



PROCURA DELLA REPUBBLICA
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MEMORIA ILLUSTRATIVA PER LA RICOSTRUZIONE DEI FATTI DI
CUI ALLA RICHIESTA DI RINVIO A GIUDIZIO NEL PROCEDIMENTO NEI
CONFRONTI DI LUPERI GIOVANNI +28
[EXPLANATORY REPORT RECONSTRUCTING EVENTS FOR THE
INDICTMENT REQUEST FOR LUPERI GIOVANNI & 28 OTHERS]



Prelude to a nightmare.

1. Introduction

The arrests made by police after the raid on the Diaz School failed, almost entirely, to stand up to initial judicial scrutiny - even though this is required to do no more than check the formal legality and reasonableness of the report, with no evaluation of the evidence's consistency with the crime denounced by investigative police. [] The explanations given by the various magistrates, who agreed that the arrests were illegal, highlight that the criminal behaviour described in the reports passed to the AG could not be ascribed to the individuals arrested. The magistrates also pointed to the generic wording of the crime and the existence of nothing more than circumstantial evidence, as shown in the reports. It is worth noting that, instead, individuals who were in the school either by chance or entirely legitimately were deprived of their liberty.

By the time the magistrates understood the situation and freed those unjustly imprisoned, it was already clear that the versions provided during follow-up questioning had also to be taken into consideration. Many of these accounts were made more powerful as they came from people who were clearly still injured, some of whom still in hospital. These versions told an unequivocal tale of violence inflicted upon defenceless individuals. The glaring contradiction between the account in the police report and the alternative version pieced together from the stories told by those arrested led the magistrates to formulate a charge on the basis of their questioning. This charge marked the start of the present proceedings.

The earliest investigative records, as will be clarified further on, resoundingly contradicted the majority of circumstances described in the arrest report (and the additional reports attached) regarding the resistance of those in the school to police. At the same time, the powerful evidence of the videos and photos provided

by journalists clearly disproved the official version. In fact, the institutions continued to deny that the high number of injuries had anything to do with police conduct during the arrests carried on the night of 22 July 2001.

The magistrates' initial conclusions seemed to indicate that a disturbing yet simple answer lay at the heart of this operational debacle carried out so publicly: "the police must have lied". As the criminal investigation progressed and incontrovertible evidence was gathered, this theory became increasingly likely.

With the end of the confidentiality surrounding the reasons for the indictment and in order to facilitate comprehension of the trial records - particularly in relation to the documentary evidence supplementing that of witnesses - the following will lay out the reasons for the embarking on the criminal action, which make a trial necessary in order to verify the charges formulated against the accused.

The arrest report of 22 July 2001 sets out the circumstances that led to the decision to search the Diaz School, in accordance with Article 41 of TULPS, how the search was carried out and the outcome of the operation; these were considered as evidence on which to base the charges of those arrested; all the occupants of the building were arrested and charged after being allegedly "caught in the act" of conspiring to commit destruction and looting, as well as the illegal possession of fighting weapons and resisting a public official.

Following an incident a few hours previously in which a police patrol in front of the school building was attacked and showered "with dangerous objects from numerous individuals, very probably part of the Tute Nere", the report laid down the premise that the school building was being used as a "refuge for extremists" within that group. It then went on to describe the development of the raid and the search that followed, highlighting the following key stages:

a) the clear opposition of those within the building to the arrival of the police, trying to prevent the latter from entering by closing the gate and the entrance door, which was then barricaded;

b) the violent response that followed, with "a dense hail of all kinds of objects" aimed at the agents that were about to gain access to the school's entrance hall;

c) the further violent reaction of those present, who, "once the agents were inside, sought to resist by engaging in scuffles with the police and then spreading out throughout the different floors of the building, so as to be able to set up various kinds of ambush" (this was the context in which the attack on agent Massimo Nucera was carried out);

d) the discovery, during the search, of numerous objects considered material or pertinent evidence; the precise ownership of these, however, could not be ascribed to individual occupants of the building due to the fact that "during the agitated period when the agents were entering and the scuffles took place... [the occupants] threw their backpacks in every direction";

e) the material seized (including, significantly, impromptu weapons, items of black clothing, handwritten documents, two Molotov cocktails) was proof that the building had been vital in "providing the necessary logistical support and making the planned conspiracy to commit crimes easier to implement, carried out through crimes of destruction and looting" and that it "was being used for the strategic planning and material creation, by all those present in the building, of tools to be used against the police", of which the Molotov cocktails were a clear example.

Similar circumstances, with the same emphasis and the same formulation, were described in the crime report, which is further supported and analytically referred

to in the four other attached reports, as follows: the search report (which only described the objects found in detail, while failing to mention how and where they were found, apart from - significantly - the two Molotov cocktails); the report by Vincenzo Canterini, Commander of the 7th unit of the Rome Flying Squad Division (in particular, referring to the active resistance of those in the building to agents entering, and the violent scuffles, including the use of home-made weapons such as crossbars and sticks); the reports of Agent Nucera and Inspector Panzieri regarding an attack on the agent by an unknown individual armed with a knife.

All the events now appear to be the result of clear manipulation, meaning the Judicial Authority was presented with a description of the operation and its results based on non-existent data; in other words, constructed to deceive. The elements gathered were used as a body of evidence on which to base the arrest of those in the Diaz School. The arrest should consequently be considered an illegal act, at the centre of the criminal conduct charged in this court. The number of arrests (93 people) - perhaps unique and certainly exceptional in the history of cases against those caught "in the act" of committing a crime - the size and calibre of the force deployed, and the unusual context of the operation - both in terms of the interests pursued and the sensitive conditions and issues of public order - all combine to make the Diaz Operation particularly significant, which, in itself accounts for the public officials' decision to embark on illegal behaviour.

The investigations carried out by this office have reconstructed the more general context, in which all aspects of this operation may be evaluated; an operation that, uniquely and tragically, occurred in the final days of the so-called G8 summit in Genoa, which was marked by criminal acts and public order disturbances, as had happened on similar occasions in various foreign cities (Seattle, Gothenburg, Nice, Montreal, Prague). Analysis of this context cannot be omitted, not least as an essential element in the event on which the charges against the defendants were based, sometimes at the request of the defendants themselves, in terms of

reasoning and as a responding allegation in their defence. However, the analysis does not claim to be comprehensive and any conclusions drawn should be understood to clearly and exclusively relate to the elements of most immediate importance in terms of the charges forming the accusation.

2. The lead-up to the operation. The attack on the patrol in Via Battisti

These last considerations lead into an analysis of the reasons, the preparation and the organization of the so-called Diaz operation.

The official version in the provided in the records passed to the Judicial Authority and confirmed, or at least not denied, by leading officers and those involved, including the defendants in these proceedings, is still that the decision to search the school was triggered by an attack on a patrol crossing Via Cesare Battisti in front of the two buildings in the Diaz complex. The episode in question, fundamental to statements in the arrest report, is the only prior incident that could logically form the basis of investigative reasoning that weapons were in the building. This conclusion was the only one able to legally justify an emergency operation decided upon autonomously by the investigative police in accordance with measures laid down in TULPS Article 41.

Several aspects stand out when looking at the records and the statements made. Firstly, the apparently disproportionate size of such a substantial, costly and risky police operation compared to such a "small" incident (Small if compared with the serious destruction and looting carried out by demonstrators the previous day, but clearly still reprehensible and requiring action). Secondly, the vagueness of the reconstruction, which contains numerous contradictions, gaps and inaccuracies that distinguish police statements from those of the victims.

In regards to the first question, the explanation might simply be that the initiative was considered useful for wider investigative purposes. If so, however, not only

are these purposes not explained, they are instead roundly denied. The initiative is undoubtedly consistent with police instructions and planning in a broader context, leaving out, therefore, the patrol in this instance.

In regards to the second head, the substantial failure of the operation in terms of costs and benefit - even ignoring the alleged conduct of the defendants, in other words, their immediate self-propaganda - can be viewed as an element that would result in an overemphasis on the [patrol] incident in order to provide more solid justification for the raid, precisely because its most important aspects were so disappointing.

The records state that the attack on the patrol led by Di Bernardini took place at 22:30. Several other statements, starting with that of Genoa's then police chief Colucci, followed and referred to this hour, which was originally specified in Di Bernardini's own report, before being used in various other reports and finally being incorporated into the arrest report.

This detail was clearly wrong. Other statements, which tally with the records of phones used by the various officials, showed that the episode took place shortly after 21:00 on 21 July 2001. This means there is no need to go back over the numerous incongruencies and differences between the various statements, which have, anyway, already been the subject of discussion and consideration in the parliamentary committee hearings ()

The inaccuracy of the time is the first, and not insignificant, element showing the extreme difficulty of trying to reconstruct what happened, and even that remains shrouded in complete uncertainty. This is evidenced not only by the perpetuated inaccuracy in successive word-of-mouth accounts of what happened - which are, perhaps understandably, bound to be confused - but also in the accounts of those who were directly involved. The situation is reinforced by the difficulty in identifying who this latter category were and, overall, the patrol in its entirety - even though

there was plenty of time for these individuals to be identified, pointed out and urged to come forward to help cast light on events during the course of these investigations.

There appears to be no explanation for the mistaken hour, put forward by the most superior officer involved, Di Bernardini. However, in the scenario [developed by this document], it might have been intended to fuel a sense of emergency - the only way to justify an independent operation under TULPS Art. 41.

This conclusion is strengthened by the documents attached to the arrest report (the crime report; Massimo Nucera's report; the search report; the report by Canterini), all of which point to 23:30 as the time the search started. Given the police reconstruction of events and taking into account the practical time needed to overcome "the resistance of the occupiers" and to "immobilize the numerous people present" (a direct quote from the search report), no more than 45-60 minutes could have passed between the attack on the patrol led by Di Bernardini and the police entry into the Diaz School.

The step-by-step reconstruction of the episode contains even more inexplicable contradictions and in this sense anticipated the records that would be presented to the Judicial Authority, in that it contained substantial falsification.

Di Bernardini's service report states that his unit, comprising four marked police vehicles, was travelling to Via Trento when, at 10:30pm on 21 July 2001, it was forced to slow down in front of the Diaz school building as the road was filled with cars moving at walking pace. Di Bernardini stated that at the time he noticed that "institute and the neighbouring sidewalks were filled with a large group of people, around 200". He described these as "clearly" (sic.) belonging to "groups of protestors that had previously been involved in clashes with police". He said many had been wearing black-coloured clothes, similar to those worn that afternoon

and in previous days by those responsible for numerous acts of violence and looting during the protest demonstrations. Due to the reduced width of the roadway, he continued, the four police vehicles came into close contact with onlookers. Realizing the small number of vehicles, said Di Bernardini, the onlookers "began throwing a dense hail of objects and stones at the contingent, trying to attack the cars." He said he could clearly hear shouting of "there's only four of them, there's only four of them". According to the official, the patrol switched on its sirens and moved away swiftly, "still under the hail of dangerous objects."

