

**REPORT OF THE  
WTO ACCOUNTABILITY REVIEW COMMITTEE  
SEATTLE CITY COUNCIL**

*September 14, 2000*

*In the spirit of full disclosure, and to restore credibility for city government, the WTO Accountability Review Committee of the Seattle City Council has spent nine months gathering over 20,000 documents and interviewing more than 200 people in and out of government. Eighteen citizen appointees have worked hundreds of hours preparing reports on three specific questions, which are published separately. This is the final report by Councilmembers Compton, Drago, and Licata to the Council.*



## INTRODUCTION

Disturbances surrounding the 1999 World Trade Organization (WTO) conference in Seattle shook public confidence in the city's ability to maintain order and protect the rights to speak and assemble, injured the city and its reputation, and resulted in property damage, loss of business, civil rights violations, and lawsuits. While demonstrations were overwhelmingly lawful, some members of the public attempted to disrupt the conference to prevent others from speaking, which contradicted Seattle's long-standing devotion to open and vigorous expression. It is vital that public officials, police, demonstrators, and those who broke the law, be held accountable for their separate roles in an unfortunate episode in the city's history.

We find that city government failed its citizens through careless and naïve planning, poor communication of its plans and procedures, confused and indecisive police leadership, and imposition of civil emergency measures in questionable ways. As authorities lost control of the streets they resorted to methods that sometimes compromised the civil rights of citizens and often provoked further disturbance. Some private sector organizations, including the Seattle Host Organization, contributed to the city's difficulties by issuing or implying promises to bear costs – promises which were not kept – leaving the city with a crushing \$9 million bill.

Demonstrators, bystanders and police were injured during the disturbances. The residue of anger and mistrust in relations between police and many community members are the WTO's dangerous legacy.

During the WTO conference, legitimate protest activity by thousands on Seattle's streets<sup>1</sup> became tangled with criminal acts of property destruction, vandalism, and assaults on police officers<sup>2</sup> by a few persons in ways that may never be unraveled to everyone's satisfaction.

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<sup>1</sup> ARC Panel 3, in its final report, page 4, has this analysis of the "numbers" issue:

"...the number of demonstrators who engaged in property crimes or acts of violence was a very small fraction of the entire group. Police estimates put that figure at no more than a few hundred; the ACLU and National Lawyers' Guild estimate is several dozen. The number of incidents, their geographical dispersion and contemporaneous press accounts lead us to conclude the police estimate is more accurate. Even that figure, however, is well under one percent of the total number of demonstrators. But the events which occurred illustrated how, when mingled among a crowd of many thousands, a few hundred individuals determined to engage in serious criminal acts can have a considerable adverse effect on police and demonstrators alike."

<sup>2</sup> Use of Physical Force Report, Lt. K.C. Conder, 99-986016 WTO, has a catalogue from the police perspective of the violent acts directed at officers under his command. It conveys vividly the harrowing experience of some officers. For a sharply contrasting viewpoint, see interviews with National Lawyers Guild observers who told Councilmember Compton that they saw few if any acts that they considered provocative on part of demonstrators.

There were no winners. The events of November 30 to December 3, 1999 were damaging to interests of all organizations, groups, and governments involved, from labor<sup>3</sup> and environmentalists to the foreign envoys who came to conduct trade talks. Substantive complaints about the WTO and its policies were drowned out by press coverage of disturbances. From Dec. 1<sup>st</sup> to the 3<sup>rd</sup>, the imposition of a “limited curfew” – poorly designed and unevenly enforced – further limited the expression of legitimate protest.

It is not the intent of this report to absolve protesters, demonstrators, police, or others from responsibility, but seek to unravel the decisions leading to the WTO invitation, the planning errors, and missteps of execution by the city and its agencies that turned our streets to seeming war zones.

The WTO ARC members want to honor the role of demonstrators who attempted to block or discourage violence, and honor those who returned to help the city with cleanup.<sup>4</sup> The city values the constructive motives of labor and environmental groups trying to engage in a frank dialogue about the activities of the World Trade Organization.

