloran, who was in the Forward Command Post located inside the casino with no direct view of the gate, has told my investigators that he, too, was unaware the protesters were sitting on the road. This is not so surprising as Mr Halloran had, he

says, only a very poor, almost unusable, live video feed from the police helicopter. Moreover, Mr Halloran might reasonably expect such matters to be covered by those actually on the spot.

Inspector Reid, who was among the leading police as they ran to the gate, shouting "Move!, Move!", stated to my investigators that, when he got to the gate, protesters had linked arms. Inspector Reid stated, *"I clearly got, 'This is a peaceful protest. We're not moving'. I said, 'Move!'" and got a repeat.*" Inspector Hocking has also told my investigator that when the FRU reached the gate there was a warning issued - he believed by Inspector Hughes, the sector supervisor - to the protesters to move and that police were coming out. Inspector Hocking expressed the view that protesters had time to move had they wanted to do so.

Inspector Reid stated that having issued the direction to move, and having been told by members of the seated group that they would not, he had to make a split second decision. He explained to my investigators that he had a number of options but only two were realistic. He stated that the option of pulling protesters out of the way was not realistic because it would have taken too much time and allowed the crowd to swell which would have led to much more confrontation. The only options he saw as realistic were to use the horses to scatter the seated protesters or to go over the top. He stated that in the space of a split second he made the assessment along the lines of minimum force, minimum injuries, common sense and what was reasonable in the circumstances, to go over the top.

#### ***VIDEO AND PHOTOGRAPHIC EVIDENCE.***

What followed was the scene which has been shown time and again of riot-helmeted police walking through the seated crowd, some stepping between protesters, some falling over, others clearly less choosy about where they step. A photograph on the front page of The Australian on 13 September 2000 shows a police member apparently stepping on the neck or shoulders of a protester. I have no difficulty accepting that this type of thing occurred over and over in the few

minutes during which several lines of police poured through the gates and over the seated protesters.

The most revealing footage I have seen of the whole incident was taken by a police video unit from inside the barricades. The shouts of the FRU can be heard as they ran out of the car park ramp and up to the gate. At the last possible moment police standing across the gate stepped aside to allow the FRU through. Quite a bit of noise can be heard as the FRU approached the gate. Given that in keeping with the notion of surprise the FRU were hiding until the last possible moment, it follows that protesters were not warned about the imminent approach of the FRU at least until they emerged from their hiding place. I cannot exclude the possibility that police standing at the gate warned protesters in the seconds during which the FRU ran the 30 or so metres from their hiding place to the gate, nor can I exclude the possibility that Inspector Reid issued his warning as the first FRU members under his command arrived at, and proceeded through, the gate. I can say, however, that in my opinion there is no perceptible pause in the forward movement of the FRU as they arrived at the gate and went through it, other than what might be expected to allow the leading members to change their stride as necessary to step over and through the seated protesters.

As foot police made their way through the crowd initially, mounted police can be seen moving into position to form cordons across either side of the intersection. This was achieved in less than a minute after the FRU members first began to move through the seated protesters. It is very clear that the FRU teams were intent on executing the plan, as instructed, by pushing two passages through protesters, left and right, to form the cordons. Very soon after FRU members began wading through the seated protesters, general policing members, who had apparently been standing at the barricade across the gateway, can be seen moving out of the opening to attempt to move those protesters seated to the southern side of the gate against the concrete barrier. The going is slow, and the FRU members can be seen just beyond the general policing members walking through, on and over the seated protesters. It appears that FRU members going out through the crowd remained single-mindedly dedicated to their instructions to form cordons and there was no

serious effort made to disentangle or remove protesters for the first couple of minutes, other than that made by the relatively few general policing members mentioned above. On the other hand, it must also be said that, while police were moving through the crowd in two lines, there were groups of protesters between the two lines, and to the extreme right and left of the gate, who had ample opportunity to stand up and move aside, thereby making room to allow police to pass through. On balance, however, it is my view that it would be unfair to criticise protesters for their failure to move. It is probable that they instinctively preferred to huddle together defensively in the face of this cascade of police rather than to stand up and move away into the intersection. One can only speculate whether protesters remained seated at the gate through fear or through determination to maintain the blockade, but the plain observable fact is that police did not, at first, make any serious attempt to encourage them to move and simply continued to push through and over them.

After some time, a path of sorts seemed to clear for Mr Reid's FRU team to the right, and they began to move through more freely. To the left, however, the scene was somewhat different. Here, the protesters remained locked together and police continued to go over the top. Many can be seen to fall headlong onto the seated protesters. Both Inspectors Mawkes and Reid stated that they fell onto protesters as they made their way through. Inspector Reid said his fall was caused by a protester grabbing at his leg. Other police interviewed had similar stories. So many police fell as they went through that, as described by one of the complainants above, some police stood at the rear of the crowd to assist police who had fallen and held out arms to steady those coming through. I will spare the reader a detailed description, but it is almost impossible for the watcher of the videos not to ask him/herself, "When is this going to stop?" And the longer it goes, the worse it gets. Although there are some sporadic attempts by police to pull protesters apart and out of the way, it is not until about three minutes of this passed that police began to make a serious attempt to pull protesters out of the way. This is despite the fact that, arguably, within a minute of going out, certainly within ninety seconds, the intersection was, in my opinion, clearly secured against outside threat (an issue to which I will return later) and effectively flooded by police. By this time there was

an outer cordon of mounted police and an inner cordon of FRU members facing a very small number of protesters and no sign of swarming. When police finally did begin to pull the seated protesters apart, at a point about 3 minutes into the incident, the crowd dissolved fairly quickly, the intersection between the police cordons was cleared, and the buses arrived almost immediately.

The police cordon lines were held in place for about 6 - 7 minutes after the entrance of the delegates' buses, until police withdrew through the gateway back into the Crown complex. About 14 mounted police also withdrew through the gateway, with half forming a line near the fountain facing the gateway where the plastic barriers had been put back in place. The balance of the mounted police remained positioned outside the gateway in a U-shaped cordon for another 4 to 5 minutes before moving off in a northerly direction towards Queen's Bridge. By this time there was, in my estimation, something like 80 to 100 protesters standing at and around the gateway.

It has been put to me that, as police came out of the gate, a genuine attempt was made to step over and between protesters. This is certainly true of some individuals, but not of all police. I have examined the videos very carefully. In my opinion there is very little, if any, evidence of the use of batons by FRU members as they make their way out initially. Clearly, however, a great deal of damage was done simply by the passage of so many police through the seated protesters. It seems to me that the worst damage occurred at a later time, as police began to move slightly more quickly, and certainly less carefully, through the seated protesters. There are a number of incidents which are very disturbing. Despite the difficulties of moving through the seated protesters, the great majority of police appear to do so without falling onto protesters, kicking, striking or displaying any other form of violence or aggression. However, I have identified examples of what I believe to be opportunistic baton strikes as police move through, deliberate stomping of protesters, and one example of what can only be described as a vicious two-footed jumping-stomp. These occurred as General Policing members and a second wave of helmeted Transit police, whose task it was to secure the Power Street end of the intersection, came through the gate. These acts are certainly of a type not

authorised for the purpose of this operation or any other purpose. They are opportunistic and undisciplined acts by individual members. At a very late stage in proceedings, approximately 3 – 4 minutes after police first moved through the opening, some further baton strikes and jabs are evident. These appear to have been made in an effort to make the group of protesters sitting in the middle of the two lines stand up and move out of the way. Although these instances of baton use may not be in breach of training and guidelines relating to the technical manner in which batons may be used, some of these blows and jabs appear to be, at best, unnecessary. Again, these appear to have been done by police members wearing helmets but not carrying side-handled batons, indicating that these are not FRU members, but Transit Police who were to provide additional support to the FRU.

### ***MEDICAL EVIDENCE.***

The S11 first-aid records contain notes of 21 cases which, in my view, are clearly referable to this incident (Appendix 1, Group 4, cases 18, 19, 22, 51, 67, 93, 98, 60, 61, 62, 64, 65, 66, 69, 70, 71, 72, 74, 76, 20, 40). Of these 21 cases, the notes in five refer to alleged baton strikes with the remaining 17 attributing injuries variously to such police actions as ‘stomped’, ‘jumped on’, ‘trampled’, ‘stampeded’, ‘dragged’, ‘kicked’, ‘hit’ and ‘punched’. Ambulance records are aggregated over the whole day and do not take the matter any further (see Appendix 1).

The general picture created by these injuries is consistent with my impression of the video evidence and the details provided by complainants. The evidence does not support the impression, which has been promoted by some, that police rushed into the crowd swinging their batons. In my view the evidence suggests that by far the majority of damage and injury was caused by the movement of police through the seated protesters rather than by a direct and deliberate application of force in the form of baton strikes, baton jabs, punches and the like directed at subduing the crowd.

## ***ANALYSIS OF THE INCIDENT.***

### ***Elements of the plan.***

It is clear from the available evidence that the plan to clear the intersection was largely built on the belief that surprise and speed of execution were essential to its success. This belief permeated almost every aspect of the plan. It is very clear that this belief was based on the assumption that any significant police action would bring a swift reaction from protesters in the form of a rapid swelling of numbers, or “swarming”, of protesters. This assumption was built not only on the experiences of the Monday - which caused police to believe that protesters had good communications, were highly mobile, well organised, capable of breaking through police cordons and determined to do so where necessary to maintain or re-establish the blockade - but also on the clear evidence of swarming when the same plan had been executed on the Monday evening. Compounding this perceived requirement for surprise and speed was the belief that the execution of the plan should be delayed until the buses were as close as possible to the point of entry. The rationale for this element of the plan was to get the buses through the gate before the expected reaction from protesters occurred, or at least to minimise the time for which cordons would be required against what was anticipated to be growing numbers of angry and determined protesters. A final element in the mix was the belief that the buses must be kept moving so they would not become sitting targets for “lock-on” or “sit-down” tactics. Police believed such an eventuality would be disastrous because it would necessitate a “rescue” by police, with obvious potential for violent confrontation. Finally, it must be noted that the need for surprise and speed is incompatible with the notion of anything but the barest minimum of warning to protesters of the intention of police to use force.

These various elements underpinning the strategy adopted by police require further examination.

- ***“Swarming”***. It must be remembered that the basic plan was devised on Monday afternoon when police were somewhat shell-shocked by the events of



Monday morning. Having regard to some of Monday's experiences, it seems to me that police had good reason to factor into the plan the likelihood of "swarming" by protesters, and the likelihood of concerted attempts by protesters to break cordons in order to re-establish blockades. It seems to me that these factors are a reasonable basis for the decision to go out at "level 4" with batons drawn. Monday morning's experiences at the Whiteman Street gate, the Kingsway ramp, Clarendon Street and Siddeley Street could not be ignored.

- ***The choice of buses*** as the mode of transport into the casino cannot be criticised as being unreasonable. The most obvious alternative was transport by river, but there were practical difficulties associated with river levels as well as security issues. These problems caused police to eliminate this possibility except as a small volume supplement to buses if necessary. The perceived necessity to keep the buses moving was something which, in my opinion, was logical and reasonably based in a desire to minimise risk and the possibility of violent confrontation.
- ***The choice of the Queensbridge/ Power Street gate*** in preference to any other gate was also, in my opinion, reasonable. The gate had numerous strategic advantages. It required shorter cordons, had a more easily secured approach and provided last minute options for the buses if things were not going according to plan in the intersection. It also allowed turning space for the buses once they entered the barricaded casino area. The available evidence also, in my opinion, supports the view that the decision to push out through protesters assembled at the gate - rather than to exit from some other point, secure the intersection and then separate and remove protesters - was reasonably open to police. I have briefly outlined above a number of reasons provided by Mr Halloran, mainly concerned with the minimisation of risk, as to why this option was considered better than a number of alternatives put by my investigators.
- ***Warning to protesters to move.*** There is no evidence that the question of a warning to the crowd was an issue which received any specific attention during

the formulation of this plan, although it has been put to me that the noise of the FRU shouting “Move! Move!” as they ran the 30 or so metres from their hiding spot in the ramp to the gate would give sufficient warning to the crowd. Anything more, it has been suggested, would have caused the very swarming which the plan was concerned to counter. I am aware that the materials distributed to police prior to the WEF contain various references to the need for warnings and even provided suggested wording, but I do not accept that strict adherence to these models is required where it would compromise strategic considerations or the success of the operation. The question of the necessary degree of warning is one which, it seems to me, must be assessed according to the circumstances of the case in question. In my view, it was not unreasonable in the circumstances in which the plan was formulated to contemplate a lesser level of warning. The crucial issue is whether those at whom the warning was to be directed would have an opportunity to absorb and react to the warning. In my opinion there was no perceptible pause in the forward movement of the FRU as they arrived at the gate and went through it, other than what might be expected to allow the leading members to change their stride as necessary to step over and through the seated protesters. Accordingly, I have some doubt that protesters, particularly those in the front rows, had the capacity to move had they so wished before police were moving through and over them. The question of whether any protester would have moved is a different matter.

Overall, looked at in isolation, it was not a bad plan. The problem was that the assumptions upon which it was constructed, although reasonably based on the experiences of Monday, appear to have been elevated to the status of immutable fact by the time the plan was executed on Tuesday morning.

***Failure to check the facts.***

My assessment of the available evidence is that there was no discernable attempt on Tuesday morning to test the assumptions underpinning the plan against the facts as they were at that moment.

The FCP log and POC log throughout the three days frequently include reports regarding the number of protesters at various locations around the casino. The following are the entries relevant to crowd numbers appearing in the POC and FCP logs on Tuesday morning prior to the clearance of the intersection by police. (Again, the POC log is in bold type).

**0619      *Report from #25***

<b><i>Grey 206</i></b>	<b><i>Queensbridget/ Whiteman</i></b>	<b><i>10 protesters</i></b>
<b><i>Grey 398</i></b>	<b><i>Clarke/Haig</i></b>	<b><i>50 unionists</i></b>
		<b><i>10 protesters</i></b>
<b><i>Grey 307</i></b>	<b><i>Clarendon/Whiteman</i></b>	<b><i>nil</i></b>
<b><i>Grey 208</i></b>	<b><i>Q'bridge/Prom</i></b>	<b><i>nil</i></b>
	<b><i>Tent City</i></b>	<b><i>100</i></b>
<b><i>Grey 406</i></b>	<b><i>Nth Entrance/Clarendon</i></b>	<b><i>nil</i></b>

**0627      *Report from Grey 208***

***50 protesters at City Road and Queensbridge. Following bus towards Whiteman St.***

**0627      *25 protesters are blocking the western gate.***

***To CCP [Casino Command Post] to check this out***  
***From CCP CW 2-3 protesters.***

**0629      *Report from Grey 307 at 0627***

***20 protesters at i/s Clarendon/Whiteman. Linking arms but letting staff in.***

**0632      *Report from Grey 904 at 0626***

***25 protesters blocking west gate at casino. Stopping buses entering.***

**0634      *Report from Grey 206 at 0629***

***50 protesters sitting in rows.***

- 0638**      *Report from Grey 307 at 0635*  
*Clarendon/Whiteman Street. 20 protesters. Police moving in.*
- 0643**      *Insp O’Neil request protest numbers from Grey 206, 308, 307, 208, 406*
- 0643**      *25 blocking CW*
- 0650**      *Protesters blocking M – the pedestrian entrance? numbers 60 with arms linked.*
- 0659**      *Insp Mawkes re update. In tunnel ready to go. Need 2 minutes notice to get Mawkes out.*
- 0705**      *100 protesters Haig/Clarke (50 – S11, 50 union)*
- 0708**      *Horses and FRU are at QW*  
*From CCP 8 buses are 2 minutes away*
- 0710**      *FRU and horses deployed at Gate F, intersection secured at Queensbridge/Whiteman. buses 2 minutes away.*

It can be seen that, according to the logs, the last thorough check of numbers around the casino seems to have occurred at 6.19 a.m.. There is a record of a request at 6.43 a.m. from an Inspector O’Neil for numbers, but no record of what response, if any, was received. Most relevantly, there is no record of any enquiry or report regarding protester numbers at the Queensbridge/Power street gate immediately prior to the deployment of the FRU, nor is there any record of an enquiry or report regarding the numbers at the nearest gates – the Kingsway ramp to the south, the gate at the river end of Queensbridge Street to the north, and the stage area – which were likely to be the source of any immediate swarming, if it was to occur. Indeed, such information as there is in the logs suggests that protester numbers were quite low

everywhere. The helicopter was in the air at the time and, although Mr Halloran had difficulty with the live video feed, he was able to obtain information from the helicopter by radio. My examination of the video footage from the helicopter just prior to the commencement of the operation suggests that, had such enquiries been made, the information could only have been that there were relatively few protesters in the vicinity of the intersection and elsewhere around the casino. So far as I can see, however, no such enquiries were made, and certainly not for the purpose of testing the plan against the facts. Even if I am not correct in concluding that there was no serious attempt to ascertain protester numbers in order to assess the danger of swarming, the evidence is clear that, whatever information was available, it was not adequately conveyed to the FRU and other police waiting in the ramp. For their picture of the situation they resorted to the *ad hoc* system of calling over members of the general policing contingent who were standing at the gate.

It seems very clear that when police emerged from the valet carpark they were irrevocably committed to a plan which had not been compared with, let alone modified to meet the reality. This is nowhere more starkly evident than in the fact that everyone was surprised to find protesters defying expectations, and the plan, by sitting down.

***Total commitment: an inability to alter the plan.***

Had the assumption that protesters were standing been tested against the facts prior to commencing the execution of the plan, finding them to be seated would not have been a “surprise” and might have been dealt with more effectively. But once the plan was in motion, the second “untested-against-the-facts-assumption” precluded police from adapting the plan to meet the unexpected situation. That second untested assumption, of course, was that the first and most urgent priority must be to establish strong double cordons to meet the expected swarming of a large number of determined protesters. It seems to me, however, that the readily ascertainable facts on Tuesday morning strongly suggested that the numbers at that time would not allow swarming to occur to any significant or unmanageable extent. Examination of the video evidence shows that, in fact, it did not happen and only a

very small number of protesters gathered at the police cordons across Queensbridge Street.

But even the assumption that there would be swarming, based as it was on the experience of the previous day, could only justify the ugly spectacle of hundreds of police walking through and over the seated protesters up to the point where it became clear that the intersection had been secured and there was no serious danger of swarming or of strong opposition. In my opinion, this point was reached very quickly, perhaps within ninety seconds of the initial push outwards by police, even though the tidal wave of police continued for almost four minutes. This is where the third factor comes into play: the requirement to keep the buses moving to avoid the potentially disastrous occurrence of lock-on or sit-down tactics. Even when it became apparent that there was no swarming or significant threat from outside the cordons, police could not alter the plan and had to keep pouring out of the gate over the protesters because there was still great pressure to get the intersection secured and cleared quickly. The buses were very close and could not be allowed to come to a stop.

Inspectors Reid and Mawkes, who are trained and experienced in the policing of demonstrations and in crowd control, have each stated to my investigators that, whether the protesters were sitting or standing, police had to get out through the crowd in order to clear the intersection. They remain of the view, as does Superintendent Halloran, that, having found the protesters seated, there was no realistic alternative to going over the top. With some reservations, I am prepared to agree, but only up to a point. I come back to the very simple argument that, had the facts been properly ascertained, the risk of the possibility of hostile swarming might have been more realistically assessed and some small modifications made to the plan to allow for less weight to be given to the possibility of external risk and more weight to be given to the avoidance or minimisation of injury by way of the early clearance of the seated protesters. It seems beyond debate, with the benefit of hindsight, that such small shifts in emphasis might have avoided many injuries and a great deal of ill-will.

**CONCLUSIONS.**

How did it come to be that wave after wave of police were allowed to pour out of the gate and make their way across, through, over the seated protesters in such a dangerous, damaging and, it must be said, inefficient way?