The crime report described the episode in the same terms. "A group of over 200 people belonging to the violent section [of demonstrators] was standing in standing of the school," said the report. "When the police vehicles passed by the youths, they began hurling objects at the contingent, trying to attack the cars."

However, the situation was described differently by Di Bernardini during his first interrogation. () The service report represented the event as an aggressive attack by a large group of people, literally hurling stones at the police contingent. But in the interrogation, the attack appeared to be little more than underlying hostility from a crowd, whose intimidatory manner and implied threat - rather than any actual action - led the patrol to move on quickly. He described the attempted attack and hail of dangerous objects in very different terms from his report, less and less as though he had experienced what happened personally; so much so, in fact, that, when the differences were pointed out, Di Bernardini explained that the circumstances described could have been the result of what had been told by others. On this instance, as on every other occasion during the investigation, the defendants and police officials questioned failed to answer requests regarding the original source of such claims. These [hearsay] statements were included in the official records sent to the Judicial Authority and,

from what can be understood, were previously used by the patrol chief in his explanations to higher officers following the unit's sudden return to the police station. Although Di Bernardini was repeatedly asked for clarification during successive interrogations and informed of the contradictory elements that were gradually emerging, it was only near the end that he managed to specify that the target of the "dangerous objects" had been the Flying Squad Division agents in charge of the Magnum-type armoured vehicle at the end of the patrol.

Several members of the patrol were identified, including those travelling in the aforementioned armoured vehicle. Their statements contained numerous discrepancies, both with each others' statements and with those of Di Bernardini.

In short, there are contradictions between all the elements comprising the episode, whose description appears to have been livened up by armed attacks with clubs, kicks and punches to the vehicles and the inevitable "hail" of large stones. There is also "objective" evidence, a crack in the reinforced glass of one of the vehicles and dents in the door (). It is pointless asking for more details from officers who were supposedly subjected to these attacks first hand ().

It seems astonishing that such an important detail was neither reported to the patrol chief nor included in the latter's own notes, even after the event. Even more astounding, no mention was made of it at the police station later, when reports and explanations were being given to superior officers and the police chief regarding the seriousness of the attack ()

During the investigation, the development of the event was mapped out in stages, an event that was witnessed by dozens of people. Statements from non-police witnesses describe a situation of open hostility and confrontation as the patrol was passing, with shouts and insults hurled at the police. This hostility was aggravated by the police decision to speed up and use sirens, despite the traffic

problems, which was seen as provocative. On the most basic level, this version tallies with that of Di Bernardini during his first interrogation, including mention of a bottle or perhaps another item being thrown at the vehicles. But that is where the similarity ends ().

Despite the differences in description, one key element supplied by the patrol chief and substantially confirmed by other statements is that the entire episode described was over in less than a minute.

This latter consideration leads to the conclusion that what happened in front of the Diaz school complex, in the general context of the dramatic G8 period, was an pretext on which to base what had become a concretely practicable aim, above all in terms of a political opportunity: a mass search in the centres organizing opposition to the G8 summit.

This objective, certainly no coincidence, can be arrived at through an analysis of the circumstances at the time, as well as through the concrete evidence of criminal political instructions, drawn up and issued during the final days of the G8 summit. The substantial shift in police policies towards markedly more repressive action, starting from 21 July 2001, is difficult to disprove, as will be shown. In fact, it is no coincidence that statements by Deputy Police Chief Ansoino Andreassi made during a preliminary stage of the investigations, seem to be widely supported ().

Statements from top state police officials instead frequently show a kind of embarrassment, that while not resulting in any admissions, has led some to hypothesize the existence of these objectives and the consequential operating policies, even though these individuals are themselves in the administration's

discretionary circles and, in this sense, never themselves came under scrutiny in the course of the present investigation.

However, certain denials seem more persuasive than agreement, which is trying to be avoided. Some even sought to suggest that the search had been decided on without any knowledge that it would affect, directly or indirectly, the office and operations centre of the Genoa Social Forum (GSF). The focus on the attack episode as basically the only substantial element providing the legal justification for the search, in accordance with TULPS Art 41 (allowed for the sole purpose of finding weapons), as well as for subsequent investigative conjectures that the building was being used as a hideout for a large number of people that had committed crimes, is clearly lacking in logic. This is particularly the case if one considers how the search was carried out, in other words, with the sole focus on searching for evidence, which is outside the purpose of emergency searches as established by TULPS Art 41.

The majority claim, that the building was searched with the sole purpose of identifying those responsible and that it was targeted merely because the attackers were presumably staying there, cannot be seriously sustained. Nor can the precautionary search by the head of the Genoa Digos (whose only justification was the presence of numerous people dressed in black drinking bottles of beer, some of whom stationed in a nearby piazza as "lookouts") be considered enough to fill in the apparent holes in the investigative reasoning. Reports to the police force concerning the presence of the more violent groups, particularly the Black Bloc, are of an entirely different nature; these requests for intervention were not, however, the deciding factor in the requested preventative and repressive actions and especially the requested searches ().

While not wishing to give support to rumours reported by some witnesses regarding information on a large police operation, such as that effectively carried out in Diaz, it's difficult to deny that the latter appears to be an operational decision that was anything but coincidental. Instead, it seemed to be the logical development and implementation of an order that considered that night the right moment to carry out a highly risky tactical-military and political-social initiative. As such, it is difficult to accept the official description of the operation as an impromptu decision [].

Statements by top police officials seem to indicate that none of them was aware that the search was being carried out in the very complex being used as the GSF headquarters. But each of the statements received on this topic show, probably for different reasons, an underlying vagueness - unless one takes the alarming view that they actually did know.

It is obvious that the search, at least as it was intended, was not meant to affect the building being used as the GSF's administrative offices. But nor can it be denied that the fact the buildings were next door to one another makes this distinction a pure formality. Apart from an effective order to also search the GSF office, which is also the subject of specific charges in the current proceedings, the need to also carry out checks in these places as well in this occasion cannot have been entirely outside the operation's purposes. It's clear from the earliest statements by the Genoa Digos chief at the time, Mortola, that the situation and its sensitivity were well understood. This was particularly the case in regards to the possibility that the planned operation highlighted not only the fact that the two buildings were next door to one another but also the "nearness" of various members of protest movement with fringes of the violent sections. []

The decision to identify objectives, pursue them or to adopt different intervention plans is not under question. What must instead be highlighted is that the

decision-making level, the consistency and the nature of the objectives and interests involved are elements that are vital in understanding the origin of the defendants' deviant behaviour, which forms the subject of these charges. At this stage of the analysis, it is enough to recall a number of resulting factors.

First and foremost, the belief among the top police officials in Genoa regarding the importance and need for the operation. In this regard, it should first be underlined that - given the absence, or at least the objective lack of any evidence of preliminary investigation - this assessment decisively reflects general political and administrative considerations, such as the opportunity or need for the intervention, linked to the need to draw attention to the problems in managing public order in the previous days. In view of these premises, the significance of the operation becomes strongly charged with expectations and inextricably linked to the results. In certain aspects, the operation was experienced and presented as a kind of dramatic, final redemption.

Secondly, the deployment of forces was entirely proportional to the complexity and strategic significance of the operation. The large number of top officials present, even if not formally tasked with operational support, fits into this context. The insurance offered by the presence of the official spokesman, press officer Sgalla, is another unmistakable indication of the importance placed on the search in terms of strategy.

Finally, the operation. Despite its complexity and, above all, given that it was geared towards achieving results for investigative police, the extreme tactic of an emergency search was resorted to, without preliminary judicial approval. This element further highlights the lack of investigative evidence in police possession at the time. The time taken and available for the occasion should have instead allowed (and perhaps required) a more complete briefing of the Judicial Authority

for the adoption of formal measures. This is particularly the case given the constant presence of an on-hand magistrate solely for G8-connected purposes.

As later represented to the Judicial Authority, it was the results of the search itself that eventually allowed police to carry out the mass arrest of 93 people. Overall, the result could not objectively be considered a success, with an important series of aims achieved. The expectation was fully met and the human costs of the operation were antiseptically omitted from the records.

3. The police arrival on the premises

The elements included in the arrest report, which formed the basis of charges against those arrested, stand out at all levels, from the overall plan to the details. As anticipated, the first large section of suspicious circumstances relates to the reaction that greeted the police when they arrived on the site. This led to a formulation of the search as requiring a violent entry in order to overcome the expected reaction - or to use police jargon, to "secure" the site.

The arrest report of the 93 occupants described all of them as putting up resistance: by barricading themselves in the building, closing the gate, blocking the entry door from within, throwing dangerous objects at the police to stop them entering and finally, by resisting the police physically, some with weapons, and engaging in scuffles when they entered. Sworn statements on public record enjoy a privileged status and can immediately be used to evaluate charges against those arrested, but can also be the subject of future testimony.

If the behaviour of each person weren't clear, then the investigative police's report entry, forming the basis of the arrest report in accordance with Art 348 of the criminal procedure code, attached to the arrest act, makes it so unequivocally. It describes organized, widespread and consistent resistance from a uniform group

of people, bound by criminal association, driving the police to respond "with a force proportional to the intensity of the offence, as this was the only way to overcome the active resistance and violence of the lawless individuals". The final search could therefore be carried out "once the disturbances had been calmed" (see Page 3 of the crime report).

The testimony in regards to this does not correspond to the actual development of events, on the basis of an accurate reconstruction of what happened, as is clear both from witness statements and objective evidence, most of which made up of film footage. The difference between the official picture of the occupants' alleged resistance and what actually happened is so enormous that it cannot seriously be attributed to a misplaced emphasis or a merely strained interpretation of something that actually occurred, which would have justified the adoption of precautionary measures by the investigative police. Returning to the analysis previously indicated regarding the attack on the patrol, the disconcerting contrast between the various statements gathered on the issue springs to attention.

First of all, the statements make it easy to reconstruct how the police approached the place where the operation was carried out. Vehicles were left in Piazza Merani or nearby and the first array of men, led by Mortola, entered Via Battisti. Although police and witness statements highlighted different elements, they seem to agree that most of this first contingent came from the Flying Squad Division, the only one equipped with antiriot suits, helmets and batons. Some had shields. Their approach caused immediate alarm, as it was clear that this type of force planned to engage in a repressive operation. There was so much concern that many people in the area, most of whom staying in the Diaz school buildings, rushed inside [the buildings]. () Several officials, including Mortola and Ferri reported that once the police entered Via Battisti and could be seen from the complex, a group of people (estimates vary - between 10 and 20) in front of the

Diaz Pertini School rushed inside, perhaps alerted by the cries and shouts of warning. Some of them chained shut the external iron gate leading into the courtyard.

Shortly after, when the police were still gathered outside the gate and trying to force it open, the main entrance door to the building was closed. Images linked to this report, filmed from the building opposite the Diaz - Pascoli school and documenting the first arrival of the police (Frames 6, 7 and 8), speak volumes. Within the school building, according to witness statements, a small group of people caught up in the air of general panic, tried to barricade the entrance door with furniture, including a bench and other items. The majority of the building's occupants watching on the ground floor disapproved of this action.