If the goal was to clear the streets without inflicting death or widespread serious injury, police operations succeeded. But police operations must also have as their goal the protection of lawful speech and assembly, and should convey a perception of even-handed commitment to protecting demonstrators as well as the larger public. Seattle used tear gas and other less-lethal technologies when large-scale arrests (which were expected by many demonstrators) would better have served the goal of restoring order.

Rank and file officers were put in perilous situations where, often cut off from communication, they were expected to endure physical assaults and taunts for long periods without food, rest, restrooms, or water. The committee thankfully endorses the performance of those officers who underwent unnecessary hardship and were the victims of poor planning and leadership in the field.<sup>5</sup>

Members of the public, including demonstrators, were victims of ill-conceived and sometimes pointless police actions to “clear the streets”. Police response, particularly on Capitol Hill, was sometimes out of proportion to the threats faced. Our inquiry found troubling examples of seemingly gratuitous assaults on citizens, including use of less-lethal weapons like tear gas, pepper gas, rubber bullets, and “beanbag guns,” by officers who seemed motivated more by anger or fear than professional law enforcement.

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<sup>3</sup> Ron Judd, May 4 Interview with ARC Panel 2, underlines how presence of anarchists and others damaging property undermined labor’s message.

<sup>4</sup> “Protesters returned downtown to scrub graffiti off the walls of Nike and Starbucks..” *The Stranger*, Dec. 9-15, 1999. “Some protesters stood in front of NikeTown windows to keep others from breaking them.” *Seattle PI*, Dec. 2, 1999.

<sup>5</sup> Calibrepress websight, a chatroom publishing contributions from officers, has extensive observations about the way WTO was experienced by individual officers. See [www.calibrepress.com](http://www.calibrepress.com) and ARC files.

In the document chartering this committee's inquiry, we declared it beyond our scope to examine individual allegations of civil liberties violations. Nevertheless, it became clear in our months of inquiry that Seattle was not sufficiently mindful, in the invitation, planning and operations surrounding the WTO, of the need to create an environment protecting the rights to speech and assembly.

It would be reckless to assert that there was any intention to infringe on individual civil liberties. Nevertheless, several city activities had the effect of abridging those constitutional guarantees. Initially, poor planning sent a woefully inadequate police force on to the streets. Police were unable to perform their implied promise to arrest those doing acts of civil disobedience. Once overwhelmed, police resorted to chemical irritants that impinged equally on law-abiding demonstrators and bystanders, and did not substantially deter the law-breakers they were intended to disperse.

In the chaos on the streets, police did not adhere to their own policy of requiring officers to wear nametags and to identify themselves verbally when requested. Many citizens can legitimately claim they had no way to hold officers accountable.

Additionally, police were not sufficiently clear with warnings to disperse, indication of their intention to use gas, and indication of escape routes. Much of the residue of resentment we found comes from a feeling that demonstrators were attacked without warning or cause.

The declaration of a limited curfew, while it might have met legal scrutiny on paper, resulted in actions that were explicitly intended to limit protest. Thus, poor communication and execution turned a legitimate strategy into a series of actions by police that impinged on a citizen's right of expression.

While this study did not focus on the processing of prisoners, or conditions in county facilities, it appears the arrest, booking, and jail processing plans were seriously flawed, resulting in the dropping of hundreds of charges. We hope County authorities will eventually speak to this additional accountability issue.

## THE ISSUES

*Because there are so many challenging and controversial issues that confronted the committee, we offer the following findings on those questions we consider to have been the central questions facing ARC and the community:*

### **The Invitation to Host the WTO**

It was natural and proper that Seattle, a city heavily dependent on foreign commerce, would seek to host a major international conference on trade. But the process of inviting the WTO was haphazard and careless, and relied too heavily on non-government groups to negotiate decisions of vital interest to the city.