The answer, it seems to me, lies in a combination of factors: a plan based too firmly on mere assumptions, a failure to establish the facts as they were at the time the operation was to commence, a failure to adapt the plan to those facts, and an inflexibility in the execution of the plan.

As I have said earlier, the plan itself was not necessarily a bad plan. It was built on the experiences of the Monday which had taken police by surprise and left them, in my opinion, somewhat shell-shocked. When the plan was first formulated it was based on assumptions and expectations which were reasonably held by police. But on the Tuesday morning it simply did not fit the facts.

It seems to me that the fatal error was perhaps the simplest one. The plan probably would have worked well enough had the protesters been standing. Police could have forced their way through by pushing the protesters aside, or the protesters may even have stepped aside in the face of such overwhelming superiority of numbers. The need to press ahead with the formation of cordons to the exclusion of all else, the inadequacy of the warning in the circumstances and the inability to stop or alter the execution of the plan would not have been noticed. The 450 police would have secured the intersection against the 80 or so protesters and the handful of others who ran towards the action.

My assessment of the video and medical evidence suggests that by far the majority of damage and injury was caused by the movement of police through the seated protesters rather than by a direct and deliberate application of force in the form of baton strikes, baton jabs, punches and the like directed at protesters, although there were examples of the latter to which I have referred above. I understand, of course, that this will be a distinction of little interest to those people who were seated in

Queensbridge Street, particularly those who were injured. It may also be a distinction of little interest to a court determining civil claims against police. But it is an important distinction when one is considering, as I am required to do, the propriety of police conduct.

I shall deal first with the acts of misconduct. Undisciplined acts and acts of and misconduct should be dealt with by means of the disciplinary, or if applicable, the criminal systems available for the purpose. As I have said above, there is video footage showing questionable acts by some police as they moved through the protesters and as they removed them from the intersection. These include what appear to be some examples of baton strikes, deliberate stomping of protesters, kicking of protesters and the dragging of protesters by their hair. I will set in train the process of a close examination of the available evidence to identify, wherever possible, those responsible for these acts of misconduct and have each case pursued to its conclusion.

The strategy of making a passage through or over the seated protesters clearly amounts to the application of force. The legal advice I have received is that the application of force cannot be said to be clearly unlawful in these circumstances and that, even where the degree of force is excessive, the lawfulness of the use of force is not affected *per se*, although there may be a consequent basis for a civil claim against police. Putting aside the undisciplined and unauthorised acts of violence by some members, I do not accept that stepping through and over the crowd was necessarily unlawful or excessive in the circumstances. I have expressed my view that this was not necessarily the case once the intersection was safely secured and there was no realistic danger of external threat, but the failure to take this into account in the plan, having regard to all of the circumstances to which I have referred at length above, cannot reasonably be said to be misconduct which is appropriately addressed by the disciplinary or criminal process. It seems to me that it would be unfair, and a misapplication of the disciplinary process, to recommend disciplinary action against those responsible for the formulation and execution of the strategy for the clearance of the intersection merely on the basis that the plan did not run to perfection and protesters were injured. Certainly one can be critical, as I



have been, of certain aspects of the execution of the plan. Some of those errors of fact and judgment made when devising and executing the plan might well expose police to accountability by way of civil claims. But it does not automatically follow that disciplinary or criminal charges should be laid in consequence. This is not a decision taken lightly but, on balance, the available evidence does not support the conclusion that there was any degree of intent, malice, recklessness or incompetence which would justify use of the disciplinary process against any of those concerned. To do so would be to choose a scapegoat and that would be an improper application of the notion of accountability.

## ***INCIDENT 2***

### ***CLEARANCE OF QUEENSBRIDGE / POWER STREET INTERSECTION – 7.30 p.m.***

It is a matter of record that police used precisely the same plan in every respect for the Tuesday evening exit of delegates via the gate at the Queensbridge / Power Streets intersection. There is evidence that police arranged decoy action at the Kingsway Ramp and the Clarendon Street end of the casino by giving the appearance of imminent action at those gates.

## ***THE COMPLAINTS.***

The S11 Legal Support team did not offer any detailed submission regarding this incident. They were aware that my office had received numerous complaints in relation to this incident.

Pt'Chang referred to this incident in the following terms.

*“At 19:22 on the Queensbridge/Power Rd blockade, about 40 police joined the 30 already there staffing the gates, where they formed lines. Some police left a few minutes later. Approximately 100 protesters were present, gathering*

*peacefully in front of the water-filled barriers. At 19:40, without any warning, approximately 150 Force Response Unit (FRU) riot police sprinted towards the blockade from within the Casino grounds. The uniformed police moved aside very quickly as the first 10-15 FRU police jumped over the barricade, beating the first row of protesters with both fists and batons. 3-4 riot police leaned over the fence and beat protesters with batons from above, as the rest of the assembled police stormed through the barricade and over the protesters. Within 10 seconds of the riot police appearing, protesters with bloodied heads were observed. In the next five minutes, riot police belted away at protesters apparently indiscriminately, forming a wedge, then a corridor, through the blockade and up Power St. They joined with the mounted police who had charged the protesters from the opposite side, sandwiching the protesters between swinging police batons and horses. During this mounted charge, horses were seen rearing up, with their hooves then coming down on people.*

*“At least ten people who had been trapped inside the police wedge were beaten with batons. One protester put his hands in the air and walked slowly away saying "I'm leaving", but was repeatedly struck by police with batons. His hands were grabbed by police as he was hit on the back and was grabbed from behind and swung into a wall. Other protesters were thrown under police horses or violently through police lines.*

*“Protesters had their heads forced onto the road and their faces ground into the asphalt. Police shouted "Move! Move! Move!" as they beat and kicked people to the ground. Police pulled a woman who had fallen over by the hair for approximately ten metres, then hit her as they screamed at her to get up. One report was received from a man who told three riot police who were hitting a man lying on the ground, to " Let him go! He's not resisting! Let him go!" One of the police then turned around and started swinging at him, hitting him forcefully on the right hand. When the man continued to plead with them to stop, the riot policeman chased him down the street while the other two continued to beat the man on the ground.*

*“Another protester saw people being hit in the head and bodies and pleading with the police to stop, which they did not. He was then hit on the leg himself by a baton by a police officer, fell to the ground, was kicked and punched by police and kicked by a horse as the police pulled him up. He was then hit in the arms and chest before being pulled away by other protesters. After experiencing similar violence, one protester walked up Power St to a police car and asked for an ambulance, where he was told to “f... off you c... etc” and “you were standing in the road” by police.*

*“12-14 buses drove through the police corridor into the Crown Casino, leaving ten minutes later with delegates onboard. The police retreated back inside the area-cordon fencing at approximately 20:15.*

*“At all times, the protesters remained peaceful, despite being visibly hurt, angry, and in shock. The only protester violence observed by a Legal Observer at this incident were pieces of banana being thrown at police and some verbal abuse which only occurred after the baton charge. Neither the ordinary uniform, Force Response Unit nor mounted police appeared to have any form of identification displayed.*

*“Legal Observers collected 27 reports from this one incident, all describing large amounts of unprovoked and extremely excessive violence against peaceful protesters. The injuries resulting from this incident were extensive, ranging from cuts, grazes and bruising, to broken bones, concussion and severe shock. One person was reported unconscious.”*

The descriptions of the incident given by individual complainants to this Office vary according to the position and perspective of the complainant. One complainant described the scene as follows.

*“At the gate there were about 50 people locked arm to arm, five ranks deep in front of the barrier and another 100 or so standing about behind them. The*

*police charged up and began to beat the heads of those in the front line who, locked in, were unable to move. I ran to lock on at the back of that throng.*

*"I saw two officers climb up on the security fence beside the gate and reach over to beat heads on the other side of the fence from above. One in his enthusiasm to do injury, reached out too far, fell over the fence and crowd surfed for a moment till he fell to the ground. Two other officers climbed up and over the fence flailing their batons to go to his aid.*

*"We protestors fell back. As I did so, a helmeted officer hit my head with his baton twice and when my head was down my face was jabbed with a baton too. "Back! Back!" the officer was shouting. The jab missed my eye, thank God, but bruised and bloodied my left cheek.*

*"I then found myself stumbling amongst the legs of police horses who had come up from behind. Within 2 minutes the police had formed a defended avenue to allow the exit of the delegates coaches. Facing the crowd was a line of mounted police, behind them two close ranks of shoulder to shoulder helmeted riot police with their batons held at the ready, and behind them another two ranks of police officers wearing protective glasses but without hats or jackets."*

Another complainant described the scene as follows.

*"I was in the third line of picketers. I heard no request from the police to the protesters to move. The first notion I had that there might be trouble coming was when the van moved to the side. Then suddenly I looked up and saw police with helmets and batons jumping over the fence into the young people on the picket line. They were shouting at them to "Move" and beating them mercilessly with their batons. The young people held the line for a time, chanting "No violence No violence!" While the line held, the picket was pushed back violently and I was personally in danger of being crushed underfoot. When the line broke there were literally hundreds of policemen with batons and helmets poured out into the street, beating any young people they could find. I looked up and saw*

*that I was caught between the flanks of two horses. That was when I realized how dangerous the situation really was and moved to the opposite corner of the street as best I could. As I went I saw a policeman beating a young man mercilessly and damaging his bike. The young man pleaded with him to leave his bike alone, but the policeman shouted at him and continued to damage his property with great gusto. If the policeman had been a civilian in the street he would have been on a charge of criminal damage. The young man ran away. The police formed two lines as they pushed the protesters to the side, chanting "Move! Move!" Their batons were being used freely on both the young men and women. It was a shameful sight."*

One complainant was particularly graphic in his description of events.

*"As soon as they were within baton range they began repeatedly striking people's heads with maximum force. At no time did I see a police officer aim a blow not directed at the head. Protesters were struck even after collapsing to the ground. ...The police then began to 'process' the crowd. This process is the most violent thing I have ever witnessed. Police would strike protesters in the head using their batons either as a club, or like a karate tonfa, or using the side handle as a hammerhead. A person would either drop helplessly to the ground and be struck repeatedly where they lay, or be held up by the neck and repeatedly struck after going limp. Then the officer would drop the victim, walk over the body, and continue into the next line of people.*

*"In this manner they processed four or five lines of people before those few still on their feet ran the other way, through the horses.*

*"One image burnt into my mind is that of the slightly built woman (16-20 years old?) grimly holding the line in front of me. When the policeman in front of her had processed his way through to her he grabbed her by the collar and then hit her over the head with his baton. Her body went limp at the first blow but he held her up on her feet and struck her face. I felt rather than heard her nose break. He may have struck her again, I'm not sure, I was going into shock by*

*this stage. Then he dropped her and I saw him register me as his next target. ... By the time I realised I was going to be hit, I had been. The crowd broke like a shoal of fish around this time and I ran. ... People were running in all directions, some with blood on their faces. I saw two riot police striking someone lying unmoving on the ground. Horses were spinning around, legs flailing. ... I saw someone running away, being pursued by police and then batted from behind. I was trapped between the spinning horses and the armed officers who I knew would hit me again if they finished the people they were working on ... A gap opened up between the horses and I ran directly away from the gate."*

I shall now turn to an examination of the circumstances leading up to the incident.

#### **POLICE PREPARATIONS.**

Mr Halloran stated to my investigators that police tried to delay the exit of the buses for as long as possible but that there came a point where police had to facilitate the wishes of delegates who wanted to leave the venue.

It was clear from interviews with all senior police concerned with the planning of the Tuesday evening operation that the success of the plan in achieving the entry of the buses on Tuesday morning influenced the decision to use the same plan again. There was also an element of belief that protesters would not expect police to perform the same manoeuvre at the same gate for a third consecutive time. Assistant Commissioner Perry said that police kept their options open until the last possible moment and that on Tuesday evening the Queensbridge / Power Street intersection again had relatively fewer protesters. From the point of view of Inspector Reid, who had to execute the plan, it had the added advantage of having been used before, and members were familiar with what was required. Greater resistance was expected than had been encountered in the morning and again the operation was to be executed at "level 4" with protective headwear. As in the morning action, the FRU were carrying the side-handled batons. Again, this came

about not so much because of a perceived need for this type of baton but because of the need to supplement the number of long batons to be issued to other police.

Inspector Reid stated that this time he went out of the ramp to the valet car park and spoke to the General Policing members standing at the gate. He was told that there was a protester in the crowd with a small boy on his shoulders positioned to the left of the gate as police were to go out. Inspector Reid did not see the man with the child. Inspector Reid instructed General Policing members that when they heard the FRU yelling “Move! Move!” as they came out of the ramp the plastic barriers were to be moved aside. Inspector Reid returned to the FRU waiting in the ramp and directed Sergeant Mark Reid and his detail of 5 members to go out first, isolate the father and child, and take them aside. While waiting in the ramp Inspector Reid pulled one of the general policing members aside and confirmed the presence of the child on the left of the gate. My investigators have interviewed Sergeant Reid who confirmed that he had been instructed by Inspector Reid to attend to the man with the child. He said he went out of the ramp, walked up behind the police on the barricade and saw the child on the shoulders of the man at “10 o’clock” from the gate. This aspect of the evidence of Inspector Reid and Sergeant Reid is corroborated to some extent by a complainant who wrote that, *“from time to time older, perhaps supervising officers, would approach the group [behind the gate] and apparently whisper some type of instructions”*.

Inspector Reid said that this time, when the signal came for the FRU to “go”, he had himself seen the crowd and had a “fair idea” of how many there were and what they were doing. He knew they were standing and they had “milled along the front” of the gate. He said that the FRU ran out of the ramp shouting, “Move! Move!” but when they got to the gate the plastic barriers had not been moved aside as he had earlier instructed. Inspector Reid later discovered the General Policing members to whom he had spoken earlier had gone off duty with the change of shift and apparently had not passed on the instruction to their replacements. Again, this explanation is corroborated to some extent by complainants who have written of the “changing of the guard” at the gate prior to the appearance of the FRU. For the

second time that day, confronted by an unexpected situation when they reached the gate, the whole FRU “freight train” came to a halt.

***SOME ICONIC IMAGES EXAMINED.***

In the next few moments some of the most graphic video images to emerge from the WEF were captured. I would imagine that almost everyone who is aware of the WEF protests has seen at least once, and probably many more times, the image of two baton-wielding riot-helmeted police leaning over the wire mesh barricade, and another riot-helmeted policeman standing in the gateway swinging his baton down on the heads of protesters in a chopping action. These incidents were referred to by many complainants (see, for example, the extracts from complainants’ letters above). It is apparent from many of the complaints I have received and from other materials I have seen in the course of this investigation – particularly many of the letters received from concerned members of the public forwarded to me by the Department of Premier and Cabinet and the Ministry of Police – that many people have reached conclusions about police conduct based almost solely on these images. The following is a description of the evidence I have found in relation to how these images came to be.

Sergeant Reid stated that the plan was for him and his detail to move through the gate, squeeze along the concrete barrier to the left and then move around the outer edge of the crowd to the man and child. His was the first detail to go out on the left side. The usual rule in crowd control is that batons are always held in the right hand, but Sergeant Reid stated he held his in his left so that, when he turned left against the outside of the barricade, he would have his right hand free to move through the crowd or to push people away. When he got to the plastic barriers and found them still in place he climbed over the plastic barrier on the extreme left of the gateway. He stated that the mood of the crowd changed at that moment and he could feel people grabbing at him and pulling him down. He stated he was overwhelmed and went to the ground, ending up lying on his left-hand side with his back to the barrier. He said he was kicked and stomped. He tried to transfer the baton to his right hand and could feel his right leg and hip being kicked repeatedly.



Senior Constable T was a member of Sergeant Reid's detail. He told my investigators that he ran to the water barricades behind Sergeant Reid. He saw Sergeant Reid go over the barrier and get "swamped by the crowd". Senior Constable T said that there was pressure from behind as the rest of the FRU kept coming. When Senior Constable T saw Sergeant Reid go down on the other side of the fence, Senior Constable T jumped up onto the ledge of the concrete barrier and leaned over the mesh. He could not recall whether he was first up or whether he followed the lead of Senior Constable K, the other member who also climbed onto the barricade. Senior Constable T stated he was the member nearest the gate. He told my investigators that he had his baton in his right hand. He said he did not swing it over the fence at the crowd but made hand motions and yelled at the crowd to move back. He said that he believes that his actions and those of Senior Constable K redirected some of the crowd's attention away from Sergeant Reid which gave Reid an opportunity to get to his feet and move away. By this time, according to Senior Constable T, other FRU members had made progress through the crowd and Sergeant Reid moved out with them. Sergeant Reid said that he was helped to his feet by a member of his detail and he then moved out into the crowd but did not find the man and child. Senior Constable T said that when he saw Sergeant Reid move off, he climbed down from the fence and moved out through the gate. To date, I have been unable to interview Senior Constable K who has been on extended leave.

Senior Constable F was not a member of Sergeant Reid's detail. He was a member of FRU detail number 3, and was part of Inspector Mawkes' contingent which was to form the cordon to the left of the gate. As in the morning action, the FRU details were moved out in numerical order and detail number 3 was one of the first to reach the gate. Senior Constable F described to my investigators that detail number 1 consisted of only four people, and so his detail reached the barriers with virtually nobody in front of them. Senior Constable F also stated to my investigator that he had been a member of the FRU for about 18 months, had attended a couple of minor demonstrations, but had never drawn his baton at a demonstration.

Senior Constable F said when he reached the gate the plastic barriers were still across the gate and protesters were kicking and pushing the barriers inwards towards him. He also had police behind him pushing against him. He was aware that Sergeant Reid's detail had been given the job of moving to the left to attend to a man and child. Senior Constable F saw Sergeant Reid jump over the barricade and stated that he saw members of the crowd kicking and punching Reid, and saw Reid go to the ground. Senior Constable F stated that police at the barrier were yelling at the crowd to move back and to stop pushing the barriers, and were pushing people to the chest to move them back.

Senior Constable F stated he was concerned for the safety of Sergeant Reid. He said he tried to move the crowd back by jabbing at the crowd with his baton. On the previous day he had been in the action to rescue Mr Court's car and had, he said, nearly had his baton taken from him. He did not want to push the "jabbing" motion out too far in front of him for fear of having his baton grabbed from him. Although he believes he made contact with some of these jabs, he felt he was not making much headway and was not creating any space for Sergeant Reid to recover. He resorted to overhead baton strikes. He said that he "accidentally hit" one of the protesters over the right eye and saw blood coming from the wound. All the time he was yelling, "Move! Move!" and he shouted to the protester whom he had hit, "If you move you won't get hurt!"

Senior Constable F agreed that he was holding the baton at its extremity with the side-handle at the outer end of the baton. He said he was aware of protesters trying to grab the baton. He agreed that this method of use was not an approved or authorised technique. Senior Constable F said that a lot of the crowd's anger was now directed towards him and, concerned to retain the baton, he assumed a two-handed hold on its extremity, all the while continuing the overhead striking. He stated he believes he was standing with his feet in holes in the plastic barrier about half way up its height and was leaning forward so the overhead blows were from an elevated position.

Senior Constable F said the next thing he knew he was pushed from his right side and forced to the left side, near to where Sergeant Reid had been. There was a break in the crowd and police moved out from the barriers at the gate. He moved off with other police who were now moving out through the gate. He did not recall stepping down from the barrier and did not know from whom the push had come. He moved with the flow of police to his position in the left cordon near to the concrete barricade to the left of the gate.

I shall now turn to examine these two incidents by reference to the available video evidence.

