



# **POLICE COMPLAINTS AUTHORITY**

**Police Complaints Authority Independent Review  
of Student Demonstration at Otago University  
on 28 September 1993**



# Police Complaints Authority

7th Floor Local Government Building,  
114-118 Lambton Quay,  
Wellington.

Telephone (04) 499-2050  
Facsimile (04) 499-2053  
P.O. Box 5025, Wellington  
Toll-free 0800-503-728

## STUDENT DEMONSTRATION AT OTAGO UNIVERSITY ON 28 SEPTEMBER 1993 POLICE COMPLAINTS AUTHORITY INDEPENDENT REVIEW

### INTRODUCTION

On Tuesday afternoon 28 September 1993 the Otago University Council met for its regular monthly meeting in the Registry Building at the University. It was generally expected by the student body that at the meeting the question of student fees would be addressed. An increase in the level of fees was forecast. I will need to return to this point but it should be stated at the outset that the true protagonists in the dispute were the student body and the University Council over the proposed increase in the level of fees.

Students planned to mount a demonstration in protest against the expected decision of the Council to increase the fees. Because of disturbances created by students at the previous Council meeting, a Police operation was drawn up to prevent unnecessary disruption of the meeting.

As a result of what transpired that afternoon, a large number of written complaints by individuals who were involved in the demonstration were lodged with me by the 1993 Otago University Student Association President, Mr Grant Robertson. Copies were at the same time furnished to the Dunedin Police by Mr Robertson.

As a result, the complaints were investigated by the Police in the first instance. The report, files and copious documentation generated by or during the investigation were then referred firstly to the staff of the Commissioner of Police at Police National Headquarters for scrutiny. The Commissioner then referred the material to me in order that the

circumstances giving rise to the complaints, the complaints themselves, their investigation and the results of that investigation could be reviewed by my office from an independent standpoint. This is the procedure set out in the Act from which my jurisdiction emanates.

The conclusions and findings of my review are set out in this report. Those students who lodged complaints will be able to obtain a copy of the report from the Registrar, Otago University, or direct from the Police Complaints Authority, P O Box 5025, Wellington.

#### **DELAY IN ISSUE OF REPORT**

I begin the substantive part of this Report by drawing attention to the unavoidable delay in making this Report available. The quite significant disturbance and confrontation that took place on the University campus on 28 September 1993 seemed to me to require a full Report to be made public. I have those powers under the Police Complaints Authority Act. Following the disturbance of that date there were several prosecutions (results mentioned hereafter) and the last was not disposed of in the Courts until 11 November 1994. I have been advised as a legal issue that I should hold my reports until disposal of Court cases and that is the cause of the delay. I should also add that the results of full Court hearings are beneficial to the investigation and review I have to make. That has proved to be so in this particular case.

#### **BACKGROUND**

##### Prior Meeting of 3 August 1993

To place the demonstration and the events which accompanied it into perspective it is important to examine at this point other events which marked the previous meeting of the University Council on 3 August 1993, for it was the Police and University officials experience on that occasion which to some extent shaped the measures drawn up by them to address the demonstration planned for 28 September.

Prior to the meeting of 3 August the Police administration met with Mr Grant Robertson (Student Association President); Mr J. Debreceeny, a University lecturer and leader of the Student Education Action Group; Mr Ron Chambers, the University Proctor; and the Registrar of the University, Mr Douglas Girvan.

At that meeting it was agreed that only 30 students could be accommodated at the University Council meeting, any others having to remain outside. The University authorities were anxious that the Police presence be unobtrusive and of low profile. Consequently, only two Policemen were initially on duty, a quite inadequate number to exercise any control in the situation that eventuated as developments graphically illustrated.

A very large number of students, reportedly between three and four hundred, chose to make an appearance outside the Council Chambers on the upper floor of the Registry Building on 3 August. The previously agreed 30 students were admitted to the meeting. However, when the question of student fees was addressed, the students in the Council Chamber created such a disturbance that the meeting had to be prematurely brought to a close. The situation deteriorated to the point where Police reinforcements were called for. Even so, University Council members were prevented from leaving the Council Chamber for almost an hour by students, numbering an estimated 200, who blocked the main exit.

The Police Officer in Charge, Senior Sergeant D.J. Campbell, was forced by this blockade to evacuate the Council members via a fire escape. This was achieved, albeit with some difficulty, when students used a ladder to climb in through a window in order to prevent the evacuation. University Council members leaving the meeting had to climb over seated students and push through the throng of protesting students.

At one point the situation took on an even more seriously threatening emphasis when Council members who had reached the outside of the Registry Building were prevented from leaving

the vicinity by groups of students who encircled them, chanting. One woman Council member was kicked, punched and had water thrown over her as she tried to leave the Registry Building. Eventually Senior Sergeant Campbell was able to extricate these Council members from that distressing situation. After a further wait whilst student numbers diminished a Police car was able to take away some of the Council members. On 3 August there were no physical confrontations between Police and students and no arrests were made.

Preparatory Arrangements for Meeting of 28 September 1994

It can be seen from the alarming and threatening experiences to which the University Council members were subjected on 3 August 1993 that the question of their safety and protection clearly demanded the provision of effective and reassuring protective measures to ensure that the events of 3 August 1993 did not recur. That this possibility existed was strengthened because some Council members learned informally that their next meeting, the one which is the subject of this review, was likely to receive similar or even more vigorous attention from demonstrators protesting fee rises.