The World Trade Organization ministerial conference was formally invited to Seattle in a bid letter by a private non-profit, the Washington Council on International Trade. Mayor Schell, King County Executive Ron Sims, Governor Gary Locke, and members of the Congressional delegation encouraged this bid. State laws prevent the city, county, or state from hosting events like the Goodwill Games, APEC, the Olympics, or WTO.

Nevertheless, nothing prevented the Mayor, Council, or other authorities from demanding detailed explanation of the demands that would be put on local resources. At the time of the bid, Seattle police were not consulted about security costs.

The WTO invitation differed from the process used for the proposed Olympic bid because the Olympic Committee requires a specific resolution of support from cities submitting applications. Thus, the City Council conducted a public dialogue about the costs and benefits of hosting the Olympics, and decided not to support the invitation. Such public dialogue was conspicuously missing before the WTO invitation issued.

It is impossible, based on the documents available, to state unequivocally that any group exceeded its mandate in representing the city. But the experience points to the heavy reliance the city puts on non-profit organizations to represent its interests, the need for oversight of such contacts, and the woeful absence of any city policy regarding the hosting of events of the scale of WTO.

It is evident, too, that rigorous monitoring of future invitations must continue up to the day the event begins. The escalating estimates for WTO security costs were ignored, through carelessness or design, by the Mayor's Office and the Office of Intergovernmental Relations, and the City Council failed to monitor cost estimates as they changed.

## **Responsibility of the Mayor**

Mayor Schell advanced the interests of the business and international trade community with more energy than he protected the interests of the city and its taxpayers. His enthusiasm for WTO was not tempered by careful consideration of costs and consequences for the city itself, and his staff did not exercise due financial or legal diligence in protecting Seattle's interests.

The Mayor's office has advanced the explanation that it mistakenly relied on police planning and judgment, and was effectively "blindsided" by the disturbances. It argues that the Seattle Intelligence Ordinance seriously hampered the ability of authorities to anticipate the goal of demonstrators to disrupt the conference, or the potential scale of disruption. The Executive has acknowledged that it became evident in the summer and fall of 1999 that the WTO would demand substantially greater resources than originally calculated, but has been unable to explain why that concern was not communicated to the Council.

Careful review of briefings by the Executive and requests for factual and policy updates show the Mayor's office never answered Council requests for memoranda of agreement that would assign in advance responsibility for security and security cost overruns. In the council briefings of March 29, 1999, Councilmember Martha Choe made an explicit request to the Executive that a clear memorandum of understanding (MOU) be forwarded and passed by council that would clarify the financial responsibility for the WTO Ministerial. Said Choe, in part, "Let me make clear that I think all MOUs should come to the Council to be passed as a resolution, whether with the federal government, the host organization, or the trade rep., to be clear about our priorities."<sup>6</sup>

ARC finds that when cost predictions began to mount, the Mayor should have demanded a bond or assurance of payment from the Seattle Host Organization. The committee finds little explanation or justification for the Executive's lack of oversight and leadership.<sup>7</sup>

## **Responsibility of the City Council**

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<sup>6</sup> Clifford Traisman of the Office of Intergovernment Relations acknowledged the request during that meeting. But Traisman told the ARC Planning and Preparations Panel (Panel Two) on 26 June, 2000, "(we)...never implemented the suggestion of Councilmember Choe. It was during a briefing of the City Council, and we never acted on it." Traisman testified in the same session with Panel Two that the Mayor's office was aware fundraising was proceeding poorly, "During the spring and summer it (the WTO) became increasingly more controversial. ... In the international trade community it was becoming less clear what the mission and what the goals were of the meeting.... So I think it became harder to get companies to write that check."

<sup>7</sup> In one particularly revealing exchange, Panel 2 member Angela Toussaint asked OIR Director Clifford Traisman why, when cost projections soared, the Mayor did not alert the Council, or consider cancelling the conference. Traisman said that was never mentioned or considered. See Traisman ARC Interview of June 26, 2000.