The images of the two police members leaning over the fence has been shown frequently on television and has appeared in various publications where it has formed the basis of much critical comment. For example, the summer edition of *Overland* magazine contained an article which examined the S11 protests and which referred to the two officers, *“filmed leaning over barricades wildly swinging batons at protesters.”* Another critical analysis of the media coverage of the WEF protests refers to the incident as *“footage of FRU police leaning over the 3-metre fencing and aiming their batons at civilians standing below them on the other side. The civilians were holding up their arms in a vain attempt to make police stop the blows.”*

In fact the most cursory examination of the action of the two police on the barricade shows that only one of them was swinging his baton and that this action was not wild or random. The available evidence tends to support the evidence of Sergeant Reid and Senior Constable T. One complainant referred to seeing *“police officers being hit from above the fence by other police officers”*. Video footage taken by police cameras from behind the FRU as they ran to the gate shows a glimpse of a police member going over the plastic barricade at the extreme left of the gate. There is no reason to doubt that this is Sergeant Reid. A photo which appeared in the Herald Sun of 2 October 2000 shows Sergeant Reid standing with his back to the concrete barricade, apparently the only police member outside the gate at that time. The article accompanying the photograph suggests that Sergeant Reid had by

that time regained his feet. I cannot, by reference to the video and photographic evidence available to me, corroborate Sergeant Reid's claim that he was forced to the ground, but there appears to be no doubt that he was there and that he was alone. The hands of protesters are extended towards him, some would say in a conciliatory way, others may have a different interpretation. Either way, proof of Sergeant Reid's presence puts the actions of Senior Constables T and K into a context which, so far as I can see, has been lacking in almost every presentation of these images of the two helmeted police leaning over the barricade.

In my view, a close examination of the evidence suggests that this iconic image is generally used, innocently or otherwise, in a misleading way. In fact, in my opinion, it reveals no misconduct by the two police members involved and does not exhibit any excessive or improper use of force.

The image of the two-handed chop by Senior Constable F, however, is a very different matter. Where I have been critical of the representation of the image of Senior Constable T and K in two articles to which I have referred above, I agree with the representation of the actions of Senior Constable F in those articles. It is clearly an example of unacceptable use of force and is clearly excessive. I shall be recommending that further action be taken in regard to this matter.

I shall now, having diverted by way of these iconic images, return to the point where the FRU "freight train" came to a halt at the plastic barriers which had not been moved from across the gate.

### ***VIDEO EVIDENCE.***

I have obtained a number of video angles of this incident. There are three taken by police video units: two from inside the barricades on each side of the gate and one from an elevated position well behind the barricades, probably from a position on top of the fountain outside the hotel entrance. There is footage taken by an SBS cameraman who was originally positioned inside the barricades somewhere near the fountain and who then moved out through the gate with police only to come to grief

apparently at the hands of police, and there is also footage taken by an ABC camera from outside the gate at the northern (river) end of the gate. I have also obtained video footage of the incident from the police helicopter hovering above.

It seems clear to me that protesters were aware police were about to take action. A half-hour or so before the incident a protester's bus ("the peace bus") which had been parked in the intersection was moved at the suggestion of an S11 marshal, obviously in anticipation of some possible action by police. A number of complainants have referred to a growing expectation of action by police, referring to growing police numbers behind the barricades and the presence of police film crews and press photographers. One complainant referred to police walking up to the police members standing at the gate to whisper instructions. It was clear that there was activity around the buses at the hotel entrance. There is evidence from a number of complainants that when they heard the FRU coming there was sufficient time for them to react. One complainant wrote that police came charging from the direction of the hotel entrance and, "myself and other protesters close to the barricade entrance quickly linked up to try and block the police from clearing the entrance." This suggests not only that there was an understanding of what was happening, but that there was time for protesters to run the other way as well. In my view, having regard to all of this, and having regard to the experience of the Tuesday morning and Monday evening, it was clear to all present that something was about to happen. Lack of warning was not an issue on this occasion.

The video footage clearly shows the FRU "charge" coming to a halt at the plastic barricades face-to-face with protesters who were standing facing the gate with their arms linked. Further back in the running lines of police, hands are raised to warn those behind to stop, which they did. Nevertheless, there was still something of a crush at the front of the police lines. At the southern end of the gate the General Policing members who had been standing at the gate can be seen attempting to pull the plastic barriers out to the side, struggling against the squeezing force applied to the barriers by the crush of bodies from police on the inside and protesters on the outside of the gate. An *Age* photographer, who was standing at the extreme end of the gate was manhandled out of the way to allow police to pull on the plastic

barriers. While this struggle to remove the plastic barriers was going on, one or two police can be seen in the background to climb over the plastic barriers and apparently attempt to wedge themselves down between the plastic barriers and the crowd. Some complainants have referred to attempts by some police to “surf” the crowd and it seems likely to me that those references are to those two police. So far as I can see, there is no evidence of overhead baton strikes being made by these two police members. In the background, further along the plastic barriers, Senior Constable F can be seen swinging his baton down in the chopping motion (described above) onto the protesters at the northern end of the gateway. It is not clear exactly how or when the barriers were pulled out from between police and protesters but the confrontation across the plastic barriers appears to have lasted almost a minute. My estimate is consistent with that of a complainant who wrote that police were held back for about a minute “before the line broke”.

Before the *Age* photographer was moved out of the way by police at the southern end of the gate who were attempting to drag the plastic barriers back, he managed to take several still photographs of the confrontation across the plastic barriers. My investigator has spoken to the *Age* photographer who produced the photos in question, some of which appeared on the front page of *The Age* and other newspapers on the following day.

The first photograph in the sequence shows an FRU sergeant, obviously standing on the top of the plastic barrier, his entire torso above the level of the crowd, leaning forward over protesters in the front row of the crowd. It seems likely to me that this is the member who appeared to some complainants to be attempting to “surf” the crowd. In my opinion he appears to be attempting to squeeze down between the crowd and the plastic barriers. The side-handle of the sergeant’s baton can be seen clasped in his right hand but there is no evidence in this photograph or in the video footage of this incident of the use, or the misuse, of the baton by the sergeant.

The next photograph shows a police member (not wearing a helmet) with his left hand extended, gripping the throat of a protester. The next shot is of the same two protagonists, but the police member is clearly applying considerable squeezing

force to the protester's throat. His thumb is clearly seen embedded into the protester's throat. This photograph was featured, among other places, on page 3 of the *Herald Sun* on 13 September 2000. This action by the police member is clearly an unauthorised grip and I will, as with other such matters discovered in the course of this enquiry, pursue this matter to a conclusion.

Another photograph appears to show the moment at which police first got through the gate and entered the crowd. This photograph was published on page 10 of *The Age* on 15 September 2000, and on page 22 of *The Age* on 16 September 2000. One barrier can be seen to be remaining in place at the southern end. The helmeted FRU members in the foreground can be seen holding the side handled batons, apparently moving forward, jabbing the baton before them in an approved manner. There is no evidence of overhead baton use.

Returning to the video footage shot by a police video unit at the northern (river) end of the gate, it appears the plastic barricades were finally dragged aside and police can be seen to be making forward progress by moving, apparently in the wake of Sergeant Reid, between the concrete barricades and the crowd. Again, there is no evidence of overhead baton use. Police can be seen moving into the crowd jabbing their batons in the authorised manner before them. One man in an orange shirt can be seen to receive contact to the body from a jabbing baton and then to be bundled out of the way. Other protesters can be seen to be forcefully pushed aside by police. The crowd then appears to have moved back in the face of advancing police without any further contact and police moved quickly to form the cordon along the northern end of the intersection.

After a very short time, mounted police can be seen moving in from the Power Street end to form an outer cordon. It is clear that some mounted police and many FRU members are not wearing name tags. There is a lot of angry shouting and abuse. One protester, clearly disoriented and holding his head, can be seen on the ground between two horses. Another protester moved to assist the injured protester. Other angry protesters crowded in toward the injured man while a policeman on horseback bellowed at full voice, "Move back! Move back!" From the time police

began to move out through the gate to the left until the time the mounted cordon was in place across the northern end of the intersection was approximately one minute.

Back at the southern end of the gate, having dragged the *Age* photographer and the plastic barriers out of the way, the police camera crew focused on the *Age* photographer reloading or adjusting his camera, and took some time to turn back to the goings-on at the gateway. The video cameraman then climbed up onto the concrete barrier and briefly pointed the camera out over the intersection. At this point, one minute and fifteen seconds after police first arrived at the plastic barriers and approximately fifteen seconds after police began to move out into the intersection, it can be seen that police were flowing in great numbers out to the left of the gate (i.e. to the northern end of the intersection), but had made almost no headway to the right. In my estimation police had moved out three or four metres along the right diagonal and there were still several metres to go through the crowd before police could reach open space.

It is at this moment that mounted police can be seen moving into the rear of the crowd. The most instructive footage of the actions of mounted police come from the police helicopter hovering above. A line of mounted police entered the intersection from the southern carriageway of Power Street and moved towards the crowd at the gate. The horses can be seen to veer slightly to the right (to the north) into the crowd and people can be seen being pushed toward the concrete barricade and then moving off southwards along the concrete barricades. The officer-in-charge of the Mounted Branch, who was himself involved in this manoeuvre, said to my investigators that he saw foot police were having difficulty getting out of the gate so he moved into the crowd and “peeled some of them off”. This left the crowd only a few deep for foot police to break through, which they did almost immediately. As one complainant who was at the south end of the gate wrote, *“The crowd broke like a shoal of fish around this time and I ran.”*

The police video footage taken from behind the barricade shows mounted police pushing into the crowd and, almost immediately, police who are not helmeted and



do not have batons can be seen pushing protesters back along the outside of the concrete barricade. The action was forceful and, as one protester fell, there is one kick by an unidentifiable policeman. A protester can be seen on the ground under the hooves of the horses which have by this stage formed an outer cordon. One can only assume that the protester managed to get up and move out between the horses. At this point two minutes have elapsed since police first reached the plastic barriers, and about one minute since they first moved through the gate. At about this time police began to move more freely through the gate and it can be seen in the background that police appear to be well in control of the intersection.

As the police cameraman climbed down from the concrete barrier police can be seen tightly pressed in single file, moving at a slow walking pace through the gate. A group of about 20-30 protesters who were caught in the middle between the lines of FRU members moving out to the left and right can be seen perhaps 3 to 5 metres out from the gate with the two lines of police moving out to the left and right past each side of the group. So far as can be seen, this group does not appear to be under attack or pressure at this point.

At a point approximately 2 minutes and 15 seconds after police first reached the gate, the last of the FRU members (identifiable by the PR-24 side handled batons) moved through the gate and were followed by a group of General Policing members, identifiable as such because they were not helmeted and had no batons. They can be seen also to move with a minimum of fuss past the group of protesters stranded in the middle. The camera moves around for a few seconds as if the cameraman has been bumped off balance and, when it next focused on the movement of police, a second wave of helmeted police carrying standard issue long batons can be seen moving past the group of protesters at a faster pace. It is very difficult to be certain, but it seems that there were some pokes and prods with the left hands or, in some cases, the batons of these passing police. One or possibly two of the protesters at the southern end of the group appear to have gone to the ground, to have crouched low, or possibly to have sat down.

Another police camera was filming from an elevated position near the hotel entrance, probably on the fountain. This camera zoomed in on the helmeted group, which I believe to be Transit Police, as they moved past the stranded group of protesters. At one point, presumably due to congestion further into the intersection, the flow of police slowed. Although one cannot see precisely what occurred, police can be seen making an action consistent with jabbing their batons into the stranded group of protesters. Again, there is no visual evidence of overhead baton use.

At the western end of the small group, nearest the gate through which police were moving out into the intersection, five police (3 in helmets, 2 bareheaded) can be seen to have formed a cordon around the group or, to adopt the police terminology, to have “corralled” the group. This cordon had the effect of diverting police around either side of the group, but the cordon did not extend around to the southern side of the group which continued to have police flowing past. In the background, police can be seen pulling protesters from the eastern end of the group and pushing and chasing the “loosened” individuals away. On at least one occasion baton blows can be seen to be aimed at these people as they move away. At about 3 minutes 20 seconds from the time police first reached the gate a large group of General Policing members gathered in a formation behind the existing cordon and pushed in an organised fashion against the remnants of the corralled group. The whole cluster of people – the protesters and the police pushing them – can be seen to move into the centre of the intersection from where the protesters appear to have been pushed and hustled through the southern cordon at the very last second before the first police motorcycle of the motorcade entered the intersection from Power Street.

The whole operation from the time the FRU first reached the plastic barriers at the gateway until the time the first motorcycles of the motorcade entered the intersection took approximately three minutes and fifty seconds.

### ***POLICE LOGS.***

The following extracts from the police logs are lengthy but, in my view, are worth inclusion in full because they give some idea of the police perspective on what was happening. The following is a merged version of the POC (in bold type) and the FCP logs.

- “1823     *All buses to leave by 0700 to be in convoy by 715, Not on bus bad luck.*
- 1842     *To Supt Dickinson, get nightshift here ASAP to boost numbers for departure at 720. Nightshift crews to relieve Sections 1 & 2 for these troops to be briefed by Insp. Mawkes in car park for departure.*
- 1850     *Horses out at Gate L.  
Buses not turned yet.*
- 1900     *Hold off delegates for 25 minutes. From Crisp, delegates ready to leave.*
- 1910     *Search and Rescue are happy with car and trailer at Gate F.*
- 1913     *Mr Mawkes to give OK for troops.*
- 1914     ***The bus is protester's, 20 metres from Gate F has been there for 5 hours. They have given no indications as to their intentions.***
- 1918     *Supt Hayes needs 5 minutes notice for “in”.*
- 1918     ***S11 believes that police will exit buses via Kingsway and Whiteman – no protesters at Haig St. Trying to get protesters to rally there. (S11 monitored).***
- 1922     ***From S/Sgt SERC. St John's will have first aid bay ready for injured members at Access point 2 loading bay 2.***
- 1925     *Rope stretched between poles in Whiteman St  
Along with three water filled barriers*

- 1930**      *Demonstrators are expecting delegates to leave via Whi/man St, have placed 3 x water filled barricades in exit, area a few metres from where rope is situated between poles.*
- 1930**      *From S11 radio and PSIG, Decided to stay protesting, have seen busses btw Kingsway and Q/bridge st on W/man is strong, Clarendon / Whi/man 300 and being strengthened, Kingsway and Whi/man now strong, Nil persons at Haig St, p/testers now heading to Haig st and Clarendon St.*
- 1930**      *"Go", FRU and Horses and extras take intersection at Gate "F"*
- 1933**      *Buses in*
- 1936**      *Buses through gate*
- 1937**      *Delegates loaded on buses*
- 1940**      *From Grey 259, They are breaching gate F, 300, Level 3 at Gate D, and E.*
- 1941**      *From Grey 300, 800 people, gone to level 3.*
- 1942**      *From PSIG, turning a bit ugly chants of bash bash, bash, people heading towards Kingsway, a lot of people in Power St, Rumours through out crowd as to where the delegates are, some think they are inside some think they have gone to the Hyatt.*
- 1942**      *Still hold line*
- 1947**      *From Grey 300, all 300 units are to use batons if the P/testers attempt to scale barricades. A lot of Glass being thrown.*
- 1947**      *Things are happening at King St looks like its going to be on.*
- 1947**      *From Grey 300, Have batons drawn Holding crowd.*

- 1952 *P/testers moving quickly from W/man St, to Q/bridge st White paint bombs being thrown, rope being put across the road.*
- 1953 *17 members avail in Spencer St.*
- 1953 *P/testers warned batons will be used, Gates D + E if they attempt to scale barricades. Batons will be used, Grey 900 gave permission to use batons, as Req.*
- 1954 *From PSIG P/testers moving from W/man St to Q/Brige st They are aware Police have formed up and are very angry they wont be able to prevent delegates from leaving.*
- 1954 *From Gry 300, Missiles being thrown, gone to level 4.*
- 1955 ***All buses out***
- 1956 *Buses out*
- 1959 *From Gry 985, 20 P/testers have barricaded Power St both lanes at City Rd.*
- 1959 *From Gry 300, P/testers going to gate F.*
- 2001 *From Gry 916, 200 P/testers running towards bridge at i/s William and Flinders.*
- 2001 *From Gry 300, At Gates D+E 400 – 500 remaining.*
- 2002 *Fr Gry 173 100 heading sth on Q/bridge towards Flinders St.*
- 2006 *Fr PSIG, P/testers aware bus's have left. There is talk on the St that everyone will head to the Hyatt, on Collins.*

- 2007**     ***FRU members are coming back in***
- 2008     *Demonstrators know that the delegates are out and are talking about going to Hyatt on Collins to continue demonstration.*
- 2014     *Fr Gry 904, Clarendon St virtually clear, nil located at W/man St.*
- 2014     *Fr Gry 300, Gates D+E 25 to 30 P/testers.*
- 2015     *From PSIG bin on fire under Kingsway O/pass.*
- 2015     *Gry 100 Nil P/testers at Nth end of King St Bridge Traffic can resume.  
Gry 116 nil at Sth end as well, Once the members are of the bridge traffic can resume.*
- 2015**     ***3 ambulances going out***  
               ***FRU members are still coming back in***  
               ***Line held***
- 2016     *Fr Gry 985, P/testers now moving back down Power St towards Crown.*
- 2016     *Fr Gry 207, 3 to 4 Ambulances at tent city, 2x ambo foot teams, only 1x inj P/tester observed, walking to above from Gate F.*
- 2019     *Fr PSIG, Crowd not happy chanting Hyatt, u/k which Hyatt they are ref to.*
- 2020     *Fr Gry 300, Sit Rep, D+E under 30, A U/K, G nil, N nil, M nil.*
- 2020     *Fr PSIG People dispersed at Clarendon, W/man, and Haig.*
- 2020**     ***All foot troops in, Horses still out.***

2020 *All delegates are inside the Hyatt on Collins no problems and no demonstrators sighted*

2024 *Horses still out there*  
*Bin on fire at gate "F", OK*

2025 *nil p/testers at Power St.*

2026 *Crowd dispersing, horses still out*

2030 *Horses In, Barricades up"*

These extracts from the police logs indicate that prior to executing the plan police checked a number of vehicles in the vicinity of the intersection and were more in touch with the numbers, movements and intent of protesters than they had been prior to the morning clearance of the intersection. The extracts also provide a wider perspective and show that there was a definite reaction at other points around the casino to the apparent concentration of police efforts at the Queensbridge / Power Street intersection.

#### ***MEDICAL EVIDENCE.***

A complainant who was assisting in the S11 / CFMEU first aid tent wrote the following.

*"...within half an hour we were overrun with injuries inflicted by the Riot Squad.*

*"Night fell. In the growing coolness of the evening many people left the site. It was in this lull that the Riot Squad attacked. Our radios which had been rather quiet for a period suddenly came to life. There were calls for mobile teams and Ambulances. A flood of people arrived at First Aid Base and in the orange light*

*provided by the stage crew we treated an extraordinary amount of head injuries, obvious and suspected broken bones, cuts and abrasions. It was during this rush of injured that we were informed about a large number of deliberate baton attacks against the kidney region and into the ribs by patients.*

*“It was a busy night. There was a fleet of seven Ambulances which were refilled to capacity with patients each time they returned. The ambulances made round journeys between three hospitals, the Alfred, the Austin and St. Vincents who were keeping patient lists as they would during a natural disaster. I actually have no idea of how many people were sent by ambulance directly to hospital and how many were instructed to make their way to a hospital as quickly as possible. I hope that you, the reader, can appreciate that with exhaustion and a diminished group of first aid volunteers that this situation became surreal. We no longer had the time or people to record the details of the patients who arrived in large numbers nor were we able to dedicate ourselves to one person until their individual situation was resolved.*

*“Unlike in the morning when we had enough people to do a 'bush triage' that night we dealt with what was in front of us. On Tuesday night people were sitting on the cold ground awaiting assistance. The Ambulance Officers assisted us and worked with us when people with suspected spinal injuries needed to be moved. My memory of that time is a blur of changing gloves, making icepacks, establishing how severe head injuries were and applying pressure to stop the flow of blood. I remember treating a man who had been repeatedly beaten over the head. He had a large open wound that would require stitches. He told me that his wife would kill him if he was disfigured and I was able to assure him that he was fortunate that wound was close to his hairline and the scar wouldn't be too bad. Another patient who had a head wound and was very traumatized told me that as the Riot Squad advanced on the protesters they were chanting "You will be hurt... You will be hurt..." We sent many patients suffering shock and trauma to the Healing Space where they were given rest and sweet warm drinks.”*



Having regard to the descriptions of violence given by many complainants, and to the above description of the scene in the first aid tent, it is surprising to find that S11/CFMEU first aid records contain reference to only 4 cases which are attributable to the Tuesday evening clearance of the Queensbridge/Power Street intersection (Appendix 1, Group 4, cases 43, 63, 100, 101). Three of these are alleged to be baton strike injuries, one apparently to the head, one to the arm and one to the back or knees. There are three other injuries recorded to have occurred in Queensbridge Street at an unknown time (cases 59, 84, 21). Only one of these is recorded as a baton related injury. The others are consistent with the forceful “push and shove” recorded on the video evidence.