A similar expectancy pre-occupied student leaders. At a meeting on 15 September 1993 between the Police, represented by Senior Sergeant Campbell; the University Proctor, Mr R. Chambers; the President of the Students Association, Mr Grant Robertson; and the leader of the Student Education Action Group, Mr J. Debreceeny, concerns were expressed that the next demonstration could exceed the one of 3 August 1993 both in numbers of students participating and in there being less control exercised over the demonstrators. It was hinted that a more radical element was to be involved in it. Nevertheless, it was agreed as before that 30 students would be permitted to attend the University Council meeting in the Council Chamber. Any other students would be required to remain outside. The figure of 30 was dictated by the seating space available for the public.

At a subsequent meeting on 20 September 1993 between Senior Sergeant Campbell, the University Proctor and the Registrar of the University, it was made clear that the previous preference of the University authorities for a low profile Police presence was not to apply in respect of the next Council meeting on 28 September 1993. The University Registrar was concerned to ensure that the meeting was allowed to go ahead without interruption and that the personal safety of the Council members who were to attend be guaranteed. These are modest and expected objectives but, as events were to prove, their attainment raised some difficulties both for the Police and for the University officials.

It was the Registrar's stipulation that all students, other than the 30 to whose attendance at the Council meeting agreement had been given, were to be kept out of the Registry building. To achieve this objective, it appeared to Senior Sergeant Campbell that it would be necessary to supplement the requested Police presence by making available to him private security staff to be employed by the University. This was agreed to by the Registrar.

On 21 September 1993 Senior Sergeant Campbell was again advised by Mr Grant Robertson that he could not guarantee the good behaviour of students at the pending demonstration. On Friday 24 September Senior Sergeant Campbell discussed with the Registrar's Assistant, Judith Gray, how the Registry staff would be affected by the closure of the building from midday on the day of the demonstration. He also advised the Fire Service.

Finally, on the day preceding the Council meeting, 27 September, Senior Sergeant Campbell met the senior staff employed in the Registry Building and briefed them on the next day's arrangements. The building was to be closed to normal usage from about midday onwards, although the staff who worked in the various offices in the Registry building would be at work as normal during the afternoon.

In receipt of these disturbing indications about the forthcoming demonstration, Senior Sergeant Campbell drew up plans designed to achieve the objective of preventing unnecessary disruption of the University Council Meeting. The Police presence at his disposal was to comprise 18 constables and sergeants, supplemented by a number of Armourguard Security Guards employed by the University for the purpose of providing security and controlling access to the Registry building. In the event these additional security operatives numbered 15. They were supervised by their Operations Controller, Mr R. Johnston. The Police and Armourguard staff were to be posted in four small groups each responsible for some aspect of the security of the Registry Building and the Council Chamber.

Recognising the continuing desirability of maintaining an unobtrusive Police presence, the majority of Police staff were to be stationed inside the Registry building. Stationed outside were to be two groups; three constables under the command of Sergeant Johnson and a second group of six constables under the command of Sergeant McDonald.

Sergeant Johnson's group were to be outside the main Registry doors. The security control of the various entrances to the Registry building was intended to be the primary responsibility of the civilian Security Guard force under the overall control and direction of Mr Rex Johnston. Security Guards were instructed to remain inside the doors which were to be locked.

Sergeant McDonald's group were initially posted in a vehicle at the north end of the Registry building.

These measures were regarded by Senior Sergeant Campbell as appropriate. Protective equipment or long PR24 batons were not envisaged by the Senior Sergeant's plan as being necessary, and they were not initially carried or worn by this group of Police and guards securing the Registry Building. Both protective helmets and PR24 batons were used later during the incident by Police reinforcements called urgently to the Registry when the demonstration assumed unexpectedly threatening proportions.

They were also donned by Sergeant Johnson's group and other Police after the breaking of the main door windows and continued pounding on the doors by the group of students outside.

The planned intention was that no arrests were to be made unless they were unavoidable. This provision goes some way to explain why, although a number of offences were apparently committed during the events of the afternoon that followed, comparatively few arrests were made.

Finally, the Police stationed in and at the Registry had a delegated authority to act on behalf of the occupier under the provisions of the Trespass Act (1980).

These then were the preparations the Police had made to meet the expected demonstration during which, judging by what had happened on 3 August at the previous University Council meeting, quite vigorous efforts were likely to be made by students to impose their views concerning fee increases on the assembled numbers of the University Council.

Nevertheless, I note the deliberate omission from the preparations of any equipment, such as protective helmets or long batons, intended or likely to exacerbate a deteriorating situation or to present the protesting students with a possibly provocative show of force. I find the preparations commensurate with the desire to maintain a low key and effective presence and not one to 'take on' the students in any way. The events of the afternoon, as they unfolded, reinforce my belief that Police harboured no aggressive or retributive intention towards the students, as has been implied in some of the complaints I have received. I will now turn to those events.

#### Events of 28 September 1993

The demonstration began on the University Union lawn where at about 1.00pm the protesting students gradually assembled and



heard addresses from student leaders. After this initial assembly the group, by then estimated to number four to five hundred, moved off towards the Registry Building. It was as orderly as such marches are with various placards and signs being carried mainly bearing slogans and comments critical of any increase in student fees. Other slogans called on the University Council to resign. The group was accompanied by student marshals who wore red sashes, presumably to indicate their marshal status.

At the immediate southern environs of the Registry Building the group divided into smaller contingents which then made for the main front door and for the other principal building access doors at the rear of the building. Judging by the behaviour of the students at the doors it was their intention to try to enter the building. Two of the rear doors were the scene of most of the activity during the afternoon. These were the doors to the Student Health Department and that to the Student Enquiry Office, both situated in the Registry building.