The City Council, although briefed periodically about the approaching WTO Conference, failed to demand energetically details of planning and cost projections, and contributed to the atmosphere of indifference as WTO approached. It failed to duplicate the earlier Council's model performance in getting concrete assurances that City expenses incurred during the Goodwill Games in 1990 would be covered. Councilmembers interviewed by ARC could offer little detail about Council briefings or oversight during 1999, beyond recalling that the conference was "sold as another APEC." If the Council had given WTO the same fiscal scrutiny it gave the Olympics proposal, the WTO would probably not have been welcomed to Seattle.

Although the Council asked the right questions during early planning briefings by police and the Executive<sup>8</sup>, the Council neglected to follow up on its requests for budgets and memoranda of understanding to clarify who would bear security costs. Some Council members issued personal invitations to "come and demonstrate," which we find an appropriate expression of political opinion. What was inappropriate was for the Council to turn over policy and responsibility for the conference to the Executive and assume it would turn out all right. The Council failed in its oversight responsibility.

## **Planning**

Planning for the WTO was driven by political and cost considerations that undermined the city's ability to cope with the disorders that ensued. The planning model used was ultimately inappropriate to the event because it divided hosting and security considerations between public and private agencies with inadequate coordination.

Because the Council had recently rejected the Olympics, largely on cost grounds, we believe the Mayor de-emphasized the potential risks and costs of the WTO, rather than risk a Council veto of the gathering. Cost information and memoranda spelling out the costs of the WTO sought by the Council were never provided.

Driven by cost concerns, planners decided not to make firm requests for mutual aid from other police agencies, choosing to wait until an actual public safety emergency existed. Starting in May, there was an exchange of letters between the Seattle Police Department, the Seattle Mayor, and local law enforcement agencies. In those letters, the Seattle Executive communicated the City's intent to use mutual aid only in emergency, and thus was able to hold down cost projections.

Cost projections were not substantially updated as security concerns worsened. The Executive apparently sought to achieve a "philosophical" goal of minimizing police presence and

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<sup>8</sup> See Footnote 7 above, for Council requests for specific information that were unanswered.

facilitating “robust but lawful protest.” Community leaders, including Ron Judd of the King County Labor Council, alerted the city to the growing numbers of protesters that were expected.<sup>9</sup> Looking ahead from the early fall of 1999, it was easy to anticipate that the main tactic would be to shut down all entrances to the convention center, and then disrupt movements at venue hotels and key intersections, but police brass did not anticipate these actions.

Assistant Chief Ed Joiner, who oversaw planning, has “fallen on his sword” for the deficiencies of police preparations, but failed to explain convincingly why he and his boss, the Chief of Police, seemingly ignored information available from dozens of official and unofficial sources that a major confrontation could loom in Seattle. Police did *not* prepare for the worst case, which is an axiom of public safety operations. Ironically, there was study of some “catastrophic” disruptions, including attacks on water supplies, bridges, and other infrastructure, and use of weapons of mass destruction. Had those cases materialized, the city would have been in truly catastrophic difficulty. Police documents belatedly released to the committee during July 2000 show a backstage atmosphere of concern if not panic as the event grew close.<sup>10</sup> A police officer told colleagues in a chat-room conversation, “The department was warned by everyone and their Mom. The beat cops knew what was going to happen.”<sup>11</sup>

### **Absence of the Chief of Police from planning and operations**

Some outside reports have noted (and in the McCarthy Report, harshly criticized<sup>12</sup>) the absence of the Chief of Police from planning and operations. Delegating completely the planning to an assistant chief seems to symbolize the lack of importance given WTO planning by the Mayor’s Office. Stamper’s continuing absence from all his duties was widely noted in weeks preceding the conference, a time when his concern or leadership might have energized the flawed preparations. We note this as a failure of oversight by the Mayor, who should have been asking tough question – and updating the Council – as clouds appeared over the planning process.