It is interesting to note that ambulance records show that, over the whole day on Tuesday, which of course includes the morning and evening clearances of the Queensbridge / Power Street intersection, a total of 16 members of the public were transported to hospital by ambulance. My investigators have spoken to the Metropolitan Ambulance Service’s Ambulance Commander for the WEF protests. He said that very soon after police had moved into the intersection he received calls for ambulances. While police were still in the intersection he went to the S11 first aid tent where he recalled there may have been one person lying on a bench and a small number of people waiting for first aid. He said that every person who subsequently presented at the tent received attention from Metropolitan Ambulance Service personnel who kept records. His records show that over the whole day only 16 members of the public were transported to hospital and another seven people were treated but did not require transportation. He said that these are aggregate figures and that not all 23 treatments occurred as a result of the evening police action. His recollection of the type of injuries treated after the evening police action was that, with the exception of one suspected broken nose, they were of a relatively minor nature in the way of bruises, cuts and abrasions. Ambulance personnel remained at the first aid tent until all patients who sought attention had been treated. They then moved out into the crowd to offer their services which were not called upon by anyone in the crowd. Hospital records do not take the matter much further, but it seems to me to be clear that there is no evidence in the hospital records of the

flood of patients which might be expected if the above descriptions of the extent of police violence and the extent of the resultant injuries were accurate.

The news media reports of the extent of injuries vary considerably. The Channel 10 news at 5.00 p.m., prior to the evening police action, quoted ambulance officers as saying that 13 protesters had been taken to hospital and several treated at the scene. The ABC evening news at 7.00 p.m., again before the evening police action, quoted the same statistic of 13 protesters taken to hospital, adding the detail that 5 protesters had been treated at the scene. Channel 9 evening news reported that 20 protesters had been injured. Again, this seems to suggest that the casualties from the evening police action were not large in number.

### ***CONCLUSIONS.***

It is my view that the plan fitted the facts on Tuesday evening and suffered none of the problems experienced on the Tuesday morning.

For reasons discussed elsewhere in this report, I am of the view that the option to use force was one which was reasonably open to police in the circumstances. Given the experiences of police up to that point, I am also satisfied that it was reasonable for police to execute the operation at “level 4” and to wear protective headwear.

There is clear evidence of resistance by protesters to the movement out of the gate by police. Attempts by some to paint a picture of police inflicting violence upon passive and unsuspecting protesters is misleading. Demonstrators were never going to step aside and it is clear that police had no option but to use force at some level if they were to overcome the resistance of demonstrators and get out through the gate in order to clear a path for buses.

My examination of the available evidence leads me to conclude that, in relation to this incident, there is a considerable gap between the rhetoric and the reality. Protesters’ descriptions, and those of their advocates, are routinely filled with images of wild, unrestrained use of batons by police and of shocking carnage

among protesters. My examination of the available evidence suggests that the police action was certainly swift and forceful. There were a number of acts of undisciplined use of force by individual police members to which I have referred above, but these do not invalidate the appropriateness of the strategy. Apart from the actions of Senior Constable F, there is very little, if any evidence of overhead baton use although there is evidence of the use of batons to jab at protesters. This is a method which is authorised (see the section re “Baton Use” elsewhere in this report).

There is conflicting evidence about the danger presented by the actions of mounted police. Some complainants have alleged they were trapped between advancing police from the front and mounted police at the rear, yet the video evidence clearly shows the action of mounted police to have allowed an avenue of escape for protesters. In my view the action of mounted police to “peel off” a section of demonstrators significantly reduced the level of force required by foot police to break through the crowd and was, on balance, beneficial. There is no evidence of the “rearing up” of police horses as alleged in the Pt’chang submission.

To my mind, the worst damage was done as police filed past the group of protesters stranded in the middle. Although they were “corralled”, the protective cordon did not encircle them and there is no doubt that these people were the target of baton abuse as police ran past them. Again, this appears to be the undisciplined action of individuals rather than a fatal flaw in the strategy.

The medical evidence is particularly revealing. In my view it is further evidence of the gap between rhetoric and reality. The thrust of the medical evidence reflects my interpretation of the video images and does not support the claims of “unprovoked and extremely excessive violence” alleged in the Pt’chang submission causing the massive carnage some would suggest occurred.

***INCIDENT 3.******CLARENDON STREET AT PLANET HOLLYWOOD ENTRANCE, TUESDAY, 8.30 A.M.***

The S11 Legal Support Team submission alleges that police moved into a line of protesters, hitting and abusing people, for no apparent purpose. It is alleged there was no attempt to move people permanently, or to allow access for delegates.

I received two complaints from individuals concerning this incident. One puts the time of the incident at 7.30 a.m. and the other at between 7.45 and 8.30 a.m..

The description of the incident provided by the two complainants are similar. A group of approximately 25 – 30 police appear to have come from the direction of the Victoria Police Centre walking southbound along Clarendon Street. They crossed Clarendon Street and headed towards the gate in Whiteman Street. Once at the gate police moved to the right (southern) end of the gate and, shouting “Move! Move! Move!”, attempted to push protesters back towards the casino end of the gate (northwards). One of the two complainants has provided photographs of the incident. The photographs show police did not have their batons in their hands, and are formed into a tight formation apparently for the purpose of pushing protesters away from the gate as described. It is clear that protesters were resisting. There are allegations of punching, hair pulling, testicle grabbing and kicking by police. It is not possible to determine the truth or otherwise of these allegations from the photographs. Somewhat strangely, neither complainant has provided any indication of where the group of police went after the incident. This seems to be the basis of the allegation that police took this action “for no apparent reason”.

From my examination of the photographs it seems very plain that police were simply trying to gain access to the casino through the gate, formed a “diagonal” against the concrete barricade to the south of the gate and moved along the barricade towards the gate in an effort to displace protesters from their position to allow police to enter. So far as I am aware there is no video available of this

incident, nor is it mentioned in the police logs. I am of the view that the available evidence is insufficient to allow any conclusions to be drawn regarding the propriety or otherwise of police conduct.

The one reported injury arising from this incident involves particular allegations made by one of the complainants that he was dragged away and threatened by police. I will be making further enquiries regarding this particular allegation and reporting to the complainant.

***INCIDENT 4.***

***KINGSWAY SOUTH, TUESDAY, 11 a.m. – 12 NOON.***

It is alleged by the S11 Legal Support Group that police rushed protesters punching people and using batons. No further details have been provided.

I have received no individual complaints about any incident at Kingsway south at this time and I have no video evidence of this incident.

The FCP and the POC logs do not record much activity at the southern end of Kingsway or the Kingsway ramp. The following entries appear at 10.17 am.

*“ 1017                    ... action in lane at rear of KW and Whiteman.*

*1018                    Sector 3, Gate A. CIB tried to eject a demonstrator and protesters threw screws and female injured to eye. ... [member named] has sore eye but no visible injuries.”*

A further entry at 11.47 am records, *“Members fighting with protesters at KR [Kingsway Ramp] from intell.”* The subsequent reports of activity in the vicinity of the Kingsway ramp are patchy and do not throw much light on the issue.

Inspector Hocking has recalled that there was some tension at the Kingsway ramp area when a protester who had been arrested was released at the Kingsway ramp gate. He understands that protesters thought police were allowing someone out of the casino and there was some reaction from the crowd but he could not recall anything involving police rushing at protesters as described by the S11 complaint. Mr Halloran's recollection was that there was an incident in Kingsway related to one of a number of occasions when demonstrators attempted to breach police barricades.

It seems that there was an incident at the northern end of Kingsway at about this time. A further cryptic entry in the FCP log at 1159 says, "*Kingsway Bridge - Breach of line. Gate J*", with a further entry at 1202 simply recording, "*Breach now OK*". The POC log contains an entry at 1208, "*From A/C Shuey, please back up lines on Kingsbridge with horses and men in mini buses ready to move within 30 seconds*". There are several further entries relating to the requirement for extra police at Kingsway (at 12.35 p.m.) and a report of a bottle and glass being thrown at police (12.45 p.m.). There is no clear record of any incident matching the description above.

Again, I have received no individual complaints about any incident on the Kingsway bridge, or anywhere else in Kingsway at this time. I am unable to identify any first aid treatment in the S11 first aid records which could be referable to this incident.

#### **INCIDENT 5.**

**QUEENSBRIDGE STREET, RIVER END, TUESDAY, 4.05 p.m.**

It is alleged that mounted police rode into demonstrators several times using batons and that protesters were trapped between horses and barricades. One protester lost consciousness and others were injured. The Pt'chang submission does not refer to this incident. I have received complaints from two protesters who provided a partial

description of the incident but offering no information or details which might provide some wider context or explanation for the incident.

So far as I can see the police logs contain no reference to the incident, although it is clear that something occurred. There are six injuries recorded in the S11 first aid materials (Appendix 1, Group 4, cases 45 – 50). As at the time of writing I have not completed my investigation of this matter. I will pursue the matter and respond to the individual complainants in due course.

### **7.3 WEDNESDAY 13 SEPTEMBER 2000.**

#### ***INCIDENT 1.***

***CITY ROAD AND POWER STREET, WEDNESDAY, 7.20 a.m.***

The S11 Legal Support Group submission alleges that a truck was stopped by protesters who were blocking Power Street near the City Road intersection. The driver and passenger got out of the truck and assaulted protesters. Police watching the alleged assault made no attempt to intervene.

No further details of the incident are provided and I have no knowledge of the context in which this occurred, how serious the alleged assault was, how far away police were (it seems to me that they could only have been at the other end of Power Street behind the barricades in Queensbridge Street), or whether intervention was possible or warranted. I have seen video footage of an altercation which appears to have taken place at the City Road / Power Street intersection in which a man ran toward a hooded protester throwing punches. The incident lasted a matter of seconds before another protester intervened and the man seemed happy to walk away. This footage was shown on Channel 7 evening news on 13 September. There is no sign of police being in a position to take any action and the available evidence provides no basis on which one could be critical of police.

I should point out that this was not the only incident of “abatement by self-help” to which motorists resorted when confronted by protesters blocking their path. There were other incidents on the Monday morning in Kingsway when enraged motorists got out of their cars and angrily threw aside temporary barricades placed by protesters across the roadway while they hurled angry abuse at protesters. The available evidence, however, does not provide any basis upon which I could take action against police for failing to provide assistance to protesters.

***INCIDENT 2.***

***CLARENDON AND SPENCER STREET, WEDNESDAY, 7.30 a.m.***

***THE COMPLAINTS.***

The S11 Legal Support Team described this incident as follows.

*“Hundreds of riot police were deployed each side of Clarendon Street and the small number of protesters (between 30-40 in two groups) were “swept” down Clarendon Street by a line of police across Clarendon Street acting as a “plunger”. A number of protesters were injured, at least one had to be taken in an ambulance to hospital. Protesters said that while they were given a warning by some individual police: “Leave if you don’t want to get hurt”, others said “don’t worry it’s just a drill”. In any event that (sic) they had little time or opportunity to move. Police began pushing down Clarendon Street telling the protesters to run, pushing them, dragging them, and hitting them with batons. One officer said, “We’ve formed a square, you’re fucked now, you should have got out.”*

The Pt’chang submission was as follows regarding this incident.



*“Approximately 60 protesters were on the Spencer Street Bridge in three groups forming picket lines at 0700. Police in full riot gear began rounding up protesters and pushing them towards the north end of the bridge. A large group of police came from the other side of the protesters hitting them with fists and batons and dragging them by their hair off the bridge. Protesters reported being surrounded by police and being violently pushed back and forth between them. One protester received blows to the back of the head and was dragged approximately 50 metres. The police’s behaviour was reportedly physically intimidating and aggressive, with police screaming contradictory commands at protesters and pushing and hitting the protesters with batons as they held up their hands crying, “Peace”. This incident was also witnessed by a Reuters cameraman.”*

This complaint refers to the action taken by police to get the delegates into the venue on Wednesday morning. It was a switch of tactics from the thrice used strategy of going out through the Queensbridge/ Power Street gate to take control of that intersection.

I have received two complaints from individuals regarding this incident. One describes being at the “northern casino entrance barricade” with about 30-40 protesters when,

*“We suddenly heard stamping then a loud voice call out “move the fucken barrier” followed by a noise that sounded like a battle roar as hundreds of police in full riot gear charged into Spencer Street and over the bridge where they blockaded the road. We looked back the other way and saw the street was completely sealed off by another wave of police at southern end of the Casino on Spencer Street.*

*We decided to cross the street as the atmosphere had become menacing – but we had no real sense of what was to follow.*

*Without any warning, announcement or requests to leave, the police (these not in full riot gear) attacked the small group of peaceful, unsuspecting protestors, who were now trapped, surrounded on all sides by police”.*

The complainant went on to describe a young girl allegedly being dragged by her hair; police kicking three rucksacks they had seized to cheering security guards and a man who was “just standing on the sidewalk” being dragged along the ground, kicked in the ribs and obtaining a cut lip and grazed hand.

The second complainant was standing at the south side of the fountain at the taxi rank entrance to the casino. He saw a stream of “riot police” filing across Clarendon Street north of the barricade at the northern end of the taxi-rank. Another line of police formed across Clarendon Street to the south of where he stood. A police officer stepped out of the line and said, “*If you want to leave, this is your one chance*”. The complainant left the line and encouraged others to do so. He described how police opened two “sluices” to allow protesters to leave the cordoned off area. He said that police ran towards protesters from behind shouting, “Move!” and pushed protesters through sluices. He alleged that police hit protesters with batons as they passed through the “sluices”, and that after protesters had passed through some fell because of the pressure from behind.

### ***POLICE EVIDENCE.***

Superintendent Halloran said that the change in tactics on the Wednesday morning were adopted for a number of reasons. First, it allowed police to maintain an element of surprise. Also, the casino was closed and this allowed police to emerge from the casino without having been seen earlier to make their preparations. Mr Halloran said that the difficulty using the Clarendon Street entrance had been the numbers of police required to maintain the very long lines needed to secure Clarendon Street up to the Flinders Street intersection, but with reduced numbers of protesters on Wednesday this was seen as less of a problem. Assistant Commissioner Perry said that his assessment had been that an approach to this entrance had not been possible on the Monday or Tuesday but, as the event went on,

protesters lost some of their early capacity for organisation and began to rely on their capacity to anticipate police action. He said this made it easier for police to out-manoeuvre them and to avoid confrontation.

Inspector Reid said that the plan was for cordons to be formed in Clarendon/ Spencer Street over the bridge to Flinders Street. Transit Police were responsible for the cordons at the Whiteman Street end, general policing members for the cordons at the Flinders Street end, and the FRU for cordons from the taxi rank casino entrance along Clarendon Street to the middle of the bridge across the western end of Batman Park. The placement of FRU members reflects the direction from which any resistance, or swarming, was expected to come. It was anticipated that when the crowd in Queensbridge Street learned of the presence of the buses in Clarendon Street the shortest route would be across Queensbridge, along the river and through Batman Park past the Yellow Peril to Clarendon Street. Probably due to reduced numbers the crowd did not come and police faced no further resistance, withdrawing when the buses had turned around and left in a northward direction along Spencer Street.

Inspector Mawkes expressed the view that the operation was put in place with a minimum of problems. He described how a number of protesters at the northern gate nearest the river were encircled, or “corralled” by the general policing members at the gate to allow FRU members emerging from that gate to make their exit unimpeded.

There is very little video footage of this incident. The footage from the police helicopter is concentrated on delegates’ buses which, at the time this was occurring, were travelling down La Trobe Street, turning left into Spencer Street and approaching the Casino along Spencer Street from the north. It is probable that the lack of commercial news footage is due to the fact that news crews were at the Queensbridge / Power Street intersection where a large crowd was gathered in expectation of yet another operation by police to clear that intersection. Police had organised some elaborate diversionary tactics to create this expectation, so elaborate that I received a complaint about the “childish behaviour” of police by a

complainant who probably did not realise it was all a show. The complainant referred to the presence of police video crews, and that police persisted in what the complainant considered “intimidatory behaviour with police dogs, chanting, and full display of their batons to a peaceful crowd.”

### ***MEDICAL EVIDENCE.***

The CFMEU / S11 first aid records do not take the matter much further other than to confirm there was force used, and that injuries were incurred. There are only 2 injuries which can clearly be attributed to this action (Appendix 1, Group 5, cases 82 and 88). One is recorded as “baton to right shoulder, bruising, ice” and the other as “trampled by police during arrest of another person”. There are five other injuries which may have come out of this incident (Appendix 1, Group 5, cases 41, 87, 42, 86 and 54). Two are recorded as baton blows to the head, one as a punch to the jaw, one as a thumb injury and the other as an unspecified wrist injury during a “baton charge”.

The police logs are also of little assistance. They simply record that at 7.14 am the buses were at Spencer and La Trobe; at 7.16 am., “Go”; at 7.18 am., “FRU Deployed”; at 7.20 am., “Buses in”.

### ***CONCLUSIONS.***

Again, it is clear that the use of force was directed at moving blockading protesters aside to allow access for delegates. For reasons I have expressed elsewhere in this report it is my view that on this occasion, as on other occasions when police took action to achieve the same objective, the use of force was a course which was reasonably open to police. On this occasion the strategy adopted by police is one which has every appearance of being consistent with the stated aim of avoiding confrontation and attempting to ensure that only minimum force was used to achieve what police argue was a lawful and legitimate objective: to get delegates into the casino through the unlawful blockade imposed by protesters. In my view the available evidence does not justify any criticism of the strategy or of those who

devised it. In the absence of any useful video evidence of the police action I cannot offer any direct opinion based on my own observations regarding the issue of the degree of force used by police to achieve the objective. However, it seems to me that the injuries noted in the CFMEU / S11 first aid records, although a serious matter for those who suffered them, are not indicative of an indiscriminate attack or of widespread violence in the execution of the strategy which involved some hundreds of police.

**INCIDENT 3.**

**SPENCER AND FLINDERS STREETS, WEDNESDAY, 8.50 p.m.**

The S11 Legal Support Group submission contained the following reference to this incident.

*“A similar action to that of the morning with several hundred riot police forming a large square in Clarendon and Spencer Streets. There were virtually no protesters still at the casino. Police assaulted three young people and smashed their musical instruments near the corner of Flinders and Spencer Streets. Bystanders were told that if they entered the street they would be arrested. Protesters were only able to escape such treatment when they which (sic) the relative safety of Batman Park.”*

The Pt'chang submission made no reference to the above incidents, but referred to other clashes in Haigh Lane at 6.10 p.m. and at the Clarendon / Whiteman Street gate at 6.15 p.m.

The first of the two matters referred to by Pt'chang – Haigh Lane at 6.10 p.m. - appears to relate to police action to allow for the entry of a bus carrying Crown employees. The CFMEU / S11 first aid records contain no relevant information. The only injury which appears to have come out of this incident is a policeman's dislocated finger. The police logs make some very brief references to the incident.