The configuration of these two doors and their approach areas assumed significance later in the afternoon when the numbers besieging them and the crush of bodies, with Police and students, around them brought those two groups of students and Police into close physical contact.

The Student Health door is situated at the head of a short flight of steps in a corner at the junction of two external walls. The configuration of the walls and an iron banister rail renders the immediate area of this door a significant bottleneck in face of any attempts by a large number of people to use it. It is the external door closest to the Council Chamber and, perhaps for that reason, it was the door which received most attention at this stage of the demonstration. Photographs taken by Press photographers of the students at this door show a jammed congregation of people in which movement appeared only possible with the greatest of difficulty.

The Student Enquiries door, at the rear of the Registry Building, presented an even more restricted area of movement. The door is approached by two flights of stairs built adjacent and parallel to the external wall of the building, each flight being flanked on one side by the wall and on the other by a stone, or masonry, balustrade. The consequent restrictions of movement and packed assembly conditions resembled those at the Student Health door.

The University Council meeting was scheduled to begin at 2.15pm. At about 2.00pm, in light of the students' dispersal around the building and the forceful attention they were directing at various doors, Senior Sergeant Campbell and the Registrar conferred and it was decided that it would be unwise after all to allow 30 students into the Council meeting. The Senior Sergeant felt, judging by their actions, the students were generally in such frame of mind as to cast doubt on their trustworthiness to conduct themselves in an orderly manner at the meeting. They had not done so at the meeting of 3 August. The Registrar agreed to this suggestion and no students, other than Mr Grant Robertson, attended the meeting.

The main mass of students converged on the Student Enquiries and Student Health doors of the Registry building. It was reported to me that within minutes glass on the door to the Student Enquiries Office had been kicked in or otherwise broken. One of the doors giving access to the Student Health Department was wrenched open at about 2.10pm, the lock having given way to the force exerted by the students outside. The Armourguard Security guards on duty at the door were of necessity then reinforced by other guards and by Police. Mr Rex Johnston, the Armourguard supervisor, has reported that two Police officers and four guards were forcibly holding back the students. Later it was necessary to have a group of four Police officers and six guards to stem the threatened in-rush of demonstrating students.

A security guard who was on duty at the Student Health door during this initial period has reported that he was pushed,

kicked and hit by the students. His uniform was ripped and buttons torn off. Police officers alongside him were subjected to the same vigorous attention by students attempting and succeeding in punching them. One of the security guards reportedly fainted as he was repeatedly thrust against the doorway by the students. I will return to the scene at the Student Health door later in this review.

At the Student Enquiry door the students who were packed outside kept up a cacophony of chants and shouting whilst the door itself was subjected to spasmodic barrages of knocks and kicks. Glass at the bottom of the door was broken. As already mentioned Sergeant McDonald and the small group of six constables had been assigned the role of remaining in reserve to assist staff on duty at the Registry's doorways who were likely to come under particular pressure during the demonstration. Early in the course of the demonstration Sergeant McDonald's assistance was required at the Student Enquiry door.

In response to requests for assistance from the Police inside that door, Sergeant McDonald found a crowd of more than 50 students when he went to the door, approaching it from outside. The students were crammed into the door alcove and up the two flights of steps, chanting and banging on the doors. Despite his best efforts, the Sergeant was unable to penetrate this throng to reach the door and was halted about a metre short by the press of bodies.

He was able to warn two male students who were beating on the door that they risked being charged. Because of the high noise level normal conversation was said to be impossible and the Sergeant was obliged to seize the two by the collar to attract their attention. Despite this the two, whom it has not been possible to identify, broke a door panel and removed some of the door's hinge pins.

Radio communication between the Police was rendered largely ineffectual by the extreme difficulty of officers surrounded by

students hearing messages and instructions issued to them by radio in face of the ever-present and sustained din created by student chanting and loudhailers. Sergeant McDonald nevertheless was able to have constables with him assist in trying to bodily pull and push students from the immediate vicinity of the door. These efforts on the part of the Police failed, although a number of student complaints clearly relate to the efforts made by Police to ease the pressure on the doors.

A similar situation to that faced by Sergeant McDonald was experienced by Sergeant Phiskie. Sergeant Phiskie, together with other Police, had been called to the University to assist the staff originally detailed for duty in the plan drawn up by Senior Sergeant Campbell. After first attempting to assist Sergeant McDonald at the Student Enquiry door, with limited or no success, Sergeant Phiskie with Sergeant Clark and a small number of constables went to the Student Health door in an effort to relieve the pressure being exerted by the students on that door and on the Police and Armourguard staff on duty there.

Attempts to force their way through the packed crowd of students at the door were unsuccessful in the face of students linking arms and pushing back at the Police. It became impossible for the Police to advance any closer than three to four metres from the door and it was in such positions that Sergeant Phiskie and the constables with him remained for the next hour. Photographs show the Police immobilised and intermingled with the students in a major press of students at the door.

Whilst the Sergeant and his men were vainly attempting to exert some control on the mass of students, a student with a loudhailer, ostensibly a marshal, stood on the railing of the stairway shouting instructions to the students to impede the Police in their efforts to get to, and relieve the pressure on, the door. This student called out the registration numbers of various Police constables immobilised in the throng and these numbers have been prominent in some of the complaints made to me by students who allege being assaulted or physically dealt with in some way by the Police.