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<sup>9</sup> Judd, May 4 interview with ARC Panel 2, page 5, says that he warned Mayors Office that demonstrators would probably number 35 to 50 thousand, rather than the 20 thousand originally foreseen.

<sup>10</sup> Joiner, Ed and Clifford Traisman, 10/25/99-10/26/99, Series of e-mail responses “Re: Fwd: Monday Briefings Request.”

<sup>11</sup> (redacted name) Calibre Press Street Survival newswire, 2/15/2000, page 4 of 11.

<sup>12</sup> R.M. McCarthy & Associates, 7/2000, “An Independent Review of the World Trade Organization Conference Disruptions in Seattle, Washington November 29 – December 3, 1999.”

## **Violence against officers and against demonstrators**

It is disingenuous to assert that demonstrations were always peaceful, or simply “boisterous,” just as it would be naïve to assert that police did not exceed their mandate in some cases.

In some downtown locations police were violently barraged with ball bearings (“pachinko” balls), rocks and bottles, squirted with urine, etc. If television captured vividly the gas and flash-grenades, it did not show that protesters were firing metallic objects at police.<sup>13</sup> As Panel 3 has pointed out, “police officers on the front lines had no basis for confidence that the violence would stop with rocks and bottles.”<sup>14</sup>

The Accountability Review Committee recorded equally troubling reports of police violence against demonstrators and bystanders, that went beyond any legitimate law enforcement purpose. On Capitol Hill, in particular, videotape recorded inexplicable use of pepper spray and other less-lethal methods against residents on the street and in cars. Our investigator found that few of the offenses were committed by mutual aid forces from other agencies.

If democracy is to be robust and vigorous in our streets, we must all express our abhorrence for any action intended to cause injury to police, demonstrators, or bystanders.<sup>15</sup>

## **The Decision Not to Arrest, and the Decision to Use Less-Lethal Force**

Planning and decision-making leading to the WTO conference were predicated on the understanding that the department would not only arrest those who committed criminal acts of violence or vandalism, but would also arrest those who consciously committed acts of civil disobedience. Indeed, many demonstrators believed that they could expect arrest for actions they viewed as symbolic protest like blocking streets, etc.<sup>16</sup> That plan could not be achieved,

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<sup>13</sup> “Seattle Police Department After Action Report World Trade Organization Ministerial Conference, Seattle Washington November 29 – December 3, 1999,” 4/4/2000, p. 42.

<sup>14</sup> One of the first uses of chemical irritants was by protesters, against police, according to a “draft report” given the local chapter of the National Lawyers Guild.

<sup>15</sup> Prior to the WTO there was a rumor among SPD that an FBI report had concluded that as many as five local police would be killed during the conference. The Stranger, Nov. 25, 1999. The Combined Chronological Log compiled by ARC is filled with reports of bomb threats and calls reporting explosives and guns would be employed. There were also calls reporting gun shots and reports of Molotov cocktails, none of which ARC has been able to substantiate.

<sup>16</sup> SPD Captain Jim Pugel in his Draft After-Action Report (p.3) says he met with (redacted name) of Ruckus society on Sunday November 28<sup>th</sup>. “Ruckus was intent on facilitating between 500 and 1,500 civil disobedience arrests”...For Tuesday, Nov. 30, 1999,” Pugel makes clear that he met again and warned (name redacted) that “because of the behavior of various persons and groups on Monday,... we would be unable to facilitate arrest while insuring security of the areas around convention center...” etc.

however, because police numbers were completely inadequate to the challenge. Faced with what they perceived as the necessity to clear intersections, and unable to execute mass arrests, police turned to tear gas and other less-lethal methods.