It should be underlined that police could only assess what had happened inside the building they were about to search two hours after the event, once they had inspected the premises. Only a small group of people within the building itself actually witnessed what happened. Even more significantly, another group responded to the arrival of the police in exactly the same way, rushing to take refuge inside the Pascoli School, the real GSF quarters. This suggests that the response of occupants stemmed not from their own behaviour but from that of the police. ()

It was during this general chaos, as police prepared to enter the building, after the other side had fled, that one of the episodes of gratuitous and brutal violence took place, the attack on the British journalist Mark Covell.

According to his own dramatic account of what happened, which he repeated several times - with difficulty owing to his serious injuries - he was grabbed by the first police at the gate as he tried to cross the road together with a companion to reach the Pascoli School. Both were attacked by police. While the other youth

managed to reach the building in front by climbing the fence, Covell was instead savagely battered in three successive stages. A film exists of this final stage, fully confirming his story. However, the beating was also accurately described by witnesses looking out the window of the school opposite. () Several sequences have been extracted from the film confirming the time, place and the gratuitousness of the attack. Numerous agents were involved in the attack, which was carried out in the impassive presence of others (Frames 27-46). The resolute nature of the blows by numerous police officers, as Covell had already been attacked and was lying on the ground helpless, bleeding and suffering from serious injuries, led the Public Prosecutor's Office to describe the behaviour as attempted homicide in separate proceedings against unknown aggressors (from the description, presumably members of the Flying Squad Division in the first stage, and, afterwards, judging by the film, from members of other flying squad units or Digos).

At the time the attack on Covell was carried out he was not resisting - a single man surrounded by an army of police officers on Via Battisti - and nor was there any resistance from others. According to police, the active resistance, when objects were thrown, took place during a later period, once the gate had been broken down. Despite this, no matter how grotesque it may seem, Covell was also arrested together with other occupants of the Diaz School.

It must also be underlined that those officers, whose presence at the site has already been testified to, were unable to give any details about what happened (). Nor did the police reports contain any mention of the episode in question or the circumstances under which the arrest was carried out.

The account of various witnesses and the unmistakable scenes shown in the scenes, show that the police's arrival on the site marked the start of a situation in which every rule of law appears to have been suspended. Leaving to one side the

use of gratuitous violence that appears to have been a constant element in the operation, it's as though the police carried out - and thought they were entitled to do so - a search of the entire neighbourhood.

During this same stage, immediately before they broke into the building, films show someone being violently knocked to the ground by a group of police officers, in front of Luperi and Mortola. The person was not resisting or rather, was unable to resist. At the very most, under these circumstances, the police were entitled to do nothing more than ask to check the person's ID (see Frames 1-5).

The films also show force being used by the police on people who were knocked to the ground or struck with batons. They had the simple [misfortune] of being in the road at the time the police arrived. Three people moving away from the Pascoli School ran into several police officers who searched and handcuffed them, and put them facedown on the ground (). They were deprived of their freedom for several hours before, without any reason, being released. One of them was taken to the Bolzaneto barracks. A similar fate awaited several foreigners. The filmed evidence clearly supports witness descriptions. Several attached frames show the various stages of these "arrests". Particular note should be paid to sequences 88, 89 and 90: the first shows a person knocked to the ground in front of a bald official in a brown suit and light shirt a few meters from the Diaz-Pertini gate; the second shows a person in a headlock on Via Battisti being led by a police officer towards Piazza Merani and Mobile Squad Division vehicle (and later being dragged by the same means); the third shows a group of other people, handcuffed and on their knees, near a few police vehicles.

There are no legal norms authorizing the kind of behaviour described or any operations to "secure" a building, as the arbitrary search operation was euphemistically described, under such conditions.

At this point, the entire version provided in the arrest report and the records sent to the Judicial Authority appear to collapse. These records unequivocally describe a growing resistance as the police approached aimed at preventing them from carrying out the operation. It was portrayed as a collective action with a certain level of organization and basic tactics on the part of those within the building. According to the reports, after barricading the door, the occupants spread out through the various levels of the building, armed themselves, and greeted the first wave of police with a hail of stones and other objects. Later, they met the police armed with objects they had found to hand, (sticks, wooden spades, bars, metal objects; crime report and Canterini's report).

However, the violence on the part of police can be verified. This was carried out with no other purpose than to achieve a goal decided in advance: that of "putting an end to it all", shown both by their behaviour as well as by what they actually said (reported by various victims testifying to what happened).

The police had not yet entered the building and there were already incidents of absolutely unnecessary and disturbing violence, completely out of all proportion to the situation (the attack on Covell is emblematic of this), as well as illegal arrests.

4. The resistance of the Diaz School occupants. The "hail" of objects

The arrest report and its attachments describe how the police amassed in front of the Diaz Pertini school gate managed to break into the courtyard, breaking down the gate by ramming it with a vehicle. They were immediately greeted by "a heavy hail of objects of every kind" (according to the crime report, stones and other objects as well as glass bottles [Canterini's report]). This hail of objects was fundamental to the charges of resistance brought against those arrested, allegedly "leading agents to the total conviction that young demonstrators inside

the building had every kind of weapon". It appears as though the event never occurred.

This conclusion is arrived at through a series of tallying and divergent elements, including the statements by the defendants, those arrested and eye witnesses present in the building opposite the school, as well as from the film.

The material was already considered at length by the courts during the charges brought against the protestors and dismissed on 12 May 2003. The court concluded there had been no such attack. However, other evidence should be considered here, that either wasn't available, hadn't been provided or wasn't admissible at the time of the other trial, including statements by the defendants and the films.

The police statements are utterly contradictory on whether and how many objects were hurled. These statements also contradict the arrest report. The contradictions are extreme.

All the defendants admitted there was no "heavy hail" of objects as described in the arrest report. The hearing allowed them to "clarify" that they had inferred the hail, mainly through the noise of breaking windows or the movement of fleeting shadows through the windows. Those that insisted they saw the objects were unable to say with any certainty where in the building they came from.

This is not just a game of semantics or twisting details of an event that actually occurred. It will be shown that the only objective proof that the occupants resisted, which lay at the core of the arrest report, has been undermined. In other words, the fear of a "heavy hail" of dangerous objects was the only evidence of criminal conduct on the part of those arrested.

While it has been shown that a few objects were thrown, this is a fundamental distinction indicating that not all the occupants could be charged, even at an abstract level; at this point some should have automatically been excluded from the charges.

What sweeps away the official version more than the contradictions, illogicality and vagueness over the origin and type of objects, is the video film of the event.

Having seen the film prior to the interrogation, the defendants referred almost exclusively to the recollection of the Flying Squad Division raising their shields, as though attempting to show the truth of [the rest of their] account. This occurred but only briefly in the final stage of the Flying Squad Division entering the building, as they were the only ones with shields.

Even this description of the shields is subjective -given that the film shows nobody throwing things, no objects flying from windows - and serves to undermine the arrest reports' claims that when police entered the courtyard they were greeted by a hail of objects aimed at preventing the officers from approaching the building and its entrance ().

Furthermore, two members of the Flying Squad Division Flying Squad Division who say they were in the front lines, Fournier and Inspector Panzieri, deny that any objects were thrown. The other squad chiefs in the Flying Squad Division, some of whom gave the order to raise the shields, were unable to describe the objects thrown. Their statements seem improbable given that they described a series of different objects (rubble, iron bolts, earth, tiles), all of which were identified through the sound they made when they landed - which also allowed the listener to conclude they'd been thrown from above ().

The hail of objects caused little injury to officers engaged in the operation. Only three reports describe injuries from the objects, all of which in circumstances that are cause for concern.

Atilio Tarallo was hit on his "right wrist by a stone" causing a "sprain as shown in the medical certificate". It is difficult to reconcile the slight nature of the injuries with a blow from a falling stone. Gianluca Salvatori was "hit by a chair hurled from the second floor, fracturing his nasal bone". The lack of details and corroboratory accounts undermine this account but even if it did happen, it was once the police were inside the building and cannot be deemed evidence of attempts to prevent them from entering. Castagna stated that he received a sharp blow to the back of his right hand as he sought to open the main door of the building caused by "a stick thrown from above together with other dangerous objects". The video film and the layout of the door and its surroundings make this very unlikely.

These are the confirmed facts. All the defendants denied there had been a heavy hail of objects as described in the incident report. The versions are so confused, unlikely and contradictory that they cannot, with a minimum of common sense, be considered true. Not a single object was collected from the ground as evidence.

The film shows no dangerous objects on the ground able to back up the version of a "dense hail" at the time of the events, nor were such objects noted on the ground during the inspection the following day (by the Carabinieri of the Northwest Provincial Command on 23 July 2001).

The film shows that at the moment the shields were raised, those men beside them without shields were not being hit by flying objects nor do they appear remotely disturbed. None of the policemen are trying to move or protect

themselves in any way, nor are they looking upwards to where the objects were allegedly being hurled from. The attached images are from no less than three separate films shot at different angles showing the front of the building and the police's entry into the school and courtyard (Frames 46-77, as well as 13-26)

Given the location of the police claiming to have been affected, in front of the building, the only way they could have been hit was if someone had been leaning out of the window. The films show no one in this position (Frames 20-25, 48-52 and 71).

Even if some objects were thrown in resistance, it's illogical that this would have come from those within the building with no means of escaping the police, who far outnumbered them and many of whom were already inside and rapidly taking control of the, using violent methods on the occupants as will be described below. Finally, statements by numerous eyewitnesses from the Pascoli building opposite are conclusive evidence that there was no hail of objects (among others, see statements by Luppichini Manolo on 10.3.03; Galeazzi Lorenzo on 23.6.03; Podobnich Gabriella on 23.6.03; H.Campbell on 19.5.03; Cordano Enrico on 6.8.01; Ema Nik Thomas on 3.6.03; Huth Andreas on 19.10.01). Several of these were shooting the film footage that was later acquired as evidence. Equally convincing was the testimony of those inside the building, whose detailed, consistent and coherent versions can't even be compared with the vagueness, reticence and contradictions infusing the statements of the defendants. This analysis could continue but it's clear there isn't enough evidence to support the claims of a hail of objects.

5. The entry and the armed resistance.

The entire account of events inside the building following the police entry comes from Canterini's report. The level of detail is intended to justify the operation's extremely high human cost; even official figures state that two thirds of the occupants arrested suffered injury, many of whom had to be taken to hospital on a stretcher. However, there is little detail or explanation on how these serious injuries occurred. The report merely focuses on the levels of "resistance and violence" the police encountered and were only able to subdue thanks to their numbers. Canterini's report states that "some of the occupants" (amended to "most of the occupants" in the crime report) tried to organize themselves and arm themselves with rudimentary weapons.

His report goes on to highlight a "scuffle arising from the resistance, which was particularly bloody and confused" once the police entered. Some of the police tried to contain the first floor while others went upstairs where they "met with equal resistance". The only other detail is the episode in which Nucera was stabbed by a man with a knife.