It is unavoidable in a document of this type that contemporaneous events must be described sequentially, despite their occurring simultaneously. So it was in this instance for whilst forceful pressure was being exerted on the doorways at the rear of the Registry in the ways already described other activity was occurring at the main Registry door and elsewhere around the building.

At an early stage in the afternoon four students broke into the Registry building by way of a lavatory window. They were discovered in the lavatory cubicles and arrested, later being charged with being unlawfully in a building. The perception of the main body of students present at the demonstration about the fate of this small group of intruders had some significance in the events which were to take place later in the afternoon.

At the main Registry door Sergeant Johnson and his group were initially stationed outside on the steps leading to the door. About 150 students who had originally marched to the Registry building confronted the Sergeant and for a half hour period the situation at the main door was relatively calm and a comparatively good humoured atmosphere prevailed. The students chanted slogans and banter was exchanged with the Police. After about half an hour, however, on the instruction of a student with a loudhailer, the students surged forward pinning the Sergeant and the three constables with him against the main door. Sergeant Johnson was punched and kicked by several of the students. The situation deteriorated to the point where the Sergeant and the constables with him were forced to withdraw into the Registry building behind them.

There followed a sustained pounding on the door. Small windows in the door area were broken and the large plate glass windows in the doors themselves were broken leaving sizeable fragments perilously poised in the upper parts of the frame at risk of falling and inflicting injuries. Temporary repairs were made by placing sheets of cardboard over the inside of the broken windows.

To take pause, it can be said that at this point in the demonstration three principal entrances to the Registry were under severe pressure from the students who appeared to be trying to effect an entry into the building in which the University Council was meeting. Their intrusion was being resisted by the force of Police and Armourguard staff with, generally ineffective, attempts being made by some Police to relieve this pressure from outside the building.

As stated earlier, the decision to allow students into the Council Chamber during the meeting of the University Council had been rescinded. In light of the behaviour displayed by the demonstrating students this was in my view a sound decision for the Police and Registrar to have made. Finally, four students were in Police custody within the Registry building having broken into the building via the lavatory windows.

This last matter now assumed some prominence for, at about 2.45pm, an approach was made to Senior Sergeant Campbell by Mr Debreceeny and two colleagues. Mr Debreceeny asked for the arrested students to be released and, in return, offered to call off the demonstration. This was refused by the Senior Sergeant, although one of Mr Debreceeny's colleagues was permitted to remain with the arrested students, to provide moral support.

Although the Police were satisfied these arrests were justified and that prima facie cases could be easily established, informations against the four and three other students who were arrested later were withdrawn in response to a request by the Registrar. The seven were later dealt with under the University's internal disciplinary procedures.

Senior Sergeant Campbell drew Mr Debreceeny's attention to concerns he felt for the safety of both students and Police at the Student Health Door and at the main door where broken glass was precariously poised. As a result of this exchange between Mr Debreceeny and Senior Sergeant Campbell the student demonstration marshals were, for a time, able to reduce the

pressure at those points, although it was resumed before much time had passed.

As the nature of the demonstration and the likely course it may have taken became apparent, radio calls went out from the Operation Commander, Senior Sergeant Campbell, in the Registry building for more Police assistance. In the event this eventually amounted to a total of 60 officers, sergeants and constables being present in the University area for all or part of the disturbance. This call for reinforcement had several peripheral effects.

The first of these relates to the common complaint that Police had not worn registration numbers during the demonstration, it being implied that this was a deliberate ploy to avoid the subsequent identification of officers involved in incidents within the wider demonstration scenario.

Many of the Police members called to the scene were in a variety of different uniform dress or even civilian clothes. My information is that at least one Police officer's numbers were concealed by a jacket being worn over the uniform sweater. Another officer had one of his uniform epaulettes bearing his number torn off in the demonstration, albeit retaining and displaying the other.

I accept therefore that some Police did not have their official numbers as prominently displayed as they might or that some in civilian clothes displayed no numbers at all. I also accept the reasons why this occurred. I am satisfied that no Police member deliberately set out to conceal his identity in order to avoid identification for misconduct as implied by several complainants.

Another effect this unscheduled call for assistance had was for protective equipment and PR24 batons to be brought to the scene of the demonstration by those staff called in from other

duties. This is a pertinent point in view, again, of the prominence placed by complainants on the use of this equipment and in particular the PR24 long batons.

The District Commander: Dunedin, Superintendent, G.C. Hill, also went to the scene at this point. It is necessary to point out here that the Operational Commander was Senior Sergeant Campbell. Operational command remained with the Senior Sergeant despite the presence of his senior officer, the District Commander.

This command and control convention was appropriate and correct. The Senior Sergeant was responsible for the daily policing of the University as the O/C North Dunedin. He had been closely involved with the University authorities in the formulation of the planned Police response to the demonstration and had a first hand immediate knowledge of the situation and the way in which it had developed. His role as Operational Commander was specified in the Operation order he had issued and therefore recognised by staff under his command.

In the circumstances, whilst the District Commander had the discretionary ability to assume command, it was desirable that command remained with the Senior Sergeant. At the same time it was equally desirable for the District Commander to be present to form his own opinion on the conduct of the demonstration and the effectiveness of the Police in his District to respond.

I have mentioned this subject as one complainant criticised the Superintendent for not taking charge. In my opinion, to have done so would have risked unnecessarily confusing an already turbulent situation which, whilst alarming in many respects, was nevertheless still a comparatively straightforward problem for the Police in demonstration control.