The Accountability Review Committee finds that the Executive, in an effort to save money and appear welcoming to lawful demonstrators, seriously short-changed the police by denying them the numbers necessary to clear the street by *arresting* demonstrators. Limiting the size of police forces worked against, not in favor of, robust speech. The resort to tear gas was an expedient that increased the trouble. It is one of the ironies of the WTO that had more forces been available from the start, mass arrests would have eliminated the need for gas or other technologies, which were themselves provocative.

### **Notice to Disperse**

Police reports are full of accounts that official “disperse” notices or warnings were issued. In one contentious encounter near Broadway and Pine, the SPD commander reports that commands to disperse were issued five times. But reports of legal observers, while confirming that notice was made say police notices were often garbled or unintelligible. What emerged from our inquiry was that police rules and expectations should have been published and communicated more clearly in advance. Warnings during disturbances must state, “you may be targeted with pepper spray or rubber bullets”, rather than citing municipal ordinances.

The community deserves a vigorous dialogue on the future use of tear gas and other substances. Police facing encounters like those on Capitol Hill should ensure that escape routes are available, and communicate that clearly. If less-lethal technology is to be employed, that must be communicated clearly to those whose actions it is meant to influence.<sup>17</sup>

### **The Events on Capitol Hill**

Two chaotic nights on Capitol Hill presented a daunting challenge to the ARC to interpret, and in the end there may never be agreement on the facts. But it is evident that under-staffed and often exhausted police made questionable strategic and tactical judgments, which created serious questions for the committee about the protection of civil rights. The unintended consequence of police actions on Capitol Hill was to bring sleepy residents out of their homes and mobilize them as “resistors.”

When police enforcing the emergency order on Tuesday night drove protestors across the I-5 freeway into the neighborhoods of Capitol Hill, they had fulfilled their mandate under the

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<sup>17</sup> Eastlake Community activist Chris Lehman made this point eloquently in testimony to the City Council at Seattle Center, on Dec 14, 1999.

civil emergency to enforce a curfew in prescribed areas. The decision to “pursue” was allegedly based on the conviction of a field commander that protestors should not be allowed to hold “high ground” from which police could be pelted with rocks or bottles (reports differ about the seriousness of this threat). The result of the decision to effectively expand the curfew zone by marching east was to mobilize residents against the police. Protestors found supporters among Capitol Hill residents and bystanders galvanized by police action.

On Wednesday, police were understandably worried that there would be an assault on the East Precinct Station at 12<sup>th</sup> and Pine, as it had previously been the target of attacks and vandalism. But when officers reported a car trapped by a crowd at 12<sup>th</sup> and Broadway, the attempt to “rescue” stranded officers acquired a life of its own. The level of panic among police is evident from radio communication and from their inflated crowd estimates, which exceed the numbers shown on news videotapes. ARC investigators found the rumors of “Molotov cocktails” and sale of flammables from a supermarket had no basis in fact. But, rumors were important in contributing to the police sense of being besieged and in considerable danger.

Demonstrators and residents, for their part, had the right to assemble on the sidewalk. Eyewitnesses confirm that there was some level of provocation against police by individuals. Nevertheless, it may have been wiser just to let citizens stand in the rain rather than force dispersal with gas and other means.<sup>18</sup> ARC finds that the Seattle Police Department’s doctrine for management of situations like this is not well developed, and a policy should be articulated clearly after dialogue with the community that spells out expectations of all involved.

### **The Seattle Intelligence Ordinance**

The 1979 Seattle Intelligence Ordinance, which bans the collection of political information on citizens, has been blamed for handicapping police intelligence gathering in advance of WTO. The Accountability Review Committee finds this unconvincing, as virtually all the information necessary was available from public sources. Although there is some limited evidence that other jurisdictions withheld information, the benefits of the ordinance in creating public confidence in policing outweigh the problems. Although Panel Three found the law unnecessarily long and complex, and urged that it be revisited by the Council, ARC recommends no change in the ordinance.

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<sup>18</sup> Panel Three, page 38, is particularly useful in discussing the wisdom of simply disengaging from a crowd, and going home.