Canterini concludes with the vague statement that he had noticed "numerous and various items on the ground able to cause injury, such as sticks, chain" and even a large "hammer with a long handle"

The lack of detail regarding a scene that already appears unlikely should surely have led those drawing up the official reports to realize there were gaping holes in the reconstruction of what happened.

It's unlikely that occupants, armed as poorly as described, would have engaged in hands-on fighting with such a large number of police equipped with antiriot gear.

This is particularly the case given the difference between the size of the police force and the numbers of occupants. In view of the injuries inflicted on them and the weapons to hand, such as stonebreakers, the occupants would have had to be the wildest attackers imaginable to have forced the police to such extremes in order to "protect their safety".

It's interesting to note the difference between the precise detail regarding the attack on Nucera and the lack of any description on the vicious scuffles in which so many of the occupants were injured.

It's also surprising that the police were unable to identify the alleged attacker of Nucera in the evidence summary, even though he had been wounded and was lying on the ground. The laughable reason was that he was mixed up with all the other occupants being held. This gap is even more serious given that the incident in question was key evidence in the charges brought against all those arrested - even though it was carried out by a single individual in a closed room.

Similar considerations arise over why the individuals responsible for the alleged clashes were not identified. The investigative police's record is not only lacking in these basic yet fundamental details, it doesn't even indicate those agents able to testify to what happened. Symptomatic of all this is also the failure to identify any one of the witnesses afterwards, which inevitably resulted in all charges against those arrested being dismissed for a total lack of evidence.

Even the most superficial comparison of injuries suffered by the police and those arrested (most of which extremely serious) should have surely caused the authors of successive reports pause for reflection.

None of the police was asked or offered to produce evidence of their injuries. They were all treated by police doctors, rendering the value of the medical certificate questionable, particularly compared to the rigorous documentation of the injuries of those arrested. Nor were the injuries compatible with the kind of blows received during scuffles, even less with homemade weapons. They all appeared to have come from occasional blows, sprains and pulls that were presumably accidental.

In part this was admitted by the interested parties. Two of the 17 medical reports, intended to support the claims of resistance, gave no analysis of the injuries. The injuries described could have been caused by something other than the break-in. Another three injuries (Marra, Finocchio and Castagna) occurred during efforts to open the entrance door.

Meanwhile, the injuries sustained by occupants were far more serious and needed hospital treatment. Twenty-eight people had to be kept in for continuing treatment. These were nearly all instances linked to cranial trauma, arm fractures, a clear indication of the levels of violence used on those arrested. It is difficult to ascribe these injuries to deliberate scuffles; instead they seem to have come from attempts at self-protection, when the subject was on the ground and completely harmless.

The high number of injured among those arrested - 62 and three reserved diagnoses - was a clear sign that the situation had gotten far out of hand and should have raised disturbing questions for those in charge.

But questions should first and foremost have been raised by the fact those in charge were there and, as such, were able to inspect the site, hear the screams reproduced in the film, see the blood and many disfigured faces, experience the

bloody horror of the situation, which emerges only from the accounts of those arrested and is inexplicably absent from that of the police.

The police even went so far as to justify the human cost as a predictable and normal development of searches in "particular" circumstances, rather than a blatant sign of degeneration.

The embarrassing official police stance, that the injuries were "pre-existing", deserves little comment. Even the investigative police records admit they were caused during the clashes, showing the difficulty of persisting in an illogical position, lacking in evidence. The actual course of events shows a persistently aggressive and violent attitude by police from the moment they arrived at the school.

Serious flaws began to appear in the police version of events a few days after the operation.

Reports after the events by squad chiefs of the 7th Unit of the Rome Flying Squad Division, the largest group and the first one into the school, immediately began distancing themselves from the subsequent violence, even though they reiterated the hostility of the occupants. Some even said they had witnessed scenes of gratuitous violence against those arrested, carried out by police personnel from other divisions.

Once the Public Prosecutor's Office started its investigation and began questioning Canterini, claims in his own report that had been the basis of the arrests regarding the resistance of the occupants appeared less and less certain (); even before this, Canterini had drawn up another report with a different version of events, in which he described the resistance as exclusively linked to the actions of

unidentified other divisions, which he said had entered the building first. In this respect, his version was in line with that of the squad chiefs.

Fournier went further. He described how, as one of the first in the building, he'd found numerous people with injuries on the first floor, where he said there was a "bloodbath". The violence was blamed on other officers. In Compagnone's report, confirmed in his interrogation, he described agents "beating youths like wild beasts. One of the youths was on the floor in a pool of blood and showed no signs of life".

Details in the victims' statements indicate that the most vicious episodes were carried out by police wearing the uniform of the 7th Unit commanded by Canterini. These details are confirmed in reports and interrogations of that unit's squad chiefs but as though they had merely witnessed an act being carried out by men from other divisions. Officers in charge of the other divisions maintain they are personally not able to testify on anything, as they entered the building after the supposed resistance had already been overcome. However, some did mention that they had had to intervene to calm other police down and to stop episodes of gratuitous violence by the 7th Unit.

It therefore seems clear that the charges in the arrest warrant were not based on a police version of events able to refute the claims of the plaintiffs. But while no one could confirm what was reported in the arrest warrant, nor could anyone indicate a direct source for the claims made, even while admitting that there had openly been an unjustified use of force during the entry. So the inevitable question is how did the official version move from the "bloodbath" (described by Fournier) to the "pre-existing bruises and injuries" of the official communiqué or, as Gratteri saw it, to standard search practices in the case of certain situations.

6. The reconstruction of what happened.

What actually happened was vastly different. Police saw those arrested as all part of a single group, conspiring to commit crime. But the only thing the group shared was their version of what happened. A single, powerful and coherent story was all that linked a 20-year-old American student from Oregon, a reporter with a respected Italian daily, a 63-year-old Spanish lady living in Germany, a Turkish exile granted political asylum in Switzerland, a violinist from Berlin and young people from a variety of places. This detailed account emerged after hours and hours of questioning by Italian and foreign magistrates.

The statements of those arrested were given in conditions that assured their genuineness. Despite the number of those arrested, each one had experienced their own horrors, and from the earliest stages, the statements were given to different magistrates under conditions allowing for no contact or interchanges. Receiving the same version of events from someone in a Genoa hospital and someone else in a Piedmontese jail makes this version particularly powerful. The immediate forced deportation of many of the foreigners, who were accompanied to the borders, prevented most of them from communicating with each other.

Yet in international rogatories their stories all tallied, creating a single picture of what happened inside the Diaz School.

As a procedural point, it should be noted that Italian law lays down strict requirements on how rogatories are carried out. All statements obtained this way were similarly in accordance with rigorous obligations under foreign legislation ().

The precision of the plaintiffs' accounts, combined with the video and photographic evidence, allow for the reconstruction of every inch of the building and the position and behaviour of those arrested at the time and after the door was broken down.

The police entered first by knocking down the main door, as shown in films shot from various angles. The squads of the 7th Unit, gathered in front of the door, are clearly recognizable from their anti-riot uniforms, which has a dark belt instead of the light one normally worn by flying squads, and which includes a matt blue helmet.

The film shows the door being broken down and the first policeman, a member of the 7th Unit judging by his uniform, entering the building. He is forced to climb over a kind of bench barricading the entrance (this was confirmed by the occupants' statements). This is clearly shown by the attached images 14-16 and 54-60. Numerous other officers from the same division follow him in quick succession. The police are greeted with a large entrance hall used as a gym, entirely open and with a clear line of vision. The film shows that the lights were on in the ground floor, as confirmed by the statements of witnesses (Canterini's report claims that "in the meantime, the occupants had evidently turned off the lights").

Around 30 people had bedded down for the night in the room, with their personal belongings, bags and sleeping bags. The noise of the entry, the sound of the glass being smashed by police batons, the blows needed to break down the door, clearly woke and alerted the occupants. Gripped by panic, some sought to flee to the upper floors. Most, having got dressed again, were lying still, waiting. A group of around 10 Spaniards were in the centre of the room, right in front of the entrance, and were the first in sight upon entering. According to their statements, and those of others elsewhere in the hall, they were all on the floor, either kneeling or sitting, arms raised in a sign of complete surrender. Having climbed over the furniture blocking the doorway and several chairs, they made straight for this group and began violently kicking them and beating them with batons.

Other policemen headed for other groups and began kicking and beating them. In a few minutes, the room was full of police that took control, continuing to beat those present (). The description of the police officers' uniforms indicates that those first in the room, responsible for the violence, were members of the 7th Unit. Police from other divisions, in plain clothes or wearing police bibs, entered afterwards, according to occupants on the ground floor. Individual statements, which were clear and detailed, describe violence being carried out by these officers as well. After this, the statements describe the entry of plain-clothes individuals in tie and jacket, apparently in a position of command. According to some statements, agents continued to behave violently or with excessive force even in the presence of these individuals.

There was widespread and complete agreement among the plaintiffs' statements on the fact the police, both in uniform and plain clothes, were screaming insults, threats and put-downs at the occupants during the beating. The phrases were even noticed by foreigners and were described in detail by Italian-speaking individuals present. Some of the insults were even made in English. Threats were also made once the situation had calmed down.

In the space of a few minutes, all the occupants on the ground floor had been reduced to complete helplessness, the groans of the wounded mingling with the sound of calls for an ambulance.

The clear line of vision, the lack of exits and the kind of the people in the room add weight to the theory that the alleged scuffles with occupants armed with impromptu weapons could not have taken place. And in fact, the statements of 7th Unit squad chiefs, who say they were in the ground floor, contain no mention of scuffles with impromptu weapons.

The plaintiffs' statements not only render the police version useless and irrelevant, they also highlight the provocative nature of other versions. The plaintiffs' injuries could only have been inflicted under the conditions described in their statements.

Another section of the police that entered the hall headed for the sides of the building and climbed the stairs leading to the upper level. In the meanwhile, around 50 seconds after the front door had been broken down, a side door to the right of the building was broken in, as clearly shown in the films. Other 7th Unit squads entered here, but this time with personnel from other divisions. A staircase was located at this entrance, so, given the large number of police already on the ground floor, the new entrants naturally went upstairs.

About the same number of occupants were on the first floor as the ground floor, most of whom positioned along the walls of the long, wide corridor from which the rooms led off.

Similar events occurred on this floor as on the lower level, judging from plaintiff statements, which all corresponded. Having heard the screams and noises from downstairs, occupants arrayed themselves along the wall, hands raised in a sign of surrender. Despite the narrow, dimly lit conditions, visibility was still clear here. Statements described the police arrival in precise detail, from the moment they turned into the corridor from the small entrance through to when they started beating the occupants, with determined ferocity, even though many of the occupants were laying on the ground, some in response to police orders. ()

One of the most serious injuries occurred on this floor, that of Melanie Jonasch, who was left lying on the ground unconscious. At this sight, Fournier (shouting "Enough! Enough!") ordered the police to stop every action and to withdraw. This

was also ordered by Canterini, who had arrived on the scene, as well as officials from other divisions and the top-ranking police officials present.