#### Events Immediately Following Conclusion of Council Meeting

The University Council concluded its meeting at about 3.30pm. Shortly afterwards, at the request of Senior Sergeant Campbell



with a view to bringing about the dispersal of the demonstrating students, Mr Grant Robertson addressed the large crowd of several hundred students. In his address Mr Robertson reportedly outlined the course the meeting had taken and touched upon the progress and gains made on behalf of the student body. He claimed they had achieved a partial victory, and the crowd listened quietly. Mr Robertson suggested that the students might now leave the area. This address is said to have apparently satisfied some of the students and numbers began to drift away. This was a responsible and factual address by the President, Mr Robertson.

However, after Mr Robertson had spoken the loudhailer was taken by a student who then made some comments related to Mr Robertson's address. This student then spoke to the crowd about the arrest of the four students who had broken into the Registry and urged the students gathered there not to let the Police remove the four from the building. Another individual then reportedly made a similar address before a third added to what had been said. The cumulative effect of these three further addresses being to stir the crowd into renewed efforts to confront the Police.

At this point it may be useful to note that although emphasis was evidently placed by these three speakers on the presence of arrested students in the Registry and the need to prevent their removal, it was nevertheless reported by departing Council members later that remarks shouted by students at them convinced them they, the Council members, were the focal point of the continued student presence and protest.

#### Evacuation of Council Members as Principal Confrontational Event

It became necessary to address the question of the University Council members leaving the building. Mr Robertson had suggested to the Police that, given half an hour or so, the assembled students would disperse of their own volition thereby allowing the Council members to leave the Registry without incident. As I observe later, I think this is the course which

ought to have been followed by both Police and Council members. The dispersal did not seem to be happening, particularly in view of the further exhortation of the students to remain to prevent the removal of the four arrested students. It will be remembered that the departure of the Council members after their previous meeting had been accompanied by student obstruction and harassment.

The Council meeting itself was described by one Council member as having been accompanied throughout by loud music, shouting, jeering, chanting and at one stage violent banging on doors. At the conclusion of the Council meeting, 9 of the 17 Council members expressed a preference to leave the building. A number made it clear to the Registrar of the University that they had other engagements and would like to leave. The Registrar conveyed this wish to the Police seeking advice from the Police as to when it was feasible for those Council members who wished to leave to do so. Some of the nine had other business to attend to. The remaining Council members were content to remain for the time being in the Council Chamber or elsewhere in the Registry building. In my view all Council members, notwithstanding some might have had business to attend to, should have remained until there was a very significant reduction in student numbers. I return to this issue later.

At this point it is appropriate to refer to other concerns, apart from the wish of some Council members to leave, which affected the decision to effect their evacuation. These concerns included the realisation that Police staff were becoming fatigued with the constant pressure and disruptive behaviour of the students. Another concern was that some person could sustain serious injury, if the situation continued, from the dangerous state of broken glass still precariously suspended in the large broken window of the main door which was still being subjected to banging by students outside.

There was also the desire of the Police to bring the incident to an end.

The experience of the Police from the previous Council meeting on 3 August 1994, when the protesting students had subjected some departing Council members to abuse and physical harassment as they left the Registry on foot, caused the consideration of other means of assisting Council members to leave the Registry.

As the Council members were at that stage seen to be the focus of the demonstrating students' attention it was felt by Senior Sergeant Campbell that the Council members' departure might indirectly bring about the dispersal of the crowd of students. Sizeable groups remained around the Registry and were present at the main door with larger concentrations at the two rear doors of the Student Health Department and the Student Enquiry Office.

The use of the Main door appeared to be the most suitable means of evacuating those Council members who wished or who were prepared to leave. They would be able to assemble inside the door unobserved from outside, the large windows in the Main door having been broken, the broken windows having been replaced by large pieces of cardboard, albeit with large shards of glass still present at the top of the frames. The preparations for the departure of the Council members could therefore be made without attracting the students' attention and bringing about an augmentation of the numbers at the Main door by others from the two rear doors of the Registry.

Arrangements were accordingly made for a van to be brought to the main door of the Registry building and for the Council members who had signified a wish to leave to be shepherded in safety to the van by Police clearing a path down the steps through the students seated there. An important feature of the arrangements was the element of surprise, to avoid the student numbers at the main door being swelled by others from the rear of the building. The marshalling of the students and the movement of numbers of them was assisted by the use of walkie talkie radios by some of the marshals.

At this point, I remark that the major portion of the complaints I have received relate to some aspect of the short sequence of events that accompanied the evacuation of the Council members from the Registry building and their conveyance by van off the University premises.

In these complaints it is alleged that no warning was given of the emergence from the Registry building of Police wielding batons. It is said that those Police preceding the Council members deliberately stood on, struck out at and otherwise attacked the students who were seated on the steps. Complainants wrote to me about the language used by some Police members and of the excessively forceful methods utilised by the Police in escorting the Council members to the van and the van from the University grounds. I summarise the complaints later in this Report.

I have consequently paid particularly close attention to the implementation of the evacuation plan and to the impression and observations recorded by the several Council members who were at the very centre of the interaction between Police and students which accompanied their departure.

The situation confronting the Police in their efforts to ensure the safe departure of the Council members comprised several tiers of students seated close together on the steps with their backs to the Registry door. The intention of the Police was to open the door, or doors, and for a number of constables to emerge headed by a group in protective gear and, by holding back the students on each side of a corridor through the crowd, allow the Council members to leave.