## **The SPD Culture of Secrecy**

The committee was disturbed at the slow and evasive production of records and documents by police commanders during our inquiry. Our investigators and citizen panels had constant difficulty getting information. Panel Three observed that “whether due to poor internal management and disorganization, or deliberate efforts to withhold documents, neither explanation promotes confidence in the senior leadership of the department.” This points to the need to change the sometimes secretive and defensive culture of the SPD.<sup>19</sup>

## **Use of Mutual Aid Resources**

Seattle Police Department commanders could have requested in advance that backup resources be made available from neighboring jurisdictions, but might have been obligated to pay for the services. But this go-it-alone strategy had catastrophic results when WTO troubles began. A number of promising strategies were rejected, among them scheduling National Guard exercises close to Seattle to make federal forces available on short notice. Budget staff were aware that expanded security needs could not be met by increasing overtime hours; a finite police contingent could only be expanded with more officers.

ARC finds that the desire to contain rising budget projections led the Executive to deprive police of vital resources.

## **Training in Riot Control**

Training was inadequate and haphazard. Training across jurisdictions was not coordinated. Rules of engagement were confusing and not clearly conveyed to all agencies involved. This means that some officers were sent into the field with no riot briefing or training whatsoever, and although a majority of mutual aid forces behaved responsibly, there were striking examples of abuse captured on videotape by the media.

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<sup>19</sup> The June 30<sup>th</sup> meeting of ARC asked Acting Chief Johnson and Chief of Staff Clark Kimmerer to explain the failure to produce documents on an inventory supplied by the committee. The Committee was told that many of the documents... in particular the scenarios for “table top exercises”... simply did not exist. On July 5, 6, and 7, SPD produced approximately 2,000 pages of documents that had been withheld, with no covering letter or explanation. Many of the documents have proved important.

## **The McCarthy Report**

The \$98,000 report commissioned by Seattle Mayor Schell to evaluate police performance is a crude and unsatisfactory review of what happened in the field. ARC was troubled that no one outside law enforcement or official sources was interviewed, and no attempt made to evaluate the dynamics of field operations except from police sources.<sup>20</sup>

The McCarthy report takes the curious and paradoxical position that the Seattle Intelligence ordinance seriously hampered police planning, and then says in the next finding that every warning needed about the potential for disruption was available from public sources. It argues unconvincingly that police operations “maintained the constitutionally protected rights of freedom of assembly and speech.”<sup>21</sup>

The report is flawed by its focus on police errors, by neglecting to conduct outreach beyond the walls of law enforcement, and by glossing over the central issues of civilian leadership or oversight.

## **Role of the Fire Department**

Fire personnel have appropriately emphasized their role as a rescue and aid service, as opposed to a law enforcement or social control agency. Seattle Fire Department policy stated explicitly in November 1998 that it would not provide aid in “controlling or dispersing mob type civil disobedience with apparatus, hose lines, or other equipment.” Additionally, it declined to be involved in using its rescue equipment to separate or free demonstrators who had chained themselves to each other or to fixed objects.

Nevertheless, there were urgent appeals from police officials to provide assistance with “demonstrator separation,” and attempts to persuade the fire department to spray protestors or flood streets.<sup>22</sup>

The interagency tension was outlined by McCarthy, who described the refusal of fire commanders to provide equipment requested by police following an order by the Executive, and the action of a Seattle Fire Department battalion chief who issued a citation to police about

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<sup>20</sup> We attempted to trace one quote given prominence in the McCarthy Report suggesting that Seattle had been targeted by protestors to force police to create a restrictive level of security. That quote was apparently hearsay from a single police source, which when published looked dangerously like manufacturing quotes to make a point.