The victim statements leave no margin of doubt regarding police intentions: the manner in which the injuries were inflicted, the determination of the baton blows, the fact that injured people were struck over and over by different officers, the screams, the insults, the obscene mimes (such as simulating coitus in front of bleeding individuals) have no legitimate justification.

Three people were hiding in another room on the first floor, leading off the entry hall before the corridor, but the police, breaking down this door as they did every other door in the building, attacked them with violent blows. They also threw window frames they found at them. Other police arrived, made the occupants get up and go downstairs, where they were struck again. ()

All described the 7th Unit's entry and its use of tonfa batons. Agents from other flying squads and the Digos said they had witnessed scenes of unnecessary and reprehensible violence on the part of 7th Unit.

Witness statements suggest that agents from other divisions supported the 7th Unit in its violent behaviour. The films and all statements concur with sufficient certainty that the 7th Unit was at the front of the operation. (See images 55-60, in which the difference in uniforms is clearly visible). But there were also agents from numerous other divisions flanking them on their entry into the courtyard. While the claim of 7th Unit squad chiefs - that other divisions entered the building before them - is improbable and, furthermore, refuted by the films and numerous plaintiff statements, equally improbable is the claim of other flying squad divisions and the Digos, that they only entered the building once the situation had completely "cooled down". What is certain is that the entire building was occupied by police in around 10-15 minutes. This is to say nothing of further plaintiff

accounts of gratuitous violence by men not wearing the 7th Unit's antiriot gear, which continued during the transport of those arrested.

There was a much smaller number of people on the upper floors. This is mainly because the ground and first floor were being used as dormitories (even though only the ground floor had been allocated for this purpose). It is difficult to pinpoint where episodes took place, [owing to the confusing layout of the building] but the smaller number of statements also make it easier to form a single version of what happened. All those on the upper levels had fled upstairs in fear during the police operation. Some had managed to escape through windows on the first and second floor using scaffolding (the building was being renovated). Many of these gave up and returned to the building, as did some who tried to escape or hide on the roof. However, the overall descriptions remain the same.

Six to eight people on the second floor threw themselves to the ground at the sight of the police but were still attacked. An even smaller group was hiding in cupboards on the top floor. They were discovered, pulled out, viciously beaten and dragged to lower floors. In this context, the police violence appears more substantial, as it was directed against individual groups or isolated people. The episodes inflicted on Lena Zühlke and Martensen Niels, who were hiding in a cupboard on the fourth floor is particularly shocking. ()

While there are some points of agreement between police and plaintiff statements, the former contain contradictions or manifest absurdities that are totally lacking in the latter. The occupants' statements are consistent, coherent and logical.

The number of injuries - 87 in total - indicate a use of force so widespread that it could only have been justified in the face of solid, organized resistance, which,

statements indicate was far from the case, even in Canterini's report and the official version.

Another consideration is how such a high injury tally was possible in an operation carried out by the 7th Unit, a handpicked and specially trained experimental antiriot unit.

Furthermore, some of the occupants revealed they had lost control of their bowels, a detail that hardly appears compatible with an aggressive attitude. Even small details such as this should not be overlooked as they indicate a use of violence expressing furious aggressiveness, revenge and retaliation, as shown by police remarks, reported by the plaintiffs.

Further proof of police violence in the building can be inferred from the attack before the school was entered, as well as the violence, by several divisions, on those who managed to escape the building, which are supported by film evidence.

() In particular, the final stage in the arrest of one of these individuals can be reconstructed. This person was first dragged to Via Battisti, perhaps en route to the school, and then to Piazza Merani, where there were several police vehicles. Here, they were subjected to clear violence as they lay on the ground, already injured, before being loaded onto an ambulance. ()

A number of clear conclusions emerge at this point. The accusations of resistance in the arrest reports and the official records were inconsistent and contradicted each other. The lack of any coherent, single police version, despite prosecutors repeatedly urging those under investigation to reconsider, soon became clear. The defendants merely offloaded the blame onto other, unspecified

individuals, on the basis of whose information false charges were brought against those arrested, as shown by the investigative police reports and records.

In over three years of investigation, not a single one of the 150 police officers reportedly present has provided precise information regarding an individual episode of resistance, the circumstances in which the injuries were inflicted on those present, or even details on how the police came to be wounded. Nor has it been possible to obtain a full list of the police who participated in the operation. Attempts to identify individual policemen of whom photographs and films exist have encountered marked difficulties and even outright obstruction. ()

Secondly, attempts to offload responsibility for violent actions onto police in other divisions inevitably creates problems.

The vast majority of plaintiff statements, perhaps all of them, indicated the attackers as those in riot gear, in other words, Canterini's unit.

Plaintiff descriptions of the police entering are significant and reliable but they become less precise once the occupants were being subjected to blows and violence, curled up in defensive positions, hands up to protect their heads. It's understandable that they would be too scared to look at their aggressors and therefore be unable to describe the uniforms being worn with any accuracy.

Plaintiff statements say the violence continued, occurring in "waves" during the different stages of the operation and on different floors. There is unanimous agreement that men from the flying squads and the Digos were present during the later bouts of violence, sometimes inflicted on those already injured, including while the occupants were being taken down to the ground floor. Several statements describe particularly brutal attacks by these other categories of police, either in plain clothes or wearing a vest with "Polizia" on it.

The use of tonfa batons and the dark colour of the belts being worn were further evidence of men belonging to the antiriot squad.

It is clear that agents from every division were present, even before the full search, before the identification or removal of the wounded, in other words, during the first wave of violence.

The contradictions, the plaintiffs' statements and the films utterly refute the claims of the 7th Unit squad chiefs and commander that other operators materially dealt with the occupants and were responsible for the gratuitous acts of violence.

Equally improbable are claims by plain-clothes operatives (flying squads and Digos) that they only arrived on the scene after the 7th Unit had already subdued the situation. This will be discussed in more detail below.

The violence outside the building can only be attributed to police not in the 7th Unit, as the latter was exclusively engaged in breaking into the building. Furthermore, the violence outside was carried out by police officers with different uniforms and equipment. Filmed evidence shows that police wearing white belts, ie flying squad officers that weren't part of the 7th Unit, were part of the [first] wave entering the building.

Several of the numerous police officers amassed in front of the building had shiny blue helmets, rather than matt blue, ie non-7th Unit flying squad police. Other films show them running along corridors on the upper levels of the building, distinguishable by their white belts. In later stages, as the wounded and arrested were being removed, other flying squad agents are shown entering the building.

However, by this point, they were engaged in their division's legitimate duties of maintaining security outside and around the building.

No matter how likely the claims of 7th Unit squad chiefs and commanders that other non-7th Unit officers were present, there is no conclusive proof that they made up a large or dominant number of those present when the violence was being inflicted on the occupants. Instead, the vast majority, judging also by the statements of the occupants, appear to have been 7th Unit officers.

But as indicated, it was impossible to acquire data on individuals or small groups involved due to the holes and vagueness in official versions.

7. Nucera, the jacket, the knife and the unknown attacker

The alleged attack on Massimo Nucera of the 7th Unit is particularly significant as it is the only individual incident of alleged resistance that was documented and reported, mentioned not only in the agent's own report but also referred to in all the others, eventually making its way into Canterini's report, the arrest report and the crime report.

Even though the unknown aggressor (who had to be among the 93 arrested) was responsible for an extreme act - attempted murder - he was not subjected to the same violence widely attested to so far. He was not even injured, making him one of the very few to escape completely unharmed. The concern raised by this conclusion, in light of the analysis so far, results in a series of uncertainties that emerge at every stage in the account of this single attack, which therefore merits more independent consideration, as it led to the specific charges now brought against Nucera and Panzieri.

The attack was described by the agent for the first time in his own report dated 22 July 2001. In this he states that, accompanied by Panzieri and other colleagues from the same squad, he entered a dark hall on the second floor of the building. Here he was met by an individual, yelling, holding a knife in his right hand, which he held to Nucera's throat. Nucera hit his upper body with a tonfa baton, causing him to step back. But this attack did not stop the aggressor from stabbing the agent in the chest, while simultaneously managing to leap backwards.

Panzieri and other colleagues of Nucera intervened to stop the individual at this point, carrying him out of the room. Shortly afterwards, the agent found the knife used by the aggressor and took it. It was only later that Nucera said he realized he'd been stabbed. He said he was on his way downstairs to the ground level when he noticed his jacket and protective vest had been cut. These items had two holes, one around 7-8 centimetres, the other about a centimetre smaller.

It's now too late to identify the attacker, "lost" among the large number of individuals on the ground floor.

The details of this first report of 22 July 2001 were confirmed during later summaries to the public prosecutor in August and December 2001. On the latter occasion, the agent suggested that the holes in the protective vest might be the entry and exit point of the knife, while still maintaining that the aggressor had fallen to the ground after being dealt a blow to his chest.

In his own duty report, Panzieri was unable to add any further details, merely noting that there had been a "scuffle" that other squad members had intervened to stop.

But even if the two reports had been able to support one another, remarks made by Panzieri during an interrogation of 24 July 2003, contain various contradictory elements that cast further uncertainty on the attack.

In this, he said that only one other agent had been present, but he was not a member of the 7th Unit and his identity was unknown.

Furthermore, the inspector was unable or unwilling to recall anything else about the episode, apart from having broken down the door together with Nucera. Instead, he appears to have moved away, almost fleeing, at the very moment that Nucera was facing a figure with a raised arm. So it appears that Nucera was the sole source of information provided by Panzieri. In fact, under questioning, Panzieri even suggested that Nucera had fallen to the ground after being struck by the attacker, a detail that was swiftly corrected after the defence team spoke up. In the end, Panzieri left Nucera to support his entire story alone.

As pointed out, it has been impossible to identify with any certainty a single one of Nucera or Panzieri's colleagues who witnessed the episode. Even squad chief Compagnone, whom Nucera answered to, was unable to explain how his agent wandered off on this individual adventure, given that neither he, nor any members of his squad saw him. He even said that his team had not been operating on the second floor, where the alleged attack took place.

On 9 January 2002, the public prosecutor's office tasked the Parma Carabinieri's technical division with examining the holes in the clothes. They immediately discovered contradictions between the version described by agents and the holes in the vest, both in terms of the number of rips (more than two) as well as regarding the placement of the holes on the vest compared to those on the jacket.

Furthermore, it's difficult to see how an attacker who was shorter than Nucera, and reeling backward from the blow he'd been given, perhaps doubled over, managed to deal even a single blow to Nucera, who was part of a unit chosen for its athletic abilities that had received top-level training - to say nothing of the fact that he was on maximum alert in a dark room at that moment. Even more incredible, given the circumstances, is the fact they managed to "lose" him, and the fact that it took Nucera as long to realize he had been stabbed as his account suggests, or that the others didn't notice.

At the first notification that he was under investigation for falsifying a public document and making a false accusation, in June 2002, Nucera availed himself of the right not to respond. His defence later asked that the preliminary investigations magistrate be allowed to re-enact the scene but this request was refused for various reasons, including the fact that a lack of evidence made it impossible to reconstruct the event for which the re-enactment was being requested.