At 6.00 p.m. the POC log records a request for support to assist the bus; at 6.10 p.m. the log contains a brief reference to a member's finger injury sustained in a scuffle with protesters, and at 6.20 p.m. the FCP log contains a reference to seven FRU details being sent to the gate. Inspector Reid stated that the general policing members on the gate had got themselves "out too far" attempting to get Crown staff in and the FRU had to "get them back in". I have received no individual complaints concerning any of these incidents and, so far as I can see, there is no reference in any of the documentation available to me of the second incident referred to by Pt'chang. I do not have video footage of either incident and I do not think I can take either matter further on the available evidence.

Mr Halloran's recollection of the Wednesday evening was that there were fewer protesters but they were more aggressive and were at the southern end of the casino. The logs support the view that some protesters did not want to go home. There are records of conversations between police and S11 representatives from which it is clear that the S11 representatives were unable to persuade the remainder of the crowd that the protest had finished. One of the S11 representatives who attended my office on 15 September 2000 said that the event had degenerated into a dance party later on the Wednesday. There was some disagreement among protesters about what should occur and it seems the removal of the public address systems finally ended the whole thing.

Inspector Reid stated to my investigators that there was a group of protesters which he put at about 4-500 who were "hell bent on a rampage, just going around and around the Conference". After the incident in Haigh Lane when FRU members had assisted getting the Crown staff in, there were further discussions about the final action to get the delegates' buses out. It was decided to use the same numbers of police because of the large number of protesters police believed were roaming around the venue. Inspector Reid said that when police went out as they had in the morning there was only a handful of protesters there and it was non-event. I have examined video footage of the Wednesday evening action and I can see no evidence of any conflict.

I have received no complaints nor any information regarding the “three young people” whose instruments were allegedly smashed and cannot take that matter any further.

## **8. ISSUES.**

### **8.1 USE OF FORCE BY POLICE.**

I have addressed this issue in Part 7 of this report.

### **8.2 USE OF BATONS.**

#### ***THE COMPLAINTS.***

The S11 Legal Support Group submission on this issue was as follows.

*“The use of batons by police, in particular, require serious examination by your office. A baton is a dangerous weapon and can cause serious injury and in certain circumstance even death. Your office has previously highlighted the problems with police use of batons at Richmond Secondary College. In addition to the issues outlined in that report we wish to draw your attention to the following points.*

- *The use of PR-24 side-handled batons adds to the potential risk of injury and therefore are even less justifiable in a situation such as the S11 demonstrations;*
- *The British Police Complaints Authority recently completed a study on the use of batons by British police, found that side-handled batons were the subject of far more complaints than police use of other batons;*



- *The manufacturers of the PR-24 emphasise the potential lethality of their baton if used to strike vulnerable areas reinforcing the view outlined in your previous reports;*
- *The construction of PR-24 batons mean that even jabbing or short stabs with such batons can cause severe damage because a greater degree of energy is transferred to the baton stroke, because of the handle.”*

The Pt'chang submission concentrated on the use, rather than the type, of baton. It was alleged that the use of long side-handled batons by the FRU and mounted police was observed consistently to be highly dangerous and excessive. It was alleged that police commonly wielded batons overhead striking in a downward motion or from the side. It was alleged that batons were aimed at and connected with people's heads, faces, necks and shoulders and that first aid and hospital records reflect this. It was alleged that mounted police were “consistently seen wielding batons high above their heads, bringing them down hard upon the heads, necks and shoulders of people standing on the ground below them.” It was argued that this was in breach of medical advice from the Institute of Forensic Medicine which advice is included in the police “Operational Survival Instructions”.

I shall first address the issues raised by the S11 Legal Support Group regarding the use of the side-handled PR-24 batons and then move on to the issue of the use of batons by police generally at the WEF demonstrations.

#### ***SIDE-HANDLED PR-24 BATONS.***

I am, of course, aware of the report of the British Police Complaints Authority (“PCA”) which analyses baton-related complaints across the numerous police forces subject to the PCA's jurisdiction. The report concludes that the PR-24 generates more complaints, but makes no findings of why this is so. The PCA report did not examine the comparative circumstances in which batons are used across police forces or the relativity of injuries. It was simply an exercise in

correlation of baton types to complaints. Its conclusions and recommendations were as follows.

*“CONCLUSION*

- 1. The Arnold [a type of baton] appears to cause forces less trouble than any other. Regular refresher training is very effective in eliminating complaints involving the Arnold.*
- 2. The effectiveness of frequent refresher training in reducing complaints is striking in relation to all batons except the rigid PR24 but the reduction in the number of complaints in response to more frequent training is most significant with respect to the extendable side handled baton.*
- 3. The rigid side handled baton creates the most complaints and our study provides little help in determining why this should be the case or what to do about it. Our common-sense conclusion is that the skills required to make full use of the PR24 are considerable. It may be that training needs to be very carefully geared to the skills of the officer and probably needs to be undertaken more frequently than is necessary for the simpler straight batons.*

*RECOMMENDATIONS*

- 1. That forces revisit the designation of target areas with a view to regrading certain vulnerable parts of the body.*
- 2. That if forces are still using the original baton training manuals, they consider amending these to take account of the less aggressive style of policing used in this Country than in the US.*
- 3. That the frequency of refresher training be reconsidered by some forces in the light of this report.*

*4. That forces using the side handled baton, in particular, and which have high levels of complaints, consult with forces which appear to have been successful in reducing complaints through training.”*

I do not think this report provides any basis for condemnation of the use of PR-24 batons, rather it argues that the use of the PR-24 requires particular care and frequent, specific training.

Although I have not undertaken or commissioned any type of study of the relative potential for injury by use of a PR-24 baton as against a baton which has no side handle, I have no difficulty accepting that the handle would allow greater force to be applied when the baton is used in a jabbing motion. Again, I do not necessarily accept that this provides a valid argument in support of the banning of PR-24 batons. Serious damage can also be inflicted by jabbing with standard issue long batons. It is certainly an argument for extreme care in the use of PR-24s and for specialised training and this is one of the conclusions of the PCA report. I have no reason to suppose that an overhead blow with a PR-24 is worse than with a standard baton.

In fact, the evidence in relation to the WEF demonstrations indicates that police did not decide to use the PR-24 batons because of any perceived need for their particular characteristics but because there was simply not enough long batons to go around at the time. Many police reporting for duty at the WEF did not bring batons with them and when the plan was devised on the Monday to clear the Queensbridge/Power Street intersection at “level 4” using the numbers of police believed necessary, there were not enough long batons available. It was decided the FRU should hand over the long batons they had used on Monday to Transit and General Policing members who were required to have batons for the operation, and that the FRU should deploy the stock of PR-24s in the FRU storeroom.

In the circumstances, I do not think anything sinister can be read into the use of PR-24 batons at the WEF.

## **USE OF BATONS.**

Guidelines for the use of batons are contained in the Victoria Police Crowd Control Manual. The Crowd Control Manual is a composite document containing elements of the Victoria Police Operations Procedure Manual and, in the case of baton use, the OSST Manual.

Several incidents at the WEF were conducted at “level 4”. The Crowd Control Manual contains the following in relation to “level 4” for a moving single police cordon.

*“**Moving:** Used as a warning process with the word ‘Move’ called with every step and thrust of the baton.*

*When level four is used as a moving line the officer in charge should not contact the crowd with the line on the move but call out a number of steps (eg Unit will advance a set number of steps, preferably a minimum of three.)*

*Having pulled up short of the crowd the officer must then warn the crowd that if it does not disperse or leave the area that the application of force will be used and that the application of force will involve the use of the baton.*

*Time must be allowed for the crowd to make a conscious decision to stay or leave. There must be avenues open for those who wish to leave.”*

In relation to “Level 5” the Crowd Control Manual contains the following.

### ***“Level 5 – Single Cordon***

#### ***Use of the baton as an impact weapon***

**Static:** *Single cordon defending a building where quick and violent aggression from the crowd has occurred.*

**Moving:** *Moving a violent and aggressive crowd from a gate to allow vehicle access. Formation dresses from the centre.*

*If the warning at level four is not heeded then the personnel are called to level five and the baton is used. (eg detail will clear the gate in one movement. 'Move'.) The application of force with the baton in straight thrusting movements is then initiated.*

*A move to level four or five using the baton would only apply when a crowd is acting aggressively towards the Police contingent.*

*A commissioned officer or Senior Sub officer in charge of the operation may authorise a move to level four or five without warning the crowd if the aggression by the crowd prevents such a warning. (ie immediate violence from the crowd without previously showing intent.)*

*Whilst the decision to use a baton should, where possible be authorised by a commissioned officer or senior sub officer in charge of the operation, individual members have a right to defend themselves against serious assault.*

*However, individual members should be aware that any application of force with a baton must be justified at any subsequent investigation/inquiry."*

The Crowd Control Manual then goes on to offer the following information regarding baton use.

***"Baton use***

*In crowd control the majority of baton use will be in the forward thrusting motion at the warning level (level 4) and the impact level (level 5).*

*Members in the front line may assist each other with baton retention. Members should retain two (2) hands on the baton and may (if required) deliver a short downward strike to the hands or forearm/s of a person in the crowd attempting to take a baton from a member.*

*At no stage should a front line member raise the baton above the shoulder except in exceptional circumstances. (ie to block an overhead strike by a member of the crowd as outlined in the video).*

*An exception to this concept is an overhead baton strike, utilised by a sub officer where he/she may have to strike between the members in the front line to assist the members in the retention of their baton or where a member is being seriously assaulted.*

*Any strike made in the overhead fashion must be in accordance with the OSTT defensive tactics training in baton strike areas.*

***‘Any baton use by a member of any rank will be subject to an intensive investigation/inquiry and the use of force must be justified in every circumstance’. ‘Members are entitled at law to defend others as well as themselves.’ ”***

The OSST Manual provides details regarding “Medical Aspects of Police Batons (Expandable and Long Batons)” as follows.

*“The use of a baton is always potentially hazardous and blows in areas of high risk are unpredictable – the result of a given blow may be ineffective or fatal with the member having little control over the outcome.*

*Minimize the risk by avoiding blows to areas of high risk.*

*Maximise the effectiveness of the baton by striking the recommended areas only.*

<b><i>TO AVOID</i></b>	<b><i>REASONS</i></b>
<i>Head</i>	<i>Fractured skull, brain injury, death, (there is variation in skull strength).</i>
<i>Face</i>	<i>Facial fracture, dental injury, skull fracture.</i>
<i>Front of neck</i>	<i>Injury to voice box, sudden death from minor injury.</i>
<i>Back of neck</i>	<i>Spinal injury, paralysis, death.</i>
<i>Abdomen</i>	<i>Sudden collapse, rupture internal organs.</i>
<i>Kidney region</i>	<i>Kidney damage, rupture liver/spleen.</i>
<i>Spinal region</i>	<i>Spinal injury, paralysis, death.</i>
<i>Holds</i>	<i>Unpredictable outcome, easily fatal.</i>

*The recommended use for baton blows are limbs, shoulders, chest and buttocks. **Danger areas should only be used when lethal force is justified.***

An examination of the S11/CFMEU first aid records reveals the following.

- There are 12 cases where the cause of the injury treated is alleged to be a baton blow to the head (cases 78, 93, 65, 47, 49, 50, 84, 41, 79, 80, 42, 56).
- There are 8 cases of recorded head injuries for which no cause is given and in relation to which a baton strike to the head cannot be eliminated (cases 1, 11, 14, 18, 32, 28, 19, 46).

- There are 7 cases in which the cause of the injury is recorded to be a baton blow to parts of the body other than the head (cases 64, 66, 69, 43, 63, 100, 82).
- There is one case where the injury is recorded to have been caused by a baton jab (case 35).

Even allowing for the claimed incompleteness of the medical records, this does not support the claims by many complainants that overhead baton use was widespread or common practice over the three days. My examination of the available video evidence supports this view. The video evidence available to me does not support the allegations contained in the Pt'chang submission that mounted police used batons. In summary, there is very little evidence of systematic misuse of batons and it seems to me that, where it occurred, it was in the way of undisciplined acts by individual members. As indicated elsewhere in this report, I will be pursuing further enquiries in that regard.

The guidelines about the overhead use of batons are clear enough, but I have some concerns about a lack of clarity in relation to the progression from “level 4” to “level 5”, particularly in relation to the use of batons in a forward jabbing motion. This is an issue I raised in my report about police action at the Richmond Secondary College of November 1994.

It seems to me that the guidelines as they stand contemplate a static situation where an advancing line of police face a fixed number of demonstrators and time is not necessarily a crucial element. The guidelines appear not to address specifically a dynamic situation such as that which confronted police at the WEF, where police were attempting to open a corridor through a crowd which had the potential to become larger very quickly. The use of batons in such circumstances and the issue of warning the crowd is a matter which requires closer examination and which I will follow up further with police.



### **8.3 USE OF HORSES.**

#### ***THE COMPLAINTS.***

The S11 Legal Support Group raised this issue in the following terms.

*“The use of horses by police should be evaluated in the same way as any weapon used by police. What is the level of force being used? Is it reasonable in the circumstances? Is it a proportionate response to the alleged offence being committed?”*

*We would argue that the use of police horses to ride or push into a crowd is a significant level of force. Many protesters were injured by horses after being stepped on or kicked. Others were injured after being pushed or crushed against fences or other people by horses. While we recognise that officers are highly trained in the use of horses the level of control is not absolute and there is a danger that a horse will behave unpredictably and injure someone. In any event, many officers on horseback behaved in a deliberate or reckless manner riding into crowds, which inevitably led to people's injuries.”*

Pt’chang put the issue as follows.

*“Other serious injuries resulted from protestors being pushed or trodden on by police horses being used in incredibly close proximity to sitting or standing rows of people. The use of mounted police lines is a common crowd-control method in Victoria, having been used at a wide-range of political protests and rallies. At the Crown Casino Complex, and particularly during the surprise baton charges by the Force Response Unit, tight lines of police horses, ridden side by side, with no room between each horse, were utilised as rear containment lines. Whether as a deliberate tactic or as a miscalculation by commanders, these mounted police often very effectively trapped protestors*

*between advancing Force Response Unit officers wielding batons and curtailed efforts by protesters to escape, move out of the way or avoid being trampled.”*

I have also received complaints from three individual complainants concerning the use of horses. These two complaints were concerned with the actions of mounted police at the Kingsway ramp on Monday morning and have been referred to during my examination of that incident (Incident 3, Monday); the third concerned the incident in which a horse fell during the rescue of Mr Court's car in Clarendon Street on Monday morning to which I have also referred above.

### ***POLICE EVIDENCE.***

My investigators interviewed Senior Sergeant G. Williams, the Officer-in-Charge of the Mounted Branch. He has had 30 years experience in the Mounted Branch and has considerable experience in the use of horses at demonstrations and in crowd control situations. Senior Sergeant Williams was in charge of the mounted contingent at the WEF demonstrations.

Senior Sergeant Williams stated to my investigators that the Mounted Branch conduct regular training sessions with the FRU in the form of simulated exercises about six times per year, and that members of the Mounted Branch spend about one day per week in general training. Senior Sergeant Williams indicated that the Victoria Police is outward looking in relation to training and techniques. He has close contact with interstate mounted police and has for about the last nine years attended training clinics in the United States where he has taught and learned mounted techniques. He does not have close links with mounted police in the UK but gets a lot of footage from the UK and is familiar with the techniques used there, stating his view that English mounted police enter crowds at excessive speed. Senior Sergeant Williams said that horses have been used in Victoria for demonstrations and crowd control since before the time of demonstrations against the Vietnam war and the Springbok demonstrations.

Senior Sergeant Williams stated that in situations where there is a crowd pushing against a line of police it is sometimes necessary for mounted police to push through the crowd in a formation known as a “half-section” – two lines of horses with the lead horse half a length ahead of the horse next to it – in order to create a barrier visible to people at the back of the crowd. In his experience, once such a visible barrier exists, people at the back of the crowd will stop pushing and a crush is avoided. An example of this technique was seen at the Whiteman/ Clarendon Street gate when mounted police separated the lines of police and protesters during the struggle to get the 4WD and the red sedan through the gate. Senior Sergeant Williams stated that the method of entry is to move slowly. He said that a horse at walking pace will push demonstrators aside with no injury although on most occasions people step aside without contact being necessary. Senior Sergeant Williams said mounted police only move into a crowd when there is space for the crowd to move into, and select their point of entry or approach according to this requirement. When questioned about the problem of protesters falling under the hooves of horses he said that mounted police can generally avoid people on the ground. He conceded that this is not always possible but said a horse will naturally walk over a person lying on the ground without stepping on them because horses will not step on unstable surfaces, or on ground of which they are unsure.

Questioned about methods of making space in crowds, Senior Sergeant Williams said that horses can be rotated and this is sometimes necessary to prevent people grabbing at the reins or the rider. He stated that this is a technique which does not cause stress to people because the rump is very soft and people will bounce off it. He said there are many anti-mounted police techniques including, among others, dismounting riders and putting cable-ties onto reins. He had received some intelligence suggesting that some of these could be used against police at the WEF.

Senior Sergeant Williams stated that mounted police will only move into a crowd when it is necessary in order to assist foot police. He stated that mounted police did not move in to the seated protesters at the Queensbridge/ Power Street incident on the Tuesday morning but, instead, moved protesters who were standing nearby. He said that on the Tuesday evening foot police were having difficulty getting out. He

said that there were “fights on at the gate” and he had to shift some of the people to allow foot police “to do their job”. He and other mounted police moved into the crowd and “peeled some of them off”. There were still some protesters there, but not as many, and foot police were able to get out. He said there was plenty of room for the people he “peeled off” to move into when he made this manoeuvre.

Senior Sergeant Williams did not agree with the issue raised in the Pt’chang submission that, in the course of the Tuesday morning and evening operations at the intersection of Queensbridge and Power Streets, protesters were ejected from behind police cordons into a wall of horses and became trapped. He stated that there were 16 horses across the width of Queensbridge Street and that there was, in his view, plenty of room for protesters to move through the line of horses, he estimated at least 4 or 5 feet between the horses. He stated that the horses were standing still and were under the control of the riders. He conceded that a horse is a living creature and it cannot be said with absolute certainty that it will not move in such circumstances, but was clearly of the view that there was little or no risk to protesters who had fallen or were passing through the lines of horses.

It was clear to my investigators that Senior Sergeant Williams recognised the danger of horses standing on people’s feet when moving through crowds but stated that it was a matter for judgment whether the risk of this was outweighed by the importance of the objective, whether it was to minimise crowd crush or confrontation. I note that it was not only protesters who suffered injury from contact with horses. At least two police members received treatment for similar injuries. Senior Sergeant Williams stated that that throughout the three days of the WEF he was under the direction of and in contact with the Forward Commander, Superintendent Halloran, but could act where required in urgent situations. He stated that although he might be called for assistance to achieve an objective, he had operational independence to the extent that the manner in which he went about it was, in most cases, left to his discretion. He also indicated that the assessment of the possible dangers to his members and to demonstrators was a matter for him.

***MEDICAL RECORDS.***

The S11 first aid records contain notes of seven injuries which are recorded as horse related injuries (Appendix 1, Group 3, cases 92, 34, 31, 26, 95 and Group 4 cases 68, 48.) All but the latter two, which occurred in two separate incidents on Tuesday, were incurred during the police action on Monday morning at either the Whiteman Street gate to allow access to the 4WD or in the rescue of Mr Court's car. In my view the available video evidence in relation to each of these incidents supports Senior Sergeant Williams' claim that horses were only moved into the crowd when necessary to support foot police having difficulty or to alleviate the danger of crowd crush.