<sup>21</sup> McCarthy, Page 23

<sup>22</sup> Police and the Mayor’s staff state they only wanted to “mist down” protestors. And ARC found no evidence that police sought to use fire houses directly against protestors.

an improper exit sign in the midst of a crisis situation at the jail.<sup>23</sup> The recitals in McCarthy hint at a serious inability of the Executive to demand cooperation and respect between departments, and the ability of “rogue commanders” to undermine Mayoral policy. McCarthy’s recommendation that police and fire “discuss respective roles and levels of assistance during future major events” understates the seriousness of interdepartmental rivalries and refusal to cooperate.

### **Police Identification and Badge Numbers**

No thinking person believes that police should do their work without a means to identify them. Unidentified officers may be emboldened by anonymity, and are not accountable to the public. Although the wearing of nametags is SPD policy, the record is full of incidents where officers, intentionally or not, covered their numbers with ponchos or rain gear.

More troubling, the ACLU study and Councilmember Compton’s interviews are full of examples where officers, when asked, declined to identify themselves. If official policy had been observed during WTO, no action would be required, but identification must be worn when it counts most: during civil emergencies and during actions for which police may be later criticized. For this reason, ARC recommends that the Council move quickly to strengthen policies requiring the wearing of identification.

### **The Limited Curfew was a No Protest Zone**

The city declared a “limited curfew” zone downtown, and defended its constitutionality in federal court. The declaration signed by the Mayor did not restrict what could be done in the area, and the city created a website explaining that protest activity *was allowed*.

But the curfew, in its application, became something quite different, and troubling. Although we could find no specific documents supporting the action, officers in the field were briefed with instructions that there would be no protests allowed. Captain Jim Pugel, in his after action report, said that on the morning of December 1, 1999, “I was told there could be no protests in the restricted area”.<sup>24</sup>

ARC finds that the Council must examine the promulgation, approval, and execution of such emergency orders to ensure that they meet constitutional scrutiny and are properly enforced.

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<sup>23</sup> McCarthy, page 53

<sup>24</sup> A bizarre application of these instructions came when Seattle attorney, Harold Green, displayed to officers a business card on which he had written “I protest”. He was told he was subject to arrest, and confronted by officers in riot gear who told him to leave. See *ACLU v City of Seattle, Declaration of Harold H. Green* in support of motion for temporary restraining order. Dec.1, 1999.

## CONCLUSIONS

One of the most treasured resources of a city is the trust and confidence of citizens that public safety will be secured by consistent, even-handed, and decisive policing. For large modern urban police departments, already beleaguered by the new challenges of mental illness, homelessness, domestic violence, and other pathologies of big city life, international meetings present new tests of how ingeniously they can keep order and protect human and civil rights.

Because Seattle ignored events in London and Geneva, this city became the laboratory for how American cities will address mass protests. In many ways, it became a vivid demonstration of what *not* to do.

The city must draw a bright line between what constitutes legitimate, constitutionally-protected activity, and what behavior is unlawful and subject to citation, arrest, or incarceration. There is a dangerous tendency among some demonstrators to view all forms of disruption as protected speech, and a similar tendency among some in the public to view noisy or inconvenient demonstrations as “crossing the line”. Seattle must be a city where the rights to assemble and speak – even if speech is noisy, and sometimes inconveniences others – are rigorously defended. But Seattle will be a city where everyone recognizes that vandalism, attacks on police, and acts deemed to threaten public safety, will be firmly sanctioned. It is clear to the committee that demonstrators who sought arrest – in order to underline their statements of principle – should have been accommodated by police. Tear gas is a cruel implement to use against persons trying to make deeply-felt statements against what they view as injustice.

The committee condemns all activity (as the ACLU of Washington commendably said in its review of WTO ) that seeks to deny anyone – including delegates – the right to speak and assemble. We must emphatically draw a line in this community against any behavior intended to cause personal injury. Disruption, although an American tradition well-honored in Seattle history, is not protected by the U.S. Constitution when it denies others the right to speak or assemble. The city must put in place policies, ordinances, and work plans that assure the disorders of the WTO never occur again, and that ensure no one fears their rights will be abridged in Seattle.