On 10 July 2002, Nucera was again interrogated. Now aware that his original story wouldn't hold up, he largely changed his description of what happened. In the new account he specified that: a) the attacker was around two meters away when he encountered him in a dark room; b) he was met by an individual that was yelling and was holding an object in his outstretched right hand; c) that he struck the attacker in the chest with the tonfa baton at the height of his sternum; d) that in the same instant, he realized he himself had been struck in the lower part of his upper body; e) that he saw the attacker back away, knocked off balance by the blow received; f) that he was struck a second time by the attacker, who, as he fell, sought to grab hold of him with his left hand but without managing that, stabbed him again, with an upwards blow; g) that he stepped over the body on

the floor, while his colleagues, a step behind him, immobilized the attacker and dragged him away; h) that he only realized he had been struck when he saw the rips in his uniform and vest, not having realized the seriousness of the episode at the time (like the rest of his colleagues).

An expert re-enactment was then carried out to check for matches or contradictions with Nucera's story. This involved tests that the Parma technical experts had not carried out to avoid the necessary modification to the evidence (in particular, the dismantling of the protective vest).

The re-enactment sought compatibility between the rips on the jacket and vest and the descriptions given by Nucera, both the original and the modified version.

Tasking Professor Torre with this job, the preliminary investigations magistrate took into account Nucera's latest version, which, together with the film of a mimed representation of what happened during the interrogation and other reports, were handed over in a bid to find answers to the incompatibility.

The description of the rips was substantially the same as the conclusions reached by the Parma Carabinieri. The first assessments reveal that the rips on the jacket and the vest don't line up and were made at different angles. The one in the protective vest was made at a 45-degree angle (to the vertical) and is on the central line of the vest, while the rip on the jacket is slightly to the left-hand side of the wearer and at a 104-degree angle.

The expert concluded that the rips were incompatible with Nucera's first version but might be compatible with the second.

Nevertheless, the lack of compatibility with the first version - which was recounted consistently and precisely on three separate occasions - remains and is perhaps strengthened. It was only after Nucera learned of several marks on the vest that

could have been made by knife blows and that this evidence could be used against him, that he changed his story, making it as similar as possible to that of the first experts' conclusions. He suddenly revealed details of a "second blow" that had gone unmentioned before, described and mimed as a "broad sweeping movement" by the attacker's arm. Yet the second blow involved contact of mere seconds, barely time to notice he had been touched.

The expert's arguments to explain the similarities are not convincing. He provides almost no explanations for the fundamental contradictions. The final result is a kind of paradoxical conclusion, which fails to provide a convincing and solid reconstruction of the attack, even taking the second version into account. In fact, the description is not compatible with such limited and fleeting contact as described by the agent. It is only the expert's need to find a connection that leads him to hypothesize just two blows of any real impact despite the three distinct thrusts and three signs of tears. Particularly unconvincing is the suggestion that the second blow was so pronounced that it caused two marks to the vest, one of which cutting deepest, despite the fact that the attacker was falling to the ground at the time. It is not credible if compared to the material description that the defendant provided, which would undoubtedly have been felt as more than a glancing blow lasting a fraction of a second, as he claimed in the October interrogation.

In reality, the expert's opinions are so forced that even another possible interpretation of events throws all his conclusions into question (such as that of the expert witness Algostino), forcing the expert to ask for a further extension to better evaluate the marks. Despite the fact that his report of the re-enactment concluded that blows were compatible with marks on the vest and jacket, as well as with the Nucera's second description, the elements used to reach this conclusion were based on questionable premises. His final description did not tally with Nucera's, as it was overly complex and detailed, such as the twist of the

blade and wrist of the alleged attacker, lacking in the simplicity that would have made it understandable and convincing.

Also unresolved is the question why Nucera, having felt one blow, didn't feel the other smaller ones inflicted.

The presence of three thrusts and various tears contradict with the first blow and the instantaneous contact that occurred as the attacker was falling and Nucera stepped over him. But above all, there is the problem of the first version, which was reiterated over a period of time, and which remains absolutely incompatible with the reconstruction.

There must be increasing suspicion over the origin of the second version, which was more convincing but still full of the same holes as the first version, merely including an extra blow that, if possible, was more fleeting and faster than the first, yet which was meant to have caused the most serious and visible rips. For these reasons, as well as others that will be explained, the experts' conclusions are not only not convincing, they actually highlight the evidence against the defendants.

8. The search

With the building "secured", the search began, even while some of the occupants were still being brought to the ground floor.

The investigative police records, which should have described how the operation was carried out, contained not a single, precise detail regarding how the objects had been found. The only exception was the Molotov cocktails. All the other items were merely listed, with a note that they had been found during the search, even though the arrest report and the crime report imply that they were material evidence for potential charges. The objects included several small knives, black items of clothing, objects and work tools that might have been considered impromptu weapons, cameras, mobile phones, notebooks and various annotated papers. None of the possessions could be specifically linked to any of the individuals arrested with the exception of two knives and some papers belonging to Szabo Jonas, described in the arrest report as "a key figure" in a criminal association, whose members were among those arrested. A backpack, a travel bag and its contents, which contained documents with someone's name, were also traced but the individual was not among those arrested.

Filled with gaping holes, the report neither identified who they belonged to nor described the circumstances in which they were found, which might have led to an identification. It's perhaps even more significant that the report does not suggest any agent was in charge of the search nor are the finds attributed to any named officer.

Meanwhile, it appears as though the objects belonging to Szabo, the only identified owner of some of the objects, belonged to someone else. Szabo was not even captured inside the building and he has partly disclaimed ownership of the items. He said his baggage was actually in the Pascoli School, which was arbitrarily searched, rather than in the Diaz Pertini School.

Meanwhile, handwritten documents belonging to the same individual, considered crucial evidence, were handed to Genoa Digos chief Mortola by unidentified "Flying

Squad agents", which had discovered them under unknown circumstances and in an unknown place.

An element should be highlighted that show those who wrote the investigative police report were aware of the anomalies evidenced so far. The arrest report suggests that "during the turbulent entry and scuffles, the youths intentionally sought to throw their bags in all directions, to make it impossible to attribute criminal responsibility after the discovery and seizure of any weapons". Yet the only ones who could have reported the occupants behaving in this manner were the defendants that entered the building first - yet they did not do so.

The report also notes that "at the moment of entry, various parts of the structure and the furniture showed clear signs of damage". No further explanation is given but the witness statements and the photographic and descriptive material suggest that police violence during the break in must be as much to blame for the damage to the building as to the injury to people. The doors, which were all broken down, should be included in this category, as should the computers, whose screens were literally smashed to pieces by blunt objects. Numerous occupant statements describe hearing the sound of the computers being smashed as police passed along the small corridor area where they were installed. None of the occupants were there and this area was not visible from where the occupants were at the time of the police's arrival. There can be no other rational, alternative explanation except that the police were responsible for the destruction, as would be in keeping with actions carried out in the rest of the school.

Numerous statements concur that the search of the building and the occupants' personal effects was carried out carelessly and with no attention to who the items belonged to. Instead there was a frenzied hunt for evidence (not only of weapons)

that would justify the search under TULPS Art 41. In other words, they wanted to discover the "hiding place" of those responsible for the destruction in Genoa. There were not enough elements to provisionally formulate a crime hypotheses, so these were created artificially.

The search can be reconstructed from statements by the plaintiff, some of the defendants, as well as filmed evidence from various stages of the operation.

Police brought all the occupants and any items found to the ground floor. Here, occupants were made to stand along the back wall, while the police - mostly plain-clothes officers wearing police vests - collected all the bags and backpacks and emptied them and tossed them in a pile in the centre of the room, as shown by the film.

This makes the police report, blaming the inability to identify items on the occupants' behaviour (claiming that they hurled stuff everywhere after the police entered to prevent identification) even harder to understand. Rather than being forced to gather items indiscriminately, film evidence shows the police rifling through bags, which probably contained forms of identification, pulling out clothing and other items and dropping them on to the heap.

The absolutely uniform disregard for standard procedural rules or even basic common sense in regards to searching, suggests that the methods and objectives of the search had been agreed in advance, and were, furthermore, being directed and controlled by the officials in charge who were present.

Even if black items of clothing can be considered "uniforms" there was not enough black clothing found to have dressed all 93 "soldiers". Nor is it possible to establish whether these clothes belonged to different people or were a change of

"uniform" for the same individual. This deliberately confused picture meant the clothing's owners could not be identified, which would have allowed others to have been excluded from charges of criminal association (of which the clothes were considered evidence).

Other statements are even more symptomatic of a desire to collect nonexistent evidence no matter what the cost.

Among other objects, the search report mentions "six hand-hammers of curved aluminum". Slim, flat, curved bars of aluminum are used as backpack frames but in the report they become "hand-hammers", whose seizure implies they were being used against police armed with tonfa batons.

Several plaintiff statements recounted that the police had been seen removing such frames from backpacks during the course of the search.

However, the occupants' injuries, fear and concern, both for themselves and others, combined with the fact that many had been ordered not to look up as they were being taken downstairs, prevented them seeing details of the chaotic and irrational search. Furthermore, the more seriously injured were being taken away and medical and paramedic staff were working at the time, trying to organize the removal of the injured.

While there were fewer direct witnesses, as most occupants had been taken downstairs, the search was carried out along similar lines as that of the ground floor. Filming through the windows showed the police chaotically hunting through piles of rucksacks, while black clothing was separated from the rest and hurled onto a separate pile.

Special mention must be made of the work tools, which were deemed impromptu weapons. The fact that the school was being renovated at the time was more than sufficient evidence for the discovery of tools such as wood-handled carpenters' hammers, a pick with a hard plastic handle and a shovel. An inventory list of the workmen's tools showed that all the items belonged to the construction firm carrying out the renovation, which had been forced to stop work for the G8. The items had been stored in a locked room, whose door had been broken down. There is no plausible explanation for the failure to identify the owners of the numerous knives seized.

Either they were taken from the owners as they were being brandished or used, in which case it's odd that not a single one of these armed resisters was identified. Alternatively they were stored away in a backpack, most of which contained identity documents that would have indicated who they belonged to. In fact, most of those arrested were in possession of at least two documents, either passport, ID card or driver's license.

Most of the knives were Swiss Army-style multipurpose knives used for camping. So charges of illegal possession and carrying would not have held up either. It's also interesting to note that of all the knives, only that allegedly used to wound Nucera, was a genuine weapon, almost military style. A lack of care in how this knife was handled by the agent, his colleagues and superiors has made it impossible to lift any fingerprints that could have been used to identify the author of the crime.

Several plaintiff statements also describe seeing a police agent cut a lock of hair with a knife. Given that this was not listed among the weapons that the units were equipped with, this could have belonged to the police agent. It should be noted that: a) the hair-cutting incident occurred on the second floor of the building,

where the alleged attack on Nucera took place; b) the technical examination has shown that the knife allegedly used on Nucera had an extremely fine blade that could therefore have been used to cut a lock of hair. Converging witness statements have shown that several of the police officers were carrying knives, which was inappropriate.