***CONCLUSIONS.***

In my view, the available evidence does not support the view that mounted police were used as a kind of battering ram of first resort. In my opinion there is no reasonable basis for arguing that mounted police were over used or inappropriately used by the Operation Commanders. Even then, when mounted assistance was requested, there is evidence that on more than one occasion Senior Sergeant Williams declined to take a course of action which might have been open to him. His disagreement with the view of Inspector Mawkes that mounted police should enter the crowd before foot police to make a path to Mr Court's car is one example. The available evidence suggests that the situation urged by the S11 Legal Support Group is in fact the norm: there is a balancing process exercised by police, at the discretion of the officer in command of mounted police, about whether or not the use of mounted police is justified in any given circumstance. The available evidence does not lead me to conclude that this balancing process was applied in an improper or unreasonable way or that mounted police are deserving of criticism for their actions.

## **8.4      *FAILURE TO DISPLAY IDENTIFICATION.***

### ***THE COMPLAINTS.***

The S11 Legal Support Group raised this issue in the following terms.

*“The overwhelming majority, we estimate somewhere between 80-90%, of officers were not wearing their identification badges during the protests. Claims by senior police that protesters had stolen them or they had been knocked off were clearly untrue. Police were not wearing id badges on Monday morning. Most officers in charge of various entrances were wearing their badges.*

*It seems clear that senior police had either ordered or turned a blind eye to the removal of identification badges by their officers. This conclusion is reinforced by the refusal of the majority of police to provide their details (name station, no.) when asked. In rare instances police did so when asked, but generally such requests were refused or sometimes responded to with abuse. Officers in charge, generally refused such requests, occasionally moving the officer in question to the back of a section.*

*The relative anonymity enjoyed by officers as a result of these actions contributed to the culture of lawlessness exhibited by the police and clearly will exacerbate attempts to ensure police accountability for their actions.”*

The Pt'chang submission did not raise this as a specific issue but referred to the absence of identity badges a number of times throughout the lengthy submission. The issue was raised in dozens of the individual complaints I received, some referring to specific times and places and others making the point more generally.

From my examination of the video evidence it seems to me that the proportion of police not wearing identity tags was somewhat less than 80-90 % overall, but there

were clearly occasions where a very high proportion of police were not wearing name tags. So far as I can see the matter first came up in documented form as being a matter raised in the meeting between Chief Inspector Winther and S11 representatives on the Tuesday afternoon.

***POLICE EVIDENCE.***

I put this matter to Deputy Commissioner O'Loughlin. He said that the issue of the name tags was first brought to his attention in a media conference on the Tuesday afternoon. He said that immediately after the news conference he spoke to Superintendent Halloran and then went on a walk around the venue and spoke to every policeman on the ground outside the complex and told them to put nametags on. Mr O'Loughlin said he told members that if they were doing their job they had nothing to worry about. He said there was no doubt that some members had their nametags stolen, but there was no doubt that some had removed them for a variety of other reasons. He stated his understanding of those reasons to be as follows.

- He has received reports from police covert operatives who were mingling in the crowd that certain elements in the crowd were making threats to members such as "I know where you live", "I'm going to say you did such-and-such", and threatening police members with civil action with taunts such as, "You'll lose your house".
- He believes there was a genuine fear among police that they would be targeted for civil action and perhaps they would not be supported by the Force. Mr O'Loughlin pointed out that there had been some cases in which the Force had decided not to support members in civil actions against them and the members were aware of this. Mr O'Loughlin said he was disappointed that this attitude existed and that members had taken name tags off. He produced a newsletter he had issued on 28 February 2000 entitled, "Major International Events, Melbourne – Information Sheet", in which he had included a section of FAQs including the following.

*“Civil Litigation.*

*Q. Am I likely to be sued and what protection do I have?*

*A. As always the Force will fully support all members who act within the law and carry out their duties in good faith. In the event of an incident involving protesters , experience tell us that the Force and the member may face legal action.*

*Equipment*

*Q. Do I have to wear my name tag?*

*A. Yes.”*

Mr O’Loughlin said that when he spoke to the members and told them to put their tags on, they did so. He stated that he knew other police had, on the instructions of Mr Halloran, also gone around with a similar instruction. He said that although some members told him they had been stolen, and he knows this to be a fact, there were not four hundred stolen. He said that it is not possible to prove how many were stolen by the number of requisitions for new name tags because police members are issued with several tags and do not necessarily replace a single lost tag. Mr O’Halloran said there was no doubt that members had taken them off and that he found it disappointing and annoying. Mr O’Loughlin made that point that the compulsory wearing of nametags was a voluntary initiative by the Force as a part of the Force’s focus on “customer service”.

So far as I am aware, it is not required by law that police should provide their identity on request other than in compliance with s. 456 AA of the Crimes Act. That section provides that when a member of the police force requires a person to state their name and address because the police member believes the person may have committed or is about to commit an offence, or may be able to assist in the investigation of an indictable offence, the person may in turn require the member to provide details of his/her name, rank and station. The Victoria Police Operating Procedures Manual provides that a member must “immediately provide their name, number and station when asked by a person on any reasonable occasion”, but it is



clear that even this instruction is qualified by the requirement of “reasonableness”. Similarly, the wearing of nametags is not required by law, but it is a requirement of the Victoria Police Operating Instructions that members “*Must wear Force issue nametags with their first name or initial(s), surname and rank displayed on their right chest at all times.*” This requirement is not qualified in any way by the notion of “reasonableness”.

In my view, the available evidence does not suggest that there was any officially sanctioned or condoned exemption regarding nametags for the WEF operation. I agree with the S11 Legal Support Group’s view that the practice could not have become so widespread as it apparently was without the tacit approval of the sub-officers directly supervising members at the barricades. I would not go so far as to agree with S11 Legal Support Group’s claim that the removal of nametags “*contributed to the culture of lawlessness exhibited by police*”. However, it is possible, as has been argued by the S11 Legal Support Group, that some members were emboldened by the relative anonymity afforded by the removal of the nametag. The issue is an important one from the point of view of accountability and police must take steps to ensure that members display identification at future demonstrations.

In the course of my interview of Mr O’Loughlin there was discussion about alternatives to the velcro badges currently used which, according to some members interviewed, lose their ‘stickiness’ over time as a result of laundering. Mr O’Loughlin said that police have examined the feasibility of embroidered names but - with police entitled to six shirts per year, not to mention sweaters, jackets and rain capes - have found the cost to be very high.

In my opinion police should continue to examine alternatives. To have the FRU wear embroidered identity is only a partial solution. At most demonstrations the FRU is in the minority and police from the local district make up the balance. It seems to me that part of the problem might be that a rigid nametag is easily knocked or removed from a velcro patch on a shirt or jacket in a way which an

embroidered cloth name tag would not be. This could at least overcome the excuse that a nametag was lost or stolen.

I also raise for debate whether police at demonstrations should be identified by their registered number rather than their name. I raise this issue for two reasons. First, registered numbers are unique to police throughout their career, thereby eliminating possible confusion between members of the same or similar names, or where members change their names. Second, the use of registered numbers could reduce the levels of personal abuse based on members' names. The evidence suggests that this type of abuse was evident during the WEF demonstrations. For example, I have been advised that it was a deliberate and recognised tactic of protesters to engage individual police members in conversation, to record their name and then continually remind them that if they hit anybody they would be sued. This tactic allowed protesters to pursue an individual member over the entire three days. It was also a deliberate tactic of some demonstrators to record police members faces and names on video and still cameras as a form of intimidation.

Of course, the enforcement of the wearing of the name tag or other identification would remain a matter for supervision and enforcement. It seems to me that the most disturbing aspect of this issue is that it demonstrates a wilful and apparently widespread disregard for a clear instruction that name tags must be worn. This should be a matter of serious concern for Police Command if it is concerned to maintain a disciplined and professional Force.

## **8.5      *TARGETING OF PHOTOGRAPHERS.***

This allegation is put in the most general terms with no supporting evidence. I have received two complaints from photographers and I am aware that a television news cameraman was injured in the Tuesday night clearance of the Queensbridge/Power Street intersection. It seems obvious to me that photographers are apt to be where

there is something to photograph. An examination of the circumstances of each of these cases confirms this, revealing these three photographers were in the eye of the storm during the Tuesday evening clearance of the Queensbridge / Power Streets intersection.

I recall being told by one of my staff who attended the demonstrations very briefly on the Tuesday morning (for no other reason other than to have a look at an event which was expected to generate complaints) that the most striking thing was the enormous number of still and video cameras being used by protesters. The ubiquitous presence of cameras is also evident from an examination of the video evidence. Moreover, police were themselves filming extensively. It seems to me that, if police were attempting to cover up misconduct by targeting photographers, the task was hopeless from the start. I can see no evidence which supports the allegation that police were targeting photographers as a class.

## **8.6 VERBAL ABUSE AND INTIMIDATION OF PROTESTERS BY POLICE.**

The S11 Legal Support Group alleged that protesters were subject to regular and varied verbal abuse and intimidation by police ranging from swearing and name calling to threats of violence. It was alleged that there were comments made to women which amounted to sexual harassment. It was alleged that, *“most of the time this was unprovoked. While at times protesters also swore at police their actions should be irrelevant to the behaviour of Victoria Police officers who should not engage in such behaviour whatever the provocation.”*

One characteristic of this protest which the written word cannot adequately convey to the reader is the intensity of the noise, which was ever present, and which became a deafening din at any time of heightened tension. The tyranny of the megaphone was evident everywhere. The video evidence I have examined contains any number of examples of protesters voicing, in the loudest possible way, their

point of view. For the most part, the only people present at whom the message could be directed, apart from other protesters, were police standing at the barricades. There are many examples in the video evidence of protesters and police standing calmly at the barricades apparently engaged in conversation. There are also many examples of protesters attempting to bait police or simply abusing police, particularly at times when police looked to be preparing for an attempt to break the blockade to move someone in or out of the casino, and during and after such action by police. My investigators have been told by protesters that when individuals became too excited and exhibited signs of aggression they were removed from the barricades. I have received similar evidence from police and this has been confirmed by some references in written complaints to police being moved away by their supervisors.

Complaints are frequently received by the Ombudsman alleging verbal abuse by police and this Office has on very many occasions caused disciplinary or corrective action to be taken against police who have been shown to have indulged in such conduct. Such conduct is clearly unprofessional, but there is evidence that, on some occasions at least in the course of the WEF protests, police took steps to address it to some extent at the time.

## **8.7 ENCOURAGEMENT OF ATTACKS ON PROTESTERS.**

The S11 Legal Support Group submission put this complaint as follows.

*“In some instances officers either ignored or encouraged attempts by individuals to use force to move through the protest crowd at various entrances. This included attacks on protesters where any use of similar force by a protester would have immediately led to intervention by members of the police.”*

I presume this complaint refers to attempts by some individual delegates, police and Crown workers to gain entry to the casino. The law is, as I have explained elsewhere, fairly clear. The action of the protesters to obstruct entry to the casino was unlawful and the remedy of abatement by self-help was open to those with a lawful right to enter. It seems to me that the complaint here is that police did not rush to the assistance of the blockaders when someone chose to challenge them.

In the event that someone did approach the protesters with violent intent, whether it was an attempt to gain entry to the casino or just someone who wanted mischievously to create a disturbance, one would expect police to take all reasonable steps to preserve the peace. In fact, the greater weight of the evidence is that police took elaborate precautions to avoid such incidents. Traffic was diverted and managed by police to avoid disruption and confrontation, and the entry of workers, delegates and police was also managed in such a way as would, in the judgment of police, minimise confrontation.

The complaint that police did not assist protesters in certain situations remains a very general assertion unsupported by any specific examples or other details and I cannot take the matter any further.

## **8.8 MINIMAL COMMUNICATION WITH PROTEST GROUPS.**

I have dealt with this issue in detail in Part 5 of this report where I examined attempts by police to engage in liaison and negotiation with protesters.

## **8.9 UNFOUNDED ALLEGATIONS OF PROTESTER VIOLENCE.**

The S11 Legal Support Group expressed its view on this issue as follows:

*“Statements and allegations by senior police in the media prior to and during the protest exaggerated or seemingly misrepresented protester actions. There seems to have been little reason to make such statements except an attempt to justify the unlawful use of force by the Victoria Police.”*

Many commentators have expressed their views about the media coverage of the WEF protests generally. My area of interest is considerably narrower and the following should not be taken to be comment in relation to media coverage generally but merely in relation to the specific complaint under consideration here: that prior to and during the protest police made comment which exaggerated or misrepresented protester actions in an alleged attempt to justify the unlawful use of force by police. Not surprisingly, there are many who say the very same things in relation to allegations of violence by protesters against police. It is very much a matter of perspective.

I am not sure which statements made by police prior to the demonstrations are of concern. It would be a denial of reality and experience if one was to say that various parties interested in the event, including police, did not attempt to present a message to the public via the media. As one would expect, police issued stern warnings that they would not tolerate violence or unlawful conduct and that they might have to clear a path through protesters to ensure access for delegates and workers. There was a frenzy of media speculation about the possibility of violence which sometimes contained references to “senior police sources” or similar. However, if this complaint is suggesting that police were intent on manipulating the media prior to the event in order to soften up public opinion so police could be free to use violence with impunity, or at least with less fear of an adverse public reaction, I can only say there is no evidence to support such a conclusion. I find it very difficult to accept

that police would see it as being in their interests to talk up violence, and every statement or utterance I have seen which can with certainty be attributed to police before the event was, in my opinion, attempting to do the very opposite.

To the extent that the complaint implies police falsified or exaggerated reports of protester violence to the media during and after the event, again I have to say that there is scarce supporting evidence. Certainly my examination of the various incidents above have indicated a willingness on the part of some elements of the crowd to depart from the principles of peaceful, non-violent protest. Although the S11 Legal Support Group do not provide any specifics in support of the allegation that police made “unfounded allegations of protester violence”, the most commonly questioned allegations of this type made by police are the well publicised claims that nuts, screws and condoms filled with urine were thrown at police. It has been suggested to me a number of times throughout this investigation that these reports were false and were merely police propaganda.

My examination of the available evidence reveals numerous references in the police logs to missiles of various types being thrown. These entries are contemporaneously compiled records of reports from different police at different times at a number of different points around the casino. These reports commenced as early as 8.44 a.m. on the Monday, when protesters were seen in the crowd “with syringes (without points) squirting unknown substances”. Throughout the three days the Kingsway Bridge was a particular problem for police because protesters could stand above police at the barricades facing the ramps and throw things down. There were numerous reports of this in the logs throughout Monday and Tuesday. There were also reports of missiles being thrown at boats as they moved along the river, including a filmed attack on a television news crew. On Tuesday morning and evening there are reports in the logs of ropes strung across Clarendon or Whiteman Streets. They were considered such a hazard that police were apparently preparing to make an excursion from the casino to remove them but they were removed before that became necessary. At 12.47 p.m. on Tuesday there is report of “liquid balloons thrown, secured. Marbles thrown” at the Clarendon Street end. At 12.55 p.m. in the same area there is a report of paint bombs seen being removed from

backpacks and at 12.58 p.m. there are reports of wheel nuts and marbles being thrown. At 1.01 p.m. there is a report of urine being thrown at one gate and glass being thrown at another. At 2.10 p.m.. water police reported being pelted with horse manure and balloons filled with a liquid. There are other references to sightings of protesters in possession of eggs and a male arrested in the multi-storey car park allegedly in possession of ball-bearings.

The written reports I have received from police detail a number of other instances of missiles of varying types being thrown by protesters. These include incidents where a female police member was hit under the eye by a screw at the Whiteman/Clarendon Street gate on Tuesday and three Mounted Police members were hit by missiles. Photographs of the injuries to the mounted members were later taken at the Institute of Forensic Medicine. I have also received oral evidence from police and non-police personnel of missiles being thrown. Formal statements made to police by employees and several contractors of Crown describe their direct experiences of either sighting, or being hit by, missiles thrown by protesters.

I cannot, of course, say that the content of all these reports and statements are necessarily true, but it seems to me unlikely that they are all incorrect or false.



## **9. CONCLUSIONS.**

In my view the available evidence supports the following conclusions.

- Police planning for the WEF was thorough and detailed. There is no evidence that police approached the event in a combative frame of mind or that they were intent on doing anything other than to give effect to the police mission statement for the event, which was as follows.

*“To provide a safe, orderly and secure environment for the management of, and the attendance during the World Economic Forum whilst allowing the community to continue its business and recreation. This also acknowledges the right of peaceful assembly”.*

- The available evidence supports the conclusion that police planning was directed at the minimisation of risk and conflict. The evidence suggests that police made all reasonable attempts to negotiate with representatives of S11 to avoid or minimise conflict and disruption and that, through no fault of police, the attempt to negotiate a compromise on the issue of access to the casino was unsuccessful.
- Much has been made by protesters and their advocates of the “peaceful”, “non-violent” and “passive” nature of their activities. It is argued that the use of force by police in response was disproportionate and excessive. The available evidence clearly indicates some protesters were peaceful, non-violent and passive, but some were not. It is clear there was a great diversity of views, agendas and actions among protesters. However, it must be understood that the point which is most relevant to my investigation into police conduct is not related to differences among protesters, but to an issue on which there was a strong unity of purpose across all protesters: the desire to “blockade” the WEF. There is an abundance of evidence indicating that, not only was there unity on

the choice of blockading as a strategy, but there was a strong consensus that the blockade should not be a mere symbolic gesture, but a total and effective blockade of delegates, workers, police and others over the entire three days of the WEF.

- A “blockade” can be a non-violent and, up to a point, a passive means of protest, but it is impossible to argue that it is anything other than confrontational. A person confronted by a blockade can simply submit to the blockade; they can take the middle ground by negotiating a compromise, or breach the blockade in an attempt to go about their business. The evidence is clear that police made all reasonable attempts to negotiate a compromise prior to the event, as did Trades Hall in respect of workers, but there was no concession made by S11 on the issue of a total blockade. The entry and exit of delegates and others was not negotiable. Only two options remained: to submit or not to submit. The situation was very clear: if you wanted to get in or out, you could not do it by talking.
- The available evidence overwhelmingly supports the conclusion that strategies involving the use of force were invariably a response to the effect of the blockading tactics of protesters. Incidents which generated the great majority of complaints, and which were highlighted in the submissions of interested groups, were associated either with efforts by police to clear a path for vehicles in or out of the venue, or with breaches of the peace caused by the “blockading” activities of protesters. The Tuesday morning and evening clearances of the Queensbridge/Power Streets intersection are examples of the former; the Monday morning rescues of Mr Court and of a bus in Siddeley Street are examples of the latter.
- It has been argued that police did not have the lawful power to use force to prevent protesters from blockading, and that the only option lawfully available to police was to arrest blockading protesters. I have taken legal advice which has led me to conclude that the decision taken by police to employ strategies

which involved the use of force without arrest was a decision which was reasonably open to police in the circumstances.

- There is no evidence that police were subject to direction, actual or implied, by senior members of the Government or government officials in respect of any operational decisions made prior to, or during the three days of protest. I am satisfied that all operational decisions made by police were based on operational or tactical considerations and were not made in response to external pressures or directions, spoken or implied.
- The evidence clearly shows there were errors of fact and judgment made by police in the execution of some strategies. The Tuesday morning action at Queensbridge/Power Streets, of which I have been critical, is an example. However, on balance, it is my view that each of the particular plans adopted by police was appropriately designed to deal with the situation forced upon them by the unyielding blockade. Subject to what I have to say below in relation to undisciplined acts by individual members, it is my view that police strategies were not sufficiently flawed in design or execution to warrant disciplinary or criminal action against those involved in devising them or putting them into effect. This does not indicate a lack of accountability for police. It means simply, and only, that, with the exception of individual acts of misconduct, I am of the view that punitive action is inappropriate and not warranted. Punitive action is only one of several strands of accountability for police. Police are also accountable by way of civil action and I have little doubt there will be civil litigation arising out of the WEF demonstrations.
- There were undisciplined actions and misconduct by police members throughout the three days. I have identified examples of such conduct in video footage and through complaints made to this office. They include such things as overhead baton blows, kicking, unauthorised holds and a variety of other unacceptable actions. They were not a part of the strategies which involved the use of force, were not in accordance with instructions and will be followed to a

conclusion. I am also investigating a case of alleged running down of a protester by a police vehicle.