When the door was opened Sergeant Johnson shouted for the students to move out of the way. In light of the sustained chanting and other noise being made by the assembled students it seems likely that Sergeant Johnson's instructions would have gone unheard. There was no movement, and almost immediately the leading constable, partly propelled by pressure from other Police behind him, emerged from the door. Sergeant Johnson told his staff to go through the seated students and bodily remove them from the front of the steps.

The emerging constables were forced to scramble over the seated students and several complaints are founded in this phase of the evacuation process.

It is quite clear to me that the emerging Police literally had nowhere to put their feet except on, or between, the students. In this respect I am loth to regard some of the instances of stepping, pushing or other force applied by the Police as being motivated by any other desire than to clear a passage for the departing Council members.

I am quite satisfied that, had the Police not acted with some despatch, the number of students impeding the departure of the Council members would have been greatly swelled by the swift arrival of other students still surrounding the doors at the rear of the Registry building when alerted by their marshals. This did eventually happen.

Had it happened sooner the situation would have quickly deteriorated even further than it did when the departure of the van was threatened by those other students who quickly came to the front of the building on learning of the imminent evacuation of the Council members.

#### Loading and Departure of Van

The next phase of the evacuation was the loading and departure of the van. This had been brought to the foot of the steps. The nine Council members emerged who had signified a wish to leave in the van and made their way down the steps to the van as the Police held back the students, some utilising PR24 batons for that purpose. The van was subjected to a violent onslaught of blows and missiles, one, a large rubbish bin reportedly thrown or deflected by a student who was then arrested. Attempts were made to break other windows in the van. One female Council member confessed to being very frightened for her personal safety. Another described the scene as alarmingly hostile, out of control and that it could have had far more serious consequences. Students beat on the

van windows shouting abuse. A Council member described the conduct of the students as inexcusable, menacing and intimidatory towards the Council members.

#### Withdrawal of the Van

The final phase of the evacuation was the withdrawal of the van. Students attempted to thwart this in any way possible, lying on the road to impede its progress, one spreadeagling himself on the windscreen and another person, not a student, attempting to let down the van's tyres. It was at this point that much of the batoning complained of occurred.

One Council member saw Police members using batons to encourage prone students to move out of the way of the van and to release their hold on other Police or the van itself. Police were obliged bodily to drag, push and pull students out of the path of the van. One Council member in the van found this upsetting and considered that some students were very roughly handled or thrown out of the way.

#### COMPLAINTS TO POLICE COMPLAINTS AUTHORITY

Arising out of the events just described there were a total of 49 separate complaints to the Police Complaints Authority.

The complaints were referred back to the Dunedin Police to carry out an investigation with the Authority overseeing such investigation. An investigating officer of my staff visited Dunedin on 7 October 1993 to make a preliminary assessment of the situation on my behalf. He visited Dunedin Police Headquarters and was briefed by the Police on the events of 28 September 1994.

He also separately met Mr Grant Robertson, the then President of the Otago University Students Association, at the University campus and discussed with him the same events. My officer visited the Registry building and its surroundings with Mr Robertson and familiarised himself with the layout of the area.

Latterly there has been more contact with the Dunedin Police to clarify points which had arisen during the review of the incidents which occurred on 28 September 1994, in the internal Police investigation reports and in material from independent sources. A further visit to Dunedin was made in connection with this process of clarification.

Each complainant was advised by letter from the District Commander of the result of the investigation of the individual complaints. No individual complaint was upheld as a result of the Police investigation. Each complainant advised by the Police was invited to write to the Authority if any were dissatisfied with the result. A total of 17 complainants wrote to this Authority expressing dissatisfaction with the result.

As each individual complainant has been advised of the result of my review I will not detail the separate complaints in this Report for publication. I will here summarise the complaints:

1. 9 complained of being pushed by a Police officer.
2. 8 complained of witnessing an assault.
3. 21 complained of either witnessing an assault by baton or having being struck by a baton.
4. 4 complained of being thrown to the ground.
5. 4 complained of no, or insufficient, warning of the Police coming out of Registry building.
6. 5 complained in a generalised way of excessive force being used.
7. 1 complained that the District Commander did not take charge on the ground.

There were more individual complaints than there were complainants because some made multiple complaints.

My investigating officer was informed after enquiry that six students required some form of medical treatment as a result of injuries received but I have not received any report of serious injury. Several Police officers and security guards also sustained minor injuries.

These then, were the events which led to the complaints I received. Of those complaints the majority referred to the use of batons by Police. The next most numerous category was that relating to there having been no warning given by Police before the emergence from the Registry door of Police aiding the safe evacuation of the Council members. I am satisfied there is some justification for these observations as I will say later.

Television pictures taken at the time of the demonstration convey in telling terms the scene of the evacuation of the Council members and the departure of the van.

Very many students can be seen attempting to impede the progress of the vehicle and clear too are the forceful efforts employed by the Police in clearing students from the steps prior to the emergence of the Council members. Very apparent are some of the provocative obstructive stances taken by students and the brusque and uncompromising measures Police took in response. It cannot be avoided or denied that a quite violent exchange between some Police and protestors took place surrounding the evacuation of nine Council members in the van.

#### **POLICE PROSECUTIONS ARISING OUT OF INCIDENT**

There were four separate persons prosecuted in the Courts arising out of the events on campus on 28 September 1993.

A larger number were arrested but the Police made a decision, which they are entitled to do under their discretionary power in relation to prosecution, not to prosecute a total of some seven persons. The decision to discontinue these prosecutions which included the four who had been arrested after entering the Registry via a lavatory window was based on the Police desire to take the wishes of the University into account. This followed a proposal by Mr D W Girvan, the Registrar of the University, that in the belief that none of the offences committed by the seven were of a very serious nature, the University authorities would deal with them internally if the Police considered such a course of action acceptable and appropriate.