The only instructions that unit chiefs appear to have given to the various divisions during the chaotic search was to find a place where the seized items could be stored. While the defendants described themselves as largely extraneous to the events, they all agreed on the point at which the decision was taken to put all the finds in one place, near the entry, behind the low wall that marked the entry into the large gym room, on the left hand side.

All the items initially gathered were placed on a long, black banner, which, together with other items seized, would be hanging in the police department during the "press conference" of 22 July 2001, which entailed nothing more than an anonymous police official reading out a prepared statement. None of those arrested saw the objects being piled on the banner, as it was hidden behind the low wall, but film evidence showed the banner with items in it being carried out of the building and loaded on board a truck headed for the police department. Here, photographs show that it was heaped up chaotically before being properly sorted through.

The ordered laying out of the items on the banner in the school contrasts with the chaos of the rest of the search and suggests that perhaps those in charge had planned to display the discoveries at a meeting with journalists and TV crews, which had been called in advance. In the event, tension involving demonstrators outside the school stirred up by the sight of the ambulances meant that the items were rushed away.

The collection of items would certainly not be so significant or indicative of a dangerous, destructive group, if not for the providential appearance of the Molotov cocktails.

The "discovery" of the petrol bombs in the building and their consequent seizure was the clearest occurrence of evidence being fabricated against those who had been arrested.

The Molotov cocktails were considered the central, key piece of evidence in the charges, not only constituting illegal possession of a weapon of war but also as an indicator of conspiracy to commit looting and destruction, symbolic of the dangerous nature of the protests during the G8 summit and therefore of the building's occupants.

According to the arrest report and the crime report, the discovery was made "on the ground floor of the building, in an area visible and accessible to everyone". This was held to indicate that the building "was used by everyone within for strategic planning and creating material that could be used against the police forces".

While a specific location was given for the discovery of the bombs the records do not contain an individual report by the agent responsible for finding and identifying the evidence - even for such a significant find. There is not a single direct source to confirm where the Molotov cocktails were discovered; it was all through word of mouth.

It can in fact be shown that the Molotov cocktails were not seized during the search of the Diaz School (which records say began at 11:30pm on 21 July

2001 but which was in reality at around midnight]). These were already in police possession on the afternoon of 21 July, having been found abandoned in a flowerbed following a charge against demonstrators on Corso Italia, where it crosses with Via Medaglie D'Oro di Lunga Navigazione.

The original find was covered in a service report about the G8 events dated 8 August 2001. This was written by the Deputy Assistant Police Commissioner Pasquale Guaglione following a request for documentation by the parliamentary committee set up to investigate the G8 events. The report mentions the discovery of "two Molotov cocktails made from wine bottles, filled with inflammable liquid, sealed and with a wick ". The discovery was also mentioned at the time in a service report dated 21 July 2001 by Maurizio Piccolotti, a higher-ranking official tasked with public order. He noted the discovery of "a plastic bag containing two Molotov cocktails, comprising two 0.75 litre wine bottles, filled with inflammable liquid, with a wick for the trigger".

Furthermore, on 7 May 2002, the Genoa police department received a request regarding the Molotov cocktails found on that afternoon, noting that they had not been handed over to magistrates, nor had charges been filed in their regard against an unknown perpetrator. At this point they could not be found. Later statements by Guaglione and Piccolotti contained details that confirmed that the two petrol bombs seized during the Diaz search were, in fact, the same ones that had been found in Corso Italia.

Guaglione reported that shortly after their discovery, the two devices were handed over to Donnini, who was in charge of coordinating the operations and logistics of the flying squad contingents during the G8 summit. Donnini said he placed them inside the two armoured vehicle he was using, where they were left, until the vehicle arrived back at the police station and he got out. His story was largely

confirmed by the vehicle's driver, Michele Burgio. Burgio, who had been assigned to help Donnini, was officially working as a driver for Troiani, who was on the same team as Donnini.

Without going into details, it is evident from the film, traces of conversation and telephone contacts, that through his driver, Burgio, Troiani ensured that the two bottles came into the possession of officials involved in the search of the Diaz School and, in particular, Di Bernardini.

Here it need only be pointed out that Guaglione, who made the original find, handed the bottles over to Donnini. He left them in the hands of his assistant, Burgio, who together with Troiani, was present during the search of the Diaz School.

Donnini and Piccolotti's behaviour was completely reasonable. They might perhaps have wondered what happened to the find but there is no evidence that suggests any awareness on their part of what happened, particularly during the crucial moment when the evidence was being falsified.

The fact that Troiani, who was working directly with Donnini, was involved, is not relevant since Troiani answered solely to the Police Station, specifically the SCO, in training patrols and the engagement at Diaz.

9. The problem of the chain of command.

The case of the Molotov cocktails was not just an instance of exaggerations or biased statements, which do appear, but of a radically altered version. This was one constructed against those arrested in which all elements, of themselves false, were organized with the objective of justifying, after the event, an operation

during which unprecedented violence was inflicted on those inside (and outside) the building.

This Office had to ask how this series of fake evidence came together and whether, at the moment of deciding to arrest all the occupants, the top-ranking officials were unaware of the falsified nature of the evidence. It also had to consider whether any individuals, unbeknownst to others, had decided beforehand to manufacture evidence to ensure there was sufficient evidence to carry out arrests.

The need to falsify evidence implies a lack of genuine evidence and has a specific aim. The chaotic nature of the rest of the search can be contrasted with the perfect coordination in collecting the proof that was falsified.

The questioning cut to the core of the problem, that of the command structure and the orders given to those in various divisions. Numerous top-ranking officials and commanders, in charge of a series of different elements, were present on the scene.

The issue of the so-called chain of command was subject to particular consideration from the start of investigations into the management of the Diaz operation. Immediate checks carried out within the state police department regarding this aspect resulted in an investigative report by Giuseppe Micalizio, which was completed on 30 July 2001. Also significant in this context was work by the parliamentary joint committee tasked with investigating the G8 events, which, after 10 sessions and 27 hearings (including some of the defendants in the current proceedings), produced its concluding report on 20 September 2001.

The parliamentary committee report concluded that the failure to appoint an overall official in charge of the operation was the main reason for defective operational and decision-making coordination. It also cited a failure to task certain divisions with certain tasks. Micalizio reached a similar conclusion although noted that there had been a clearly identifiable chain of command. Investigations in the present procedure confirmed the effectiveness of this chain of command, despite the fact it was denied by those involved. Not a single official has confessed to holding a substantial command role in any aspects of the operation.

Each overall sector followed orders from the head of their own division, so while there was not a formal figure tasked with coordination between the sectors, the strict hierarchies between each division should have ensured that the top-ranking official was to be treated as the "operation chief".

The top-ranking figures present were: a) Gratteri, a superior commander, director of the SCO; b) Caldarozzi, his deputy, responsible for the flying squads and the crime prevention division; c) Luperi, a superior commander, the deputy of Prefect La Barbera; d) Prefect La Barbera, the central director of the prevention police, the highest ranking official, whom the Digos police answered to; and e) Canterini and Fournier, who were the highest figures in the flying squad division. This chain of command was entirely spontaneous and instinctive for divisions that retain a strong sense of hierarchy even though not strictly military.

Prior to the operation, two meetings were held Gratteri's orders, after Di Bernardini had returned to police headquarters following the attack on the patrol.

The first meeting decided that the operation should be carried out, while the second focused on the operational details. Although Prefect Andreassi was present at the first meeting, it is clear from descriptions that the meetings were

chaired by Prefect La Barbera. Andreassi did not even attend the second meeting.

The decision-making initiative seems to have been taken in agreement between La Barbera and Gratteri, the highest representatives of the Ucigos and SCO.

Although La Barbera, Luperi and Gratteri might have recommended caution, calm and restraint, having received a specific message of this kind from the chief of police, a general overall recognition that the decision was reached "collectively" made Genoa Commissioner Colucci's claim to the Judicial Authority that he was "pressured" by higher ranks, or at the least by central offices and their representatives, appear more likely (a situation confirmed by Mortola, as noted above).

Claims that the initiative had been called for by local or lower-ranking officials, and that their superiors got "dragged along" appear unconvincing.

The filmed evidence also corroborates this conclusion. The top-ranking figures of the separate divisions operating in the area can be seen acting jointly, as a kind of "executive board". It cannot be coincidental that these were also the individuals involved in discussions over whether to embark on the operation. This group - Luperi, Gratteri, Caldarozzi, Murgolo and sometimes Mortola - can be seen stationed in the school courtyard or exit. Many statements by agents involved described this group as the one in charge, recalling that searching for their superiors regarding a problem, they were to be found in the courtyard in the company of others (see finds 44, 177.5 p.19, 199 p.1, 173 p.3, 174 p.1).

9. Molotov cocktails...

The incident of the Molotov cocktails casts further light on the chain of command at essential moments and shows how each of the defendants was aware of the manipulation.

Before officially opening investigative proceedings against them, each of the defendants, as well as other officials, was asked to clarify details surrounding the search and the discovery of the Molotov cocktails. Even though this was the most significant piece of evidence, it was not mentioned by anyone, not even those who had handled the bottles. They were questioned again at the start of investigations into the occupants' injuries, and once more in connection with fraud and falsification after statements by Guaglione that he had found the bottles in the afternoon. Yet even the detailed location of the bottles described in the Diaz report dissolved into mist following this questioning.

Questioned on 17 June 2002, Di Bernardini said that while involved in the search of the gym room, he was called outside by a colleague from the Flying Squad Division, Troiani. He was standing on the steps in the company of an assistant from his division holding a blue plastic bag that appeared to contain two Molotov cocktails that he said he'd found. Di Bernardini accompanied the two over to Caldarozzi, who was standing a few meters away with "two or three" other officials, who "were always together". After introducing them, he left. Although the defendant described them as "high-ranking officials", he was unable to give their names. Questioned later, he denied having seen and/or received the Molotov cocktails inside the gym but insisted it had happened in the courtyard, at the school doorway. Although he was the first to indicate the discovery to his superiors, no one asked him to draw up the arrest report regarding the find nor did he ask Troiani to do so. Instead he was asked to write the report on the attack on the patrol. In previous statements, however, Di Bernardini said he had

been told that the Molotov cocktails had been found in the gym, although he was the only one to claim this.

Caldarozzi, questioned on 31 May 2002, said that he had first seen the Molotov cocktails in Di Bernardini's hands during the search. The statement was incidental, made as part of a generic description of the search.

Pushed for clarification during later questioning, after he learned what Di Bernardini had said, he specified that he had seen the latter outside the building. Di Bernardini reportedly approached Caldarozzi, who was standing with other officials. Caldarozzi denies knowing or being informed of the place where the bottle was found. He "informed" Gratteri, who was standing near him. He said he did not know Troiani, even though he had been on patrol with him the first evening.