- The failure of a significant number of police to wear name tags is of concern. Although it is not a breach of the law but merely a breach of police instructions, it raises some serious issues of accountability and discipline. There is no evidence that the widespread failure to display identity was sanctioned or condoned by senior police. Indeed, the available evidence suggests that when senior police became aware of the issue attempts were made to do something about it. It is clear, however, that the removal of nametags could not have gone unnoticed by the officers and sub-officers supervising police at the barricades. It seems to me that the most disturbing aspect of this issue is that it demonstrates a willful and apparently widespread disregard for a clear instruction. This should be a matter of serious concern for Police Command if it is concerned to maintain a disciplined and professional Force.
- It has become very apparent in the course of this investigation that there is an ever present gap between, on one hand, the claims made by S11 and related groups and individuals regarding the extent of police violence and the consequent injury and, on the other hand, the extent of same revealed by the available medical and video evidence.
- It cannot have escaped the notice of anybody who has read this report that each and every action taken by police which was incompatible with the objectives of a total blockade has been the subject of complaint. In particular, the use of force *per se* has been argued to have been unlawful, as has almost every means by which it was applied. It has been argued that the only response lawfully available to police was to arrest protesters, a tactic which would clearly have been ineffective in countering the blockading strategy. It seems clear to me that many complaints against police arising out of this event have been underpinned by ideological or tactical considerations rather than fact and evidence.

- Many other complaints have been based on a genuine sense of outrage and shock on the part of many people who are not regular activists and who would never have dreamed they would be on the receiving end of forceful police action. This event was an unprecedented combination of a total blockade, imposed over three days, on a scale not previously encountered in Victoria. Added to this was the adoption of a “cell structure” by the S11 alliance and the successful use of the media and the internet to harness widespread and wide-ranging anti-globalisation views to create an “organic” or “open” protest where “affinity groups” of varying types and degrees of sophistication could simply turn up and join in what was invariably promoted as a peaceful, non-violent protest. It seems to me that this might be suitable for a rally or march which might last for a few hours, but provides real potential for breaches of the peace and violence when the objective is a total blockade designed to close down what was undeniably a major event. The WEF was a three day conference to which hundreds of delegates had come from all over the world. The totality of the blockade did not allow for the event to be rescheduled to fit around the demonstrations nor, because of the scale of the event could the venue easily be changed. The total blockading strategy allowed for no negotiation or compromise. The end result was that there were many people present who failed to appreciate, and had received little instruction or warning from those who had urged them to attend, of the probable consequences of the blockading strategy of which they were a part. In many cases these were the people who got the worst end of the deal.
- I expect that some people may be surprised at my conclusions, particularly in the light of my 1994 report in which I was critical of police action at Richmond Secondary College. I have said elsewhere in this report that comparisons of police action at the WEF with police action at other demonstrations are worse than useless; they are positively misleading. An attempt to compare police action at the WEF with police action at Richmond Secondary College is no exception. The blockade of Richmond Secondary College involved a completely different set of circumstances. In that case, the use of force could

easily have been avoided. When police failed to avoid conflict they used a poorly considered strategy and executed it with excessive force. In my opinion the circumstances at the WEF were quite different, and the police response was far better considered and far better executed.

I started this report by making the point that the subject matter of this report is not new, and that the WEF demonstrations are just the latest chapter in the long running story of conflicts between protesters and police. It is my view that, on this occasion, the strategies adopted by police involving the use of force without arrest were reasonably open to police in the circumstances. The particular strategies devised and executed over the three days to deal with the total blockade which protesters sought to impose were appropriate and were, generally speaking, executed in a manner which, in my view, does not warrant any punitive action by way of disciplinary or criminal proceedings against police. There were, however, some examples of undisciplined acts by individual members which appear to have been in breach of instructions and guidelines and which, on their face, would amount to misconduct for which punitive action may be required. I will continue to investigate those matters to a conclusion.

**BW Perry**

**OMBUDSMAN**

**June 2001**

# APPENDIX 1

## CFMEU / S11 FIRST AID RECORDS

Over the three days of the protest first aid services were provided under the auspices of the CFMEU. It appears to have been quite a sophisticated system. As well as the main station, located near the main stage area at the river end of Queensbridge Street, there were stocks of equipment stored at sub-stations at the four corners of the barricaded casino area. First aiders, dressed in clearly labelled T-shirts, patrolled between the sub-stations and bicycle couriers ferried replacement stocks and urgent requests for assistance between the various points.

The records produced to my investigators by the co-ordinator of the first aid service can only be described as “patchy” and incomplete. The co-ordinator explained that some of his assistants were not fully aware of the need to keep detailed records and, on some occasions, particularly on the Tuesday morning and afternoon in the aftermath of the police action at Power/Queensbridge Streets, the first aiders were overwhelmed.

The physical state of dog-eared, sometimes rain spattered and mud stained records suggest the difficult conditions under which the first aiders worked. Some are recorded on forms headed, “CFMEU Site Accident Register” and contain details of the patient, the injury, its cause and the treatment. The majority, however, are notes on plain paper containing the barest of scrawled details of the patient, the injury and the time.

The following is an analysis of the records of the 101 first aid treatments, or cases, administered by the S11 / CFMEU sponsored first aid service and produced to my investigator by the co-ordinator. As can be seen from the table below, I have divided them into five groups according to the time each treatment was administered.

<b>ANALYSIS OF CFMEU FIRST AID RECORDS</b>	
<b>A total of 101 treatments, or cases, were recorded.</b>	
<b><u>GROUP 1</u></b> <i>No time, date recorded nor could any reasonably be inferred from information available on record</i>	<b>20</b>
<b><u>GROUP 2</u></b> <i>Sunday 10 September 2000</i>	<b>1</b>
<b><u>GROUP 3</u></b> <i>Monday 11 September 2000</i>	<b>21</b>
<b><u>GROUP 4</u></b> <i>Tuesday 12 September 2000</i>	<b>41</b>
<b><u>GROUP 5</u></b> <i>Wednesday 13 September 2000</i>	<b>18</b>
<b>TOTAL</b>	<b>101</b>



<b>GROUP 1 - no time or date recorded</b>			
<b>20 Records</b>			
<i>Case</i>	<i>Time/Date</i>	<i>1<sup>st</sup> aider's comment</i>	<i>Place</i>
1	7.00am	Hit on head.	Nil information provided.
2	11.00am	Unwell, blurred vision, migraine?	Nil information provided.
3	11.05am	Bruised left lower arm.	Nil information provided.
4	11.20am	Muscular strain, shoulder, neck, back, arm.	Nil information provided.
5	12.05pm	Police threw onto ground – head injury (bridge rail).	Nil information provided.
6	12.15pm	Crush injury to left chest – difficulty breathing.	Nil information provided.
7	12.20pm	Pain in back, “spaced out”.	Nil information provided.
8	12.25pm	Grazed arm and knee, pushed down, shaken, “spaced out”.	Nil information provided.
9	12.45pm	Right thumb, soft tissue.	Nil information provided.
10	6.45pm	Blisters, cleaned and dressed.	Nil information provided.
11	N/A	Hit to head.	Nil information provided.
12	1.00pm	Right big toe injured.	Nil information provided.
13	N/A	Left ankle – soft tissue and bruise.	Nil information provided.
14	N/A	Blow left side of head, bruising and lump.	Nil information provided.
15	N/A	Knee injury, 5 people – cops threw him to ground, bruising left knee and lacerations.	Clarendon Street
16	N/A	Dust in eye.	Crown Casino
17		14 year old arrested by police, stress.	Nil information provided.
18	7.50am	Head wound. Ice and bandage.	Nil information provided.
19	8.15am	Bruised arm.	Nil information provided.
20	N/A	Injured hand.	Nil information provided.

### **GROUP 1 - COMMENT**

Not much can be inferred from this group because of the lack of detail in the records. Some are crush injuries, some are claimed to be the result of blows, but without the “where” and “when” they are of limited use.

<b>GROUP 2 – 10 September 2000</b>			
<i>Case</i>	<i>Time/Date</i>	<i>1<sup>st</sup> aider's comment</i>	<i>Place</i>
57	10-10.30am	Complaints of sore back, grazing to left side of face and jaw bone.	Nil information provided.

### **GROUP 2 - COMMENT**

There is only one recorded treatment on this date. No information is provided regarding the cause, the time, or the place the injury was incurred. I am unaware of any conflicts between police and demonstrators on 10 September 2000. Nothing can reasonably be inferred from this record.

## GROUP 3 - 11 September 2000

### 21 Records

<i>Case</i>	<i>Time/Date</i>	<i>1<sup>st</sup> aider's comment</i>	<i>Place</i>
78	7.00am	Hit by police with baton, bruising to leg.	N/A
99	8.30 – 9.30am	Unmarked police car ran over left foot and ankle, also knocked down by cop horse.	Spencer Street driveway
92	8.45am	Horse stomp.	Spencer and Whiteman
33	9.20am	Nose bleed.	Spencer Street
34	10.00am	Police horse stomps foot/toes	Spencer Street
31	9.30am	Horse stomp/loss of toenail.	Spencer Street
32	9.35am	Head injuries.	N/A
36	9.45am	Head injuries, police knocked head onto ground and hit to head.	N/A
28	10.00am	Hit face with hand, elbow, possibly baton.	Clarendon Street
25	10.00am	Concussion. Superficial bruising right arm above elbow.	Kingsway ramp
26	10.00am	Horse stomp on foot.	Clarendon Street
29	10.00am	Sprained ankle.	N/A
30	10.00am	Crushed finger.	Spencer Street
27	10.30am	Baton charge – rib pain.	Main entrance
95	11.00am	Broken bones in hand, horse trampled. To Alfred.	N/A
35	10.30am	Jabbed left breast with baton.	N/A
23	11.15am	Contusion back of right hand, knocked down by police in charge on picket line, hit pushing plastic road barrier	Clarendon Street
24	1.55pm	Security guard – elbow to ribs.	Kingsway ramp
94	4.15pm	Grazed face and back, grazed due to being dragged over rail, into car park and down stairs.	Queensbridge Street, valet entrance
96	5.05pm	Right thumb numb, injury at footy on 9/9/00	
97	6.15pm	Graze to leg (“acting strangely – talking about spiritual healing and the devil”).  Note: returned 13/9 – clearly a drug problem.	N/A

### **GROUP 3 - COMMENT**

1. All these records are on a sheet headed “CFMEU Site Accident Register Form”. A reasonable amount of detail is recorded, suggesting there was time to do so.
2. All but 4 of these 21 cases were prior to 11.15am. The 4 afternoon cases are distinguishable from the 17 which occurred prior to 11.00am for the following reasons:
  - They are clearly separated in time (1.55pm, 4.15pm, 5.05pm and 6.15pm).
  - One alleges an elbow to the ribs by a security guard at the King Street ramp and is therefore not an incident involving police action. (case 24, 1.55pm)
  - One is claimed to be grazing caused by dragging during an arrest (case 94, 4.15pm).
  - One relates to further attention sought for an unrelated, pre-existing injury received some days prior at a football match (case 96, 5.05pm).
  - One relates to an alcohol or drug affected person requiring assistance (case 97, 6.15pm).
3. The remaining 17 (ie those received prior to 11.00am) may be summarised as follows:
  - 4 cases involve injuries specifically alleged to be baton injuries received at the Spencer Street end of the casino (cases 27, 28, 35, 78).
  - 5 cases involve injuries caused by horses hooves at the Spencer Street end (cases 26, 31, 34, 92, 95).
  - 1 concerns a claim of being run over by an unmarked police car and knocked down by a police horse at the Spencer Street end (case 99).
  - 2 hand/finger injuries, both at Spencer Street end.
  - 3 further unspecified head injuries, each requiring treatment with an ice pack, incurred at unspecified locations.
  - 1 sprained ankle incurred at an unspecified location, and one nosebleed incurred in Spencer Street.
4. 12 of the 17 cases recorded prior to 11.00am on Monday 11 September 2000 concern injuries received at the Spencer Street end. The remaining 5 cases (29, 32, 36, 25, 78), although not expressed to have been incurred at that end, are similar in nature to those that were, and there is some basis for inferring that they, too, were incurred there.

All of the above is consistent with my understanding, based on my analysis of video evidence, that all the action on Monday morning was at the Spencer/Clarendon Street end, with some lesser amount of activity at the Kingsway ramp area. This is confirmed by reference to complaints and submissions to the Ombudsman, particularly the S11 Legal Support Team submission, all of which identify 3 main events on the morning of Monday 11 September:

- Clarendon and Whiteman Streets at 8.00 – 10.00 am.
- Under Kingsway at Whiteman Street at 8.00 – 10.00am.
- Clarendon Street at 9.30 - 10.00 am.

There was also an incident at the World Trade Centre car park at approximately 12.00 midday, but it would appear that there were no injuries sustained – or at least treated – as a result of this incident.

## GROUP 4 - 12 September 2000

### 41 Records

<i>Case</i>	<i>Time/Date</i>	<i>1<sup>st</sup> aider's comment</i>	<i>Place</i>
75	2.00am	Hosed by police filling water barricades (+ 5 others).	Kingsway overpass
18	7.00am	Dragged by hair, stomped, kicked, bruised head, stomach, back.	Queensbridge and Power Streets
19	7.00am	Kicked and punched, head and back.	Queensbridge and Power Streets
22	7.00am	Swollen knuckles, lacerated fingers, cleaned and bandaged.	Queensbridge and Power Streets
51	7.00am	Crushed foot.	Queensbridge and Power Streets
67	7.00am	Kicked by police, bruising, injury to finger.	Queensbridge and Power Streets
93	7.00am	Tramped, belted with baton behind right ear 10 times. Wound cleaned, ice.	Queensbridge and Power Streets
98	7.00am	Dragged by police. Trodden on. Bruising, grazed, arms and back.	Queensbridge and Power Streets
60	7.00am	Stomped, dragged, hair pulled. Neck, shoulders, back twisted and sore. Bruises.	Queensbridge and Power Streets
61	7.00am	Stomped on. Dragged. Pulled by hair. Bruising neck and shoulder.	Queensbridge and Power Streets
62	7.00am	Tramped and kicked by police from behind. Pushed to ground near horses. Ice.	Queensbridge and Power Streets
64	7.20am	Jumped on by police. Hit from behind by baton on neck and shoulders. Trampled. Neck stiff and sore. Bruising.	Queensbridge and Power Streets
65	7.20am	Baton to nose and head. Nose bleeding. Probably broken. Ice pack.	Queensbridge and Power Streets
66	7.20am	Stomped, kicked, trampled, hit on arm by baton. Bruising, sore head, arm and leg.	Queensbridge and Power Streets
69	7.20am	Stampeded, hit, punch, hit with baton, pulled by hair, punched to right eye. Ice pack. Checked for concussion.	Queensbridge and Power Streets
70	7.20am	Trampled, kicked, crushed. Pulled by hair. Dragged, bruises, grazes, shock.	Queensbridge and Power Streets
71	7.20am	Tramped, stomped on head, right knee, body, knee swollen bruised, grazed. Wrist limited movement. Temp. nerve damage.	Queensbridge and Power Streets
72	7.20am	Tramped, stamped on, hit, punched, dragged. Hair pulled. Ice packs, rest.	Queensbridge and Power Streets
74	7.20am	Trampled, stomped. Dizziness, bruising, grazing. Dressed, cleaned, treated for concussion.	Queensbridge and Power Streets

## GROUP 4 - 12 September 2000 (cont'd)

### 41 Records

<i>Case</i>	<i>Time/Date</i>	<i>1<sup>st</sup> aider's comment</i>	<i>Place</i>
76	7.20am	Trampled by police. Black eye. Ice.	Queensbridge and Power Streets
20	7.30am	Punched to face by police. Wound cleaned. Advised to get x-ray.	Queensbridge and Power Streets
40	8.00am	Broken right scaphoid. Trampled by police.	N/A
77	8.00am	Punched in face by security guard. Ice pack.	Clarendon Street
73	8.20am	Picket charged by police, attacked with fists/boots, put to ground. Dragged away and threatened, then released.	Clarendon Street
91	12.30-1.00pm	Grazing to face, sprained wrist.	Flinders and Market Streets
68	3.20pm	Crushed b/w horses and other people.	Front of Casino
44	3.00pm	Lacerated hand. Bump on head.	N/A
45	4.05pm	Punch to eye.	N/A
46	4.05pm	Head and face injuries.	Queensbridge Street
47	4.05pm	Head and right toe injuries (baton & horse).	N/A
48	4.05pm	Crushed by horse, concussion, fainted, sick.	Queensbridge Street
49	4.05pm	Baton head injury. Left foot/ankle.	N/A
50	4.15pm	Baton on head.	Queensbridge Street
43	7.00pm	Baton strike, right clavicle, contusion, arm.	N/A
53	7.15pm	Hit on left shoulder with whip yesterday.	N/A
63	7.30pm	Grabbed around throat, hit with baton, feet trampled. Sever bruising on face and back of head. Feet bleeding. Wound cleaned. Ice.	Queensbridge Street
100	7.30pm	Pushed down and battoned. Bruises back and knees. Ice.	Queensbridge Street
101	7.30pm	Bruising. Lacerations arm and elbows.	Queensbridge Street
59	N/A	Crushed between police and protestors. Punched to face. Bruised knees, sternum, ribs. Sent to RMH.	N/A
84	N/A	Grazes to hip, nose. Lump on forehead. Dragged by police. Baton to head.	Queensbridge Street
21	N/A	Bruised/bleeding nose, finger joint damage, soreness left eye and neck.	Queensbridge Street

#### **GROUP 4 - COMMENT**

This group of records must be approached with some caution. The records relate to treatment given on Tuesday, 12 September. On that day there were two major police actions at the intersection of Queensbridge and Power Streets, one at 7.00am and one at 7.30pm. The records themselves do not always record whether a treatment was administered in the morning or the evening, and allocation of the treatments to either of the police actions has involved some interpretation and inferential thinking on the part of my investigators. It would seem that the greatest number of recorded treatments were administered following the morning action, but it must also be remembered the evidence of the first aid co-ordinator was that the records are incomplete because the first aid service was at times swamped, particularly in the wake of the evening action.

Turning to the records themselves, the following may be noted.

- There were 12 treatments recorded as a result of the morning action. Almost invariably they record injuries obtained from trampling, punches, baton strikes, kicking, and abrasions. Two suspected fractures are recorded. These descriptions would not surprise anybody who has seen the video footage of the incident.
- There are 6 treatments recorded at 4.05 – 4.15pm in Queensbridge Street. These injuries appear to be the result of an incident, referred to in the S11 Legal Support Team submission, which occurred at 4.05 pm at the river end of Queensbridge Street and in which batons and horses were used by police.
- There appears to be few records of injuries attributable to the evening action (only 4 - cases 43, 63, 100, 101). I do not take this to be an indication that there were no injuries. Indeed, there is other evidence to the contrary. Rather, I accept that it is a further indication that the records themselves are imperfect and incomplete and understate rather than overstate the fallout from police action. There are 3 further cases (59, 84, 21) which do not record any time but, judging from the type of injuries, could reasonably be inferred to be a result of the morning or afternoon police action in Queensbridge Street.
- The remaining 6 records (75, 77, 73, 91, 68, 44) appear to arise from isolated incidents.