The Police were not prepared to discontinue the prosecution of four other students who were charged with various offences, considered more serious than those said to have been committed by the seven, arising out of the disturbances outside the Registry that day. The University officials made no representations to the Police in respect of the other four students.

One other prosecution was discontinued by the Police for procedural reasons connected with the investigation of the alleged offence in that case.

Defendant A was charged with inciting others to behave in a disorderly manner, and secondly himself behaving in a disorderly manner. He was also a complainant to the Police Complaints Authority about his treatment by Police on the day in question.

A full defended hearing took place on 24 May 1994 before District Court Judge D J Carruthers sitting alone. In an oral decision the learned Judge dismissed the inciting charge and found the disorderly charge established but "To reflect my disapproval and the rather summary justice which the defendant has thereby received by, although finding the charge established, discharging him under s.19 of the Criminal Justice Act without conviction." The Judge had expressed his disapproval of the one or two baton blows the defendant had received when being dragged from the rear of the van whose departure he was intentionally obstructing. The Judge did criticise the defendant for obstructing "other people's rights and freedoms to move as they wish."

Defendant B was charged with intentionally damaging a Police van by throwing a large rubbish bin at it. He defended the charge and it was heard before District Court Judge Carruthers on 25 May 1994. The Judge found there was a reasonable doubt about the intention and dismissed the charge.

Defendant C appeared on 5 May 1994 before District Court Judge J McDonald and Jury when he faced charges of unlawfully interfering with a Police vehicle and assaulting a Police officer in an effort to avoid arrest. Defendant C admitted the first charge of interfering and pleaded not guilty to the second charge on the grounds of self defence. The jury found him guilty of assault simpliciter which is a lesser charge, Defendant C was a complainant.

Defendant D's hearing was delayed until 11 November 1994. He was charged with inciting other persons to behave in a disorderly manner likely to cause violence. After an agreed alteration to the summary of facts he pleaded guilty to an amended charge of disorderly behaviour. His counsel made submissions towards his discharge under s.19 and the learned Judge said although he was minded to require the defendant to undertake a community service sentence he felt obliged to treat him in the same way as Defendant A and he was discharged without conviction. Defendant D's counsel made no criticism of the Police conduct and said he would not be a complainant to the PCA.

## EVALUATION

Evaluation of a civil disturbance which required the presence of Police on the campus of a University involved perhaps over a thousand individuals is not an easy task. There are some preliminary observations I think I should make to obtain a perspective.

Of all those present that afternoon each would have his or her interpretation and view of the events as they unfolded. Some statements in this Report will be agreed with, some disagreed with and others could pass without comment. I can say every effort has been made to ensure what is stated factually is indeed correct but no doubt some facts may be wrong or misinterpreted. No-one can fulfill the role of omni-present observer of all the events that unfolded over some hours, in situations that were at times emotive, overwrought, tense and plain unruly.

I repeat again the protagonists were the student protestors and the Council and officials of the University over the level of University fees. The Police always realised their presence would be required because of the events of the previous Council meeting in August and from intelligence passed to them of the prospect of radical protest by students. The Police and this Authority have no opinion on the substance of the protest, namely level of students fees.

The preferred role of the Police at the beginning, and when called later in larger numbers because of the level of disturbance, was that of peacekeepers. It is an established fact that the role of peacekeeper whether in a foreign country that is undergoing the violent clashes of its peoples, or on a university campus is a complex role and paradoxically one which the protagonists are reluctant to accept.

Under the heading "Changing Role of Police" in my Annual Report for 1993 written before these events I stated the following:

*"Sometimes protests are conducted in such a manner as to require the presence of Police to restore order, as a result of which there can be a transfer of discontent and aggression from the object of the protest to the Police who are simply present to keep order."*

The events of 28 September 1993 are as patent an illustration of that observation as one could find for there was a transfer of discontent from the issue of student fees to Police, particularly at the point of endeavouring to escort nine Council members out of the Registry building.. I add that does not mean every action by Police who are called to keep the peace is to be condoned or accepted under some sort of blanket noble cause excuse. Far from it, and I identify hereafter one misjudgement which I think was made although it is done with the benefit of hindsight and from the safety of a calm and detached position.

Standing back and taking an overall view of the events as best I can, the student action about the level of fees set by the Council was a legitimate subject for protest and one about which the student body felt deeply. The right to protest is often said to be one of the outstanding defining characteristics of a true democracy. The protests began and long before the attempted evacuation of the Council members they had deteriorated from lawful non-violent behaviour into unruly, aggressive conduct causing damage to property and fear in the minds of officials and many other individuals. This conduct centred around a desire by a significant number of students to gain forcible entry into the Registry building where the Council meeting was taking place. Entry into the building was attempted at several points which heavily taxed those trying to protect property and people. At this stage there was little interaction between students and Police.

The reason I lay some emphasis on this aspect is that it was a strong signal that the protesting was descending from controlled, noisy, disturbance to a more threatening situation and consequent possible loss of control. It was these events that caused the Police commander on the ground to call for reinforcements.

There are now two particular observations I wish to make. Although the protesting as a whole had escalated, it was still within the bounds of what officials and Police might have realistically expected considering the depth of feeling over the fees increases and the history of the previous weeks and the events of 3 August. In other words it was a protest characterised by a good deal of passion for the cause and its perceived rightness but that is what often happens in such protests. However the principal lesson to be learned from this conduct up to the point of evacuation was that protestors were demonstrating anger and in those situations calm and unprovocative conduct was called for on the part of officialdom. No pride is lost by officials and Police in making detached and essentially damage control decisions to defuse a volatile situation. No undesirable precedent is likely to be set.