## GROUP 5 (13 September 2000)

### 18 Records

<i>Case</i>	<i>Time/Date</i>	<i>1<sup>st</sup> aider's comment</i>	<i>Place</i>
89	6.00am	Hit to face, head by Casino security.	N/A
41	8.00am	Hit to left side of head with baton. Ice.	N/A
87	8.00am	Punched to jaw.	N/A
79	8.00am	Battoned to head. Cut and lump. Cleaned and iced.	Queensbridge Street
80	8.00am	Battoned to head. Lump. Ice.	Queensbridge Street
81	8.00am	Punched to eye. Swelling. Ice.	Queensbridge Street
82	8.20am	Baton to right shoulder. Bruising. Ice.	Clarendon Street
42	9.00am	Baton to head. Confused.	N/A
88	10.00am	Trampled by police during arrest of another person.	Clarendon Street
86	10.15am	Right wrist. Baton charge.	N/A
54	11.45am	Police thumb forced in muscle tissue in scapula area. Ice.	N/A
55	1.00pm	Left arm dislocation, splint. Hospital, ambulance.	Queensbridge Street
58	4.20pm	Cut to left knee. Slipped on gravel.	Queensbridge Street
56	6.30pm	Baton blow to left eye. Large cut.	Power Street
85	N/A	Split top of head. Requires stitches. Sent to Alfred.	N/A
90	N/A	Left leg kicked. Multiple bruising.	N/A
52	N/A	Punched to face by police.	N/A
83	N/A	Shock after seeing woman run over.	N/A

### GROUP 5 – COMMENT

Again, these records must be approached with caution because of their incompleteness.

There are two injuries clearly attributable to the clearance of Clarendon and Spencer Streets (issues 82 and 88) and five others which may have come from this incident (41, 87, 42, 86 and 54).

There was, it seems, also some sort of action of Queensbridge Street at about the same time from which two injuries appear to have come (cases 80 and 81) although I have been unable to find any record of such an incident.

The remaining records on this day appear to be scattered and impossible to attribute to any known incident.

# METROPOLITAN AMBULANCE SERVICE RECORDS

DAY	TOTAL NUMBER OF PTS	PROVISIONAL DIAGNOSIS / SUMMARY OF INJURIES		TRANSPORTATION		
				<i>NO</i>	<i>YES</i>	<i>DESTINATION</i>
11 September	Treated: 12	Crush injury	Police		Yes	Royal Melbourne
	Transported: 9	Crush injury	Police		Yes	Royal Melbourne
		Fractured jaw	Casino staff		Yes	Royal Melbourne
	<b>Breakdown</b>	Head injury / lost teeth	Public		Yes	Alfred
	Public: 4	Facial injuries	Public		Yes	Alfred
	Police: 3	Back pain		No		
	Casino staff: 2	Back pain traumatic	Casino staff		Yes	Royal Melbourne
	No intervention required: 3	Back injury		No		
		Siddley St Unknown	Police		Yes	Royal Melbourne
		Fractured ankle	Public		Yes	Alfred
		Trauma / assault	Public	No		
		Cyclist	Public		Yes	Alfred



## METROPOLITAN AMBULANCE SERVICE RECORDS

DAY	TOTAL NUMBER OF PTS	PROVISIONAL DIAGNOSIS / SUMMARY OF INJURIES	TRANSPORTATION		
			<i>NO</i>	<i>YES</i>	<i>DESTINATION</i>
12 September	Treated: 25	Medical Public		Yes	Royal Melbourne
	Transported: 18	Assault Public		Yes	Alfred
		Minor trauma Public		Yes	Alfred
	<b>Breakdown</b>	Minor trauma Public		Yes	Alfred
	Public: 16	Assault multi pts	No		
	Police: 2	Post Ictal Police		Yes	Royal Melbourne
	No intervention required: 7	Minor trauma, 3 pts Public		Yes	Alfred
		? # Ribs Police		Yes	Royal Melbourne
		Faint	No		
		Diabetic Public		Yes	St Vincent's
		Head injury Public		Yes	Alfred
		Loss of conscious Public		Yes	Alfred
		Loss of Conscious Public		Yes	Alfred
		Head injury Public		Yes	St Vincent's
		Head injury fractured nose Public		Yes	Alfred
		Head injury Public		Yes	Alfred
		Loss of Conscious Public		Yes	St Vincent's
		Head injury Public		Yes	St Vincent's
		5 patients treated refused transport	No		

# METROPOLITAN AMBULANCE SERVICE RECORDS

DAY	TOTAL NUMBER OF PTS	PROVISIONAL DIAGNOSIS / SUMMARY OF INJURIES	TRANSPORTATION		
13 September			<i>NO</i>	<i>YES</i>	<i>DESTINATION</i>
	Treated: 11	Hand injury Public		Yes	Alfred
	Transported: 8	Possible fractured ribs Public		Yes	Alfred
		Head injury Public		Yes	Alfred
	<b>Breakdown</b>	Head injury Public		Yes	Alfred
	Public: 7	Bruising Public		Yes	Alfred
	Police: 1	Collapse	No		
	No intervention required: 3	Fall Public		Yes	Alfred
		Delusional	No		
		Fractured clavicle	No		
		Pedestrian result of police van Public		Yes	Alfred
		Dislocate finger Police		Yes	Royal Melbourne

## HOSPITAL EMERGENCY RECORDS

I requested, rather than subpoenaed, information from the three hospitals to which patients were recorded to have been taken according to Metropolitan Ambulance Service records.

I was advised by the Royal Melbourne Hospital that the matter had been raised with the Emergency Department staff on duty on the days in question and they were unaware of any S11 related patients in addition to those shown by ambulance records to have been taken to the Royal Melbourne Hospital. I was advised that a check of the records would require examination of all emergency files on the three days. The Royal Melbourne Hospital declined to extract the figures because of the labour intensiveness of the task and a shortage of resources.

I understood the difficult position of hospital administrators and, in view of the fact that the records indicate 7 police, 2 casino staff and one member of the public were taken there, I decided not to pursue the matter.

The following are the records obtained from The Alfred and St Vincent's.

### THE ALFRED

- ◆ The Alfred Emergency and Trauma Centre record treating 30 patients as a result of the World Economic Forum on 11/09/2000, 12/09/2000 and 13/09/2000.
- ◆ Eight of the patients were female and twenty-two were male. There were 6 Category 3 patients (Urgent: requiring attention within 30 minutes) and 24 Category 4 (Semi Urgent: requiring attention within 1 hour) patients.
- ◆ All 30 patients were discharged home after treatment. Eight patients did not require further treatment, one patient was told to represent to Emergency if required, one patient was referred to a specialist and 20 patients were referred to their local General Practitioner for follow up if required.
- ◆ One injury was recorded as being caused by a horse standing on the patient's hand, one involving a police motorcycle and nine by baton strikes. Other injuries were recorded as being the result of being trampled in the crowd (2) while the remainder simply described the injury.
- ◆ A total of 18 patients were recorded as presenting via the ambulance service. It is possible that an ambulance may have transported more than one patient at a time or that during the registration process the ambulance data was not recorded. The emergency records show 2 patients presenting via ambulance on 11/09/2000, 11 on 12/09/2000 and 5 on the 13/09/2000. The remaining patients were transported by Private Car (2) or other transport (Trams, buses or the transport mode was not available: 10.)

The patient diagnoses were as follows:

INJURY		NUMBER
(1)	Superficial injury of head (excludes face)	1
(2)	Superficial injury of face (excludes eye)	1
(3)	Open wound of face (excludes eye)	2
(4)	Open wound of head (excludes face)	5
(5)	Fracture of face (excludes eye)	2
(6)	Crush injury of face (excludes eye)	1
(7)	Injury to muscle/tendon of head	1
(8)	Other specified injury to head or face	1
(9)	Superficial injury to abdomen/lower back	1
(10)	Superficial injury of thorax	1
(11)	Other specified injury to thorax	1
(12)	Crush injury to abdomen	1
(13)	Injury to muscle/tendon of lower back	2
(14)	Fracture of hand or wrist	1
(15)	Crush injury of wrist	2
(16)	Crush injury of foot	1
(17)	Sprain/strain of hip	1
(18)	Sprain/strain of ankle	1
(19)	Superficial injury involving more than one body region	2
(20)	Injury to muscle/tendon involving more than one body region	1

### **COMMENT**

These records are consistent with the Metropolitan Ambulance Service records, showing 18 patients conveyed by ambulance. Twelve further patients appear to have made their own way to The Alfred.

There is little more of value to be inferred from these records. The type of injury is generally consistent with those recorded by the S11/CFMEU first aid team over the 3 days and many of these patients, if not all, would also appear on the S11/CFMEU records.

## ST VINCENT'S

DATE & TIME	GENDER	AGE	STATED CAUSE	INJURY SUSTAINED
11.09.00 12.00	Female	27	Struck by baton on hand	Left hand bruised
12.09.00 21.26	Female	20	Crushed in crowd, elbowed in neck	No significant injury
12.09.00 23.41	Female	61	Collapse – transport for S11	Not related to police (coincidental medical illness)
12.09.00 21.20	Female	18	Hit on left side chest by police baton then thrown back with right arm	No significant injury
12.09.00 22.36	Male	26	Hit on chest and thigh by police baton	No significant injury
12.09.00 14.07	Female	20	Trodden on by a police officer	Fractured wrist
12.09.00 20.45	Female	37	Claims stood on and hit with baton to chest, left and right forearm	Bruises
12.09.00 20.17	Male	21	Claims assaulted by police	Nasal fracture requiring surgery
12.09.00 02.41	Male	24	Claims kneed in testes – uncertain if S11 related	Scrotal haematoma
12.09.00 03.07	Male	28	Hit over face with large torch – uncertain if S11 related	Laceration above eye brow
12.09.00 10.44	Female	23	Hit by baton	Bruised breast and scalp
13.09.00 18.01 (saw GP first) <i>Injury date</i> <i>21.09.00</i>	Female	28	“Trampled” by police	Fractured sternum

### COMMENT

Ambulance records show 4 patients conveyed to St Vincent's by ambulance, whereas the hospital records 10, possibly 12, WEF related patients.

The times recorded suggest that 7 of these patients had injuries related to the Tuesday evening action, and 2 from the Tuesday morning action.

Beyond that there is little to be inferred from these figures.

## POLICE INJURED DURING THE WEF OPERATION

The data in the tables below was extracted from statistical summaries provided to me by the Victoria Police. The tables do not attempt to provide an in depth analysis of police injuries. The tables simply provide an outline of the types of injuries reported by police on-duty at the WEF.

**TABLE 1:**

No. Police Reporting Injuries (some multiple injuries)	Injuries Requiring Hospital Treatment	Injuries Requiring First Aid Treatment On-Site	Other Injuries
170	8	92	84

**TABLE 2:**

The more serious of the injuries reported included the following:

Injury Description	Number
Breaks/fractures/dislocations	5
Eye	1
Back related	2
Severe bruising	1
Lacerations/grazings	1

Other injuries reported, but which did not require hospital treatment, included the following types:

Type Of Injury Reported	Incidence
Bruising/soreness/soft tissue	70
Back related	4
Eye	2
Lacerations/grazings	9

## **CROWN EMPLOYEES OR CONTRACTOR STAFF INJURED DURING THE WEF OPERATION**

The advice I have received from Victoria Police is that Crown personnel, which include those staff of companies engaged by Crown for security tasks, as well as personnel of shops located in the Crown complex, received injuries allegedly from assaults committed by protesters in the 3 days of the WEF.

I have not sought nor have I been advised of the details relating to the nature and severity of all the injuries suffered by these personnel. However, on the basis of the advice I have received from police and other sources, it is understood that some of the injuries were serious, such as broken ribs, suspected fractured jaw [later diagnosed as severe bruising] and, in one case, subsequent to the WEF period another employee was admitted to hospital for treatment for the injuries he received.

# **APPENDIX 2**



## **APPENDIX 2**

### **SPECIFIC INCIDENTS AND ISSUES RAISED BY THE S11 LEGAL SUPPORT GROUP IN A SUBMISSION DATED 21 DECEMBER 2000**

#### ***Incidents – Monday 11 September 2000***

- 1. Southern Kingsway entrance, 8.00 am – 10.00 am.** It was alleged that there were numerous attacks by police on protesters in which people were punched, dragged by the hair and eye-gouged. It is alleged that one protester was bitten by a police member, horses were ridden into the crowd and one protestor was pushed over a barrier onto a road below.
- 2. Clarendon and Whiteman Streets, 8.00 am – 10.00 am.** It is alleged there were a number of incidents where police attempted to push through the crowd and that horses were used to push the crowd resulting in crush injuries from horses' hooves and/or horses bodies. It was claimed that many in the crowd who wished to move in response to police action were unable to do so.
- 3. Clarendon Street, 9.30 – 10.00 am.** It was claimed that the indiscriminate use of batons to hit people in the crowd around Premier Court's car was clearly excessive and in some cases unlawful. It was argued that, even though the driver was unable to move the car, the protesters posed no direct threat to the occupants and that the use by police of fists and batons on anyone in their path was indiscriminate and unjustifiable. It was said that overhead baton blows injured several people, including causing permanent damage to the teeth and jaw of one man, and that the use of horses also led to injuries. It was claimed that here, also, people were unable to move out of the way of the horses and baton wielding police.

4. **Queensbridge Street, 6.45 pm – 7.00 pm.** It was alleged that approximately six police motorcycles accompanying a number of buses continued at high speed along Queensbridge Street towards the Yarra after the buses had entered the casino. The motorcycles were ridden through a crowd running back up Queensbridge Street towards the gate through which the buses had entered the casino. It was alleged that several people were knocked over or fell in an attempt to avoid the motorcycles.
5. **Haigh Street.** It was alleged that although Haigh Street was relatively quiet there were reports of officers occasionally hitting protesters throughout the day.
6. **Capsicum spray.** It was alleged that one woman was treated for exposure to the spray which, if true, must have been used in breach of the relevant police instructions for its use.
7. **Occupation of the Herald and Weekly Times building.** It was alleged that one woman was pushed to the ground by police and suffered injuries.

***Incidents – Tuesday 12 September 2000***

1. **Baton charges at Queensbridge and Power Streets at 7.00 am and 7.30 pm** resulting in numerous injuries.
2. **Clarendon Street at Planet Hollywood Entrance 8.30 am.** It is alleged that police moved into a line of protesters, hitting and abusing people, for no apparent purpose. There was no attempt to move people permanently, or to allow access for delegates.
3. **Kingsway, 11 am – 12 noon.** It is alleged that police rushed protesters punching people and using batons.
4. **Queensbridge Street, river end, 4.05 pm.** It is alleged that mounted police rode into demonstrators several times using batons and that

protesters were trapped between horses and barricades. One protester lost consciousness and others were injured.

### ***Incidents – Wednesday 13 September 2000***

- 1. Clarendon and Spencer Street 7.30 am.** It is alleged that a large number of police in a line across Clarendon Street swept a small number of protesters down Clarendon Street, telling protesters to run, pushing and dragging them and hitting them with batons.
- 2. City Road and Power Street, 7.20 am.** A truck was stopped by protesters who were blocking the intersection. The driver and passenger got out of the truck and assaulted protesters. Police watching the alleged assault made no attempt to intervene.
- 3. Spencer and Flinders Streets, 8.50 pm.** A similar action to that of the morning. A large number of police formed a square in the intersection. There was only a very small number of protesters in the vicinity. Three protesters had musical instruments smashed by police and bystanders were told they would be arrested if they entered the street. Protesters escaped by retreating to the relative safety of Batman Park.

### ***Issues.***

- 1. Use of force by police.** It was argued that the use of force by police to move protesters was unlawful and unreasonable.
- 2. Arrests.** It was estimated that there were not more than 20 arrests over the course of the three days but that many of those arrested allege mistreatment, including assaults and threats.
- 3. Use of batons.** It was argued that the use of batons was inappropriate in the circumstances, extremely dangerous and likely to cause injury.

4. **Use of horses.** It was argued that the use of horses to push crowds is inappropriate and dangerous, and resulted in many injuries.
5. **Failure to display identification.** It was argued that 80-90% of police were not displaying identification. It was argued that senior police had agreed to this or turned a blind eye to it. It was pointed out that the resulting anonymity of police members is a significant impediment to individual accountability.
6. **Targeting of photographers.** It was alleged that, in order to avoid scrutiny, police targeted those with cameras.
7. **Verbal abuse and intimidation** of protesters by police.
8. **Encouragement of attacks on protesters.**
9. **Minimal communication with protest groups**, in particular, failure by police to provide warning of the use of force.
10. **Unfounded allegations of protester violence.**

# **APPENDIX 3**

## **APPENDIX 3**

### **SPECIFIC INCIDENTS AND ISSUES RAISED BY THE PT'CHANG NON-VIOLENT COMMUNITY SAFETY GROUP IN A SUBMISSION DATED 22 DECEMBER 2000**

#### ***Incidents – Monday 11 September 2000***

##### **1. Clarendon and Whiteman Streets, 8.00am**

An incident in which police attempted to gain access to the casino. It is alleged that mounted police charged into the crowd and people were kicked, punched and hit with batons.

##### **2. Whiteman Street under Kingsway, 9.20am**

This is an incident in which protestors attempted to stop a bus load of delegates from entering the casino. It is alleged that police had two lines, including 12 mounted police, with protestors in the middle, and the horses were charged into the line of protestors. Pt'chang received reports of people falling near horses' hooves, people being crushed against barriers and having hair pulled by police.

##### **3. Corner of Clarendon and Whiteman Street, 9.50am (the Richard Court incident)**

A contingent of police on foot "moved to unblock the car", and mounted police then charged the crowd. Batons were used and people reported being hit and kicked by police.

##### **4. World Trade Centre Car Park (Siddely Street), 12.00 midday**

It is alleged that police made a "baton charge" at a group of people blockading a bus. Overhead baton blows were observed and protestors were trapped between the bus and a line of horses.

- 5. Morning and evening clearance of the Queensbridge and Power Streets intersection.** The Pt'chang submission, like the S11 submission, identified these as incidents of concern.

#### ***Incidents – Wednesday 13 September 2000***

- 6. Clearance of Spencer/Clarendon Street at 7.00 am** to allow delegates' buses to enter.
- 7. Running down of a pedestrian by police vehicle in Queensbridge Street at 5.30pm.** This incident is the subject of a separate complaint to this Office and will not be dealt with in this report.
- 8. Haig Lane baton charge, 6.10pm**  
A line of police without warning charged protestors who were attempting to blockade a bus.

#### ***Issues***

- 1. A culture of summary punishment displayed by police.** Pt'chang argued that acts of police violence were not associated with attempts to arrest people, were not in self-defence, or the result of the endangerment of any police. Pt'chang acknowledged there was some disorder, abuse and aggression by some protestors, but it was argued this did not justify the reaction it sometimes drew from police.
- 2. Police switched tactics from Monday to Tuesday.** Pt'chang argued that the tactics of "area denial and containment" used by police on Monday 11 September 2000 were substituted on Tuesday 12 September 2000 with tactics of "extreme coercive force", involving "surprise formation baton charges with mounted police as rear containment lines". Pt'chang argued that these tactics were unjustified, excessive and unprovoked. It was observed that these tactics caused serious injuries and escalated the level of disorder and conflict in a previously "calm and relatively well ordered crowd situation". The Pt'chang submission then referred to research

which suggests that when “sub-lethal” weaponry is used by police, such as charges with long batons, a series of dysfunctional effects are produced which serve to destabilise the conflict rather than to control it. In effect, it was argued, the use of repressive technology and crowd control tactics by police not only raises the likelihood of serious human rights abuse occurring, but also has the effect of escalating the conflict and precipitating the deployment of even more coercive weaponry and tactics.

3. **Use of batons.** Pt’chang expressed the view that the use of long side-handled batons had been consistently observed by its legal observers to be highly dangerous and excessive. It was alleged batons were wielded overhead, striking in a downwards motion, or from the side. It was alleged batons were commonly aimed at the head, face, neck and back.
4. **Punching, kicking, dragging by the hair.** Pt’chang observers reported the majority of such actions to be deliberate additions to the use of batons to coerce or punish protestors, rather than actions occurring in the confusion of a police manoeuvre.
5. **Mounted police.** Pt’chang alleged that many serious injuries resulted from protestors being pushed or trodden on by police horses. It was also observed that in the course of baton charges horses were used for rear containment but, either deliberately or by miscalculation, the mounted lines trapped protestors and prevented escape from advancing baton-wielding police.