Having made those observations it is my opinion that a misjudgement was made by Police, officials and Council members who wished to depart through the protesting throng of students surrounding the Registry building. Mr Grant Robertson, the Student President, had advised against this manoeuvre. Eight Council members had stated they were prepared to remain. Of the nine who chose to depart there were various levels of stated preference. Some positively sought to leave to keep appointments. Some simply said they would go in any event.

Acknowledging as I have already done this is very definitely a hindsight observation, I nevertheless feel it should have been obvious given all facts outlined above to force evacuation was a wrong move. It is a well understood fact of unruly crowd behaviour that it quickly escalates when there is a major or significant physical move which is at the heart of the protest. The University Council members were the original object of the protest and to attempt to evacuate them through a tightly packed, mainly seated, raft of students blocking the exit might have been expected to cause serious trouble and it did. It could only be achieved by a significant use of force on the part of the Police officers whose responsibility it was to protect the Council members. The great majority of the complaints against Police conduct arose out of this manoeuvre of evacuation by way of a Police van.

I do not think the Police gave sufficient warning to protestors immediately outside but I am bound to say sufficient warning or not I do not believe it would have made much if any difference.

I might add that my judgement on the unwisdom of this manoeuvre of evacuation that was the cause of some arrests and Court cases that followed was also to an extent the view of the District Court Judge who heard the main charges against two defendants. His criticism was directed at the failure to give adequate warning of the exit, but I have dealt with that in the previous paragraph.

To avoid any misunderstanding I say explicitly I strongly deprecate the behaviour of a few protestors who conducted themselves in a plainly offensive manner and there were more than those who were actually convicted or pleaded guilty to charges. No matter how passionately causes are held that gives no person licence to take the law into their own hands with uncontrolled violent behaviour that might also be criminal, or very near to it. What I am saying is that those charged with crowd control and behaviour, which includes the Police, of course, but also involves all officials at the scene, should be prepared to adopt tactics and management that will cause the least possible damage or injury. That is to apply maturity and commonsense to a potentially violent confrontation. In short what was required was a simple decision to stand still and wait for the protestors to disperse as they inevitably had to do.

I turn now to address directly the central complaint that helmets should not have been worn and particularly batons carried and used as undoubtedly they were on some students and protestors. There were also other allegations of use of excessive force. I do not avoid saying this is a very difficult question of judgement. The issue of excessive force cannot be examined in isolation from the events and decisions made in the hours that preceded the evacuation. The decision to evacuate the nine Council members in the circumstances that existed pre-ordained that some physical confrontation of a relatively serious dimension would occur. That state was caused by the students' behaviour in resisting the evacuation. Put simply it was a confrontation. The District Court Judge, as previously mentioned, condemned these actions. I have had the advantage of examining quite extensive video coverage of the evacuation and certainly force was used because many students did not, and would not, move and deliberately obstructed the Police operation. Some students, mostly those in path of the van, and others, by their actions had to be dealt with forcefully to prevent more serious injury to themselves.

I retrace slightly. I have already passed comment on the misjudgement to press on with the evacuation which was a

collective one of Police, Council members who wanted to leave, and officials. However, again to avoid any misunderstanding about Police conduct, which is the issue within my jurisdiction, I do not hold that a misjudgement in exigent and very threatening circumstances is misconduct or neglect of duty.

However once the decision to evacuate had been made it could not be carried out in anything but a forthright and determined way for to show hesitation and lack of resolution might only make a difficult situation far worse with consequences that could not be foreseen. From the moment of leaving the Registry building the nine Council members had to be placed in that van and it had to depart; with both limbs of the exercise carried out with all possible speed. The group of nine Council members contained women and with 10 people in a medium sized van it was loaded to capacity. With that load the stability of the van would have been an issue.

I have examined several times the video footage starting with the evacuation of the Registry by the Council members. The footage does not show the opening of the doors as the video starts with shots of a considerable Police presence by numbers and then the members being escorted out of the building. The violence at this point was not particularly visible but it was there. The most violent scenes were the shots of students on the far side of the van clearly trying to stop it leaving and then perhaps the most physical acts by Police using the batons and dragging bodies of students lying on the ground away from behind the van as it backed out. There were shots of Police using their batons seemingly by single blows but one could not tell where they were landing on the bodies of students. There was a shot of one officer using his baton and another officer seemingly stopping him from another blow.

All violence is regrettable but some students were clearly bent on stopping the Council members from lawfully leaving the building. The physical exchanges were there but were on the whole of fairly short duration. I have not heard, and neither have the Police been informed of any injuries (some bruising

etc must have occurred in some instances and I accept that) of a serious nature.

Given that the decision was made as set above, to take nine Council members out by way of the van some force had to be used because of the behaviour of some students intent on preventing the departure of Council members and the van I do not hold it was excessive. The physical confrontation was set up by some students and the evacuation had to be accomplished quickly and the van containing the Council members got off the campus at speed.

My final comment is that I hope this event, with many unfortunate aspects, will be some sort of a lesson to Police, officials and students when the latter's unquestioned right to protest is undertaken.

A handwritten signature in dark ink, appearing to read 'John Jeffries', with a long horizontal flourish extending to the right.

Sir John Jeffries

POLICE COMPLAINTS AUTHORITY

19 December 1994