Troiani, whose involvement in the operation can only be deduced thanks to Di Bernardini, confirmed that he had shown the latter the bottles at the main doorway and denied having entered the building. However, he said he did not tell Di Bernardini where he had found them and said he had talked only with Di Bernardini, and not with the officials present. He said he handed the find over to some officials, probably under Caldarozzi, but gave them no information. At no point did Troiani suggest the find had been made inside the building, nor did he specify the place mentioned in the reports.

Although Murgolo's initial remarks appeared to indicate he would be able to provide further information regarding the discovery of the bottles, during questioning as a potential defendant, he added no further details and did not even refer to the incident.

Luperi, questioned on details regarding the search and discovery, denied all knowledge of the events. He said he recalled seeing other colleagues, whom he was unable to name, with a plastic bag containing the bottles. He later availed himself of the right not to respond when the falsification was discovered.

Mortola, director of the Genoa Digos and the highest-ranking investigative police officer present, said he saw the bottles inside the building, when two agents, unknown to him but clearly members of the Flying Squad Division, showed them to them. He did not spend long on the find, merely ordering the agents to place the bottles on the banner in the gym.

Gratteri claimed he saw a plain-clothes officer holding the bottles in his hand (ie without the bag) in the school courtyard. He had no recollection of Troiani bringing the find over, despite statements by Di Bernardini and Caldarozzi, who both said he was present at the time. He said he presumed he had been informed later by his deputy, Caldarozzi. His only recollection was of seeing a plain-clothes officer at the time he was on the phone to Corriere della Sera. He was shown photos of a plain-clothes agent wearing gloves and holding the bottles but denied it had been the plain-clothes agent he'd seen.

The statements summarized above came from the top-ranking officers and related to the most important find. As such, they were examined in consideration of the hierarchical structure. Given the outcome of the operation prior to the discovery of the Molotov cocktails, the discovery should surely have triggered a greater interest and involvement among the superiors.

It was clear that admitting the presence of an official in a specific investigative and operational context meant admitting his grave, inexcusable negligence in omitting

even the most basic forms of protocol and a total lack of intellectual interest, which would have naturally led to questions about where the find came from.

Film footage showed the top-ranking officials frequently talking in a small group (Luperi and Gratteri are evident) but as no sound is available, it is impossible to know what they were saying.

They all maintained they were concentrating on getting ambulances for the injured, with no time to focus on the important investigative police operation under way, which would culminate in the arrest of everyone there. While the latter were indeed taken to hospital, it is impossible to believe that those in charge of the operation had no interest in the discovery of the devices.

Di Bernardini and Troiani's claim that the bottles were handed over in the courtyard led to a closer inspection of the video footage.

Footage by the local broadcaster, Primocanale, clearly shows Luperi holding the blue bag containing the Molotov cocktails. Next to Luperi is Caldarozzi, in front of him are Mortola, Murgolo and Canterini, all examining the bag and engaged in what appears to be a heated discussion. Other officials are standing next to them and looking at the bag, including Fiorentino. Gratteri and Troiani. Burgio is standing in front of the door.

The situation therefore appears to have developed exactly as hypothesized: a brutal operation with serious injuries and a hurried search - no longer than half an hour for the entire building - with almost no evidence to show for it (around 20 knives, a pick, a shovel, and the metal frames taken from backpacks). It was only the discovery of the two explosive devices that justified a search carried out specifically in search of weapons. It was natural that a find of this kind would be reported to superiors there and that it would be the subject of discussion.

This Office therefore imagined that the filmed evidence would trigger the defendants' memory but this was not the case.

Questioned after the acquisition of the film, the defendants were unable to provide versions that corresponded with the footage and even reiterated their lack of attention to the most important find. Some suggested that the film did not correspond to the time that the devices were first found and handed over, saying they had seen the bottles before the scene shown.

In his final questioning, Di Bernardini confirmed the basic details given, adding the name of another official present when the bottles were handed over. He said he had been called by Troiani, who was in the courtyard with his driver at the time, and that he had met him at the building doorway. He added that he had only been generically informed of the find by Flying Squad men.

A basic contradiction remains between the two defendants' versions, with Troiani specifying that he informed his colleague of where the find had been made when outside the building rather than inside. However, by and large, the two versions tally in reiterating that they immediately showed and handed over the find to their superior officers, with Di Bernardini initiating the contact. Caldarozzi is explicitly mentioned by both. Troiani said that everyone shown in the film was there. Di Bernardini mentioned Luperi by name. Troiani later said he had informed Di Bernardini in advance of the find, without yet being able to show him it. He said that at Di Bernardini's request, he called Burgio on the phone to get him to bring it, and that this occurred in the presence of Caldarozzi. It's clear that the bottles were at this time in the control of Flying Squad men rather than the top-ranking officials in question.

It's equally clear that: a) the discovery of the bottles was made by a division that should have handed the find over to those institutionally tasked with taking care of finds; b) the handover of the find occurred openly, via a flying squad official in charge of the search operation under the command and coordination of superior officers, first and foremost Caldarozzi; c) both Troiani and Di Bernardini said that the find had been given to these higher officials to deal with, as is clear from the fact they can be seen holding it; d) the successive fate of the bottles was in the hands of these officials, who were highly enough ranked to easily track down people with information on the find in question; e) the find marked a decisive turning point in the operation, as shown by remarks made by each, either to their superiors, or to the media.

Statements by Murgolo confirmed that the film was taken immediately after the discovery of the Molotov cocktails.

Even before seeing the film, it should be recalled that Murgolo said he was present when an agent announced he had found the two bottles. The fleeting reference assumes particular significance given that he mentioned the presence of the defendant in the context during which the find was first brought to his attention.

Not only did Murgolo confirm the presence of the usual group of top officials (Mortola, Luperi, Caldarozzi, Gratteri, Canterini), he admitted that the discovery had sparked interest among the group, some of whom examined the bottles and asked where they had come from. While denying this or insisting that he didn't remember would be foolish in the context, he also remembered where the agent who brought the bottles over said he found them (although was unable to identify the agent himself).

According to Murgolo, he repeatedly heard it being said that the bottles had been found outside the building and, more specifically, "in the courtyard".

These would seem to bring things together in a logical fashion. No matter how vague the information, it basically coincides with what Troiani said, logically, given that he was the one in possession of the find. That a Flying Squad man had shown the group the bottles, attributing the find to other members of his division, would have backed the hypothesis that the find occurred outside the building, where the Flying Squad was in the process of securing the outside of the building. This is particularly so if, as suggested by the film, Mortola, Luperi and Caldarozzi were the ones interested in and discussing the find. They were clear on the tasks assigned to each division and were, at that moment, collecting the fruit of the search, exclusively in the hands of the flying squads and the Digos, as represented by top-ranking officials.

Even after seeing the film and despite the contrasting statements of Troiani and Di Bernardini, Mortola insisted that he had seen the bottles inside the building in the gym, which had been showed to him in a torn plastic bag by two unidentified Flying Squad men.

It has been suggested that the scene depicted in the film took place after the Molotov cocktails had been found and taken inside the Diaz School. But Mortola's statement that the bag with the bottles had been left, at his request, on the banner where other finds were being kept makes it highly unlikely that they were then removed and taken outside for discussion among the officials in the courtyard.

After the prosecution investigation officially concluded, Mortola came up with a number of convincing suggestions, in part supported by evidence acquired during

a defence investigation. He suggested that the two Flying Squad agents that approached him with the bottles inside the gym - in other words, before he was filmed with other officials - had been Troiani and/or Burgio. This idea was proposed in an earlier report, in a bid to blur the differences between Mortola's statements and those of the other officials, who said the bottles had been seen for the first time in the courtyard. The defence team threw weight behind this, pointing out that the film and photos showed that while Troiani was in the Flying Squad uniform, he was not wearing the badge ranks that marked him as deputy police commissioner, either when he entered the Diaz courtyard, or in the scene that showed him talking with other officials at the time the bag was handed over. However, these rank markings can be seen some time later, in images showing him moving away from Via Battisti, together with other 7th Unit men (Find 172 p.2).

Mortola's defence uses this unusual detail to suggest that [Troiani] was involved in something illicit, and that the other officials were unaware of this. Mortola says he was an innocent victim in a network of plotting by others, whose lack of rank markings made them indistinguishable amid those involved in the search. In other words, what Mortola had already said: that he saw at least Burgio, clearly indicated as the one actually carrying the bag, inside the gym.

Statements by agent Mauro Riccitelli, who reported seeing Troiani approach Di Bernardini, further corroborate the theory that the bottles were first seen inside the school. In one of his first statements, Caldarozzi said Riccitelli had been present and could have seen Di Bernardini as he found the bag inside the gym. This was then denied and rephrased several times.

Although Troiani and Caldarozzi said that Riccitelli's statements undermined Di Bernardini's uniform reconstruction, this is not the case. Riccitelli said the scene

did not take place in the gym, which tallies with Di Bernardini's statement that he was summoned by Troiani who was in the courtyard at the time. Riccitelli, who was standing a few meters away inside the building, also confirmed that the two men met at the doorway, saying he could see the faces clearly in the entry door's light.

Despite supporting some of the statements given, the film does not cover the crucial moments before and after the discussion in the courtyard, of which Di Bernardini and Troiani's statements give the only indication. Both men said Troiani and his driver did not come from inside the building but were already outside, where they remained after having shown Di Bernardini the find. This, they said, occurred at the building doorway, as described by Riccitelli.

Luperi's version came last, with full knowledge of the video evidence and the statements made by others.

Although Luperi came forward of his own accord, on first seeing the film - which showed him with the bag containing the Molotov cocktails in his hand - he asked for the questioning to be stopped.

This did little to boost his credibility.

Luperi decided to say he had been informed of the bottles prior to the moment of filming. This appears to refer to what Mortola had already said, that he had been notified of the find by Flying Squad men inside the building. Luperi's momentary possession of the bottles is described as purely accidental, claiming he had taken the bag from Caldarozzi merely to confirm its contents.

While weak, the claim of having known of the find prior to the filmed scene allows Luperi to justify his failure to request more information, particularly regarding the circumstances surrounding the discovery.

Luperi stuck to this version, even though Mortola's was in contrast with a whole series of other tallying statements.

Although he admits that he is holding the bottles at the time, the film shows Luperi caught up in a phone conversation. Hanging up, he is the only one of the top officials left in the courtyard, the others having disappeared. He claimed that although only a few steps from the building, finding himself alone he felt the urge to make sure the dangerous bag was safe, and gave it to an investigative police officer, the only one near, whom he told to place it with the other finds. The person in question was Mengoni, a member of the Florence Digos.

However, Mengoni said she had been outside the school gate at the time and had been summoned by Luperi to the centre of the courtyard. Going over, he handed her the find and told her to make sure it was kept safe, as it was an exceptionally important find for the investigation.

Finding herself alone with the bag, Mengoni requested the help of a Naples Digos inspector, whom she did not know. Together, they entered the building from a side door in search of a "safe" place to keep the find. She placed the bag in a niche, which she has since been unable to locate, even with the help of maps, and left in search of other members of her division, ordering the inspector to stay with the find. She returned shortly afterwards with others but was unable to find the bottles, the inspector or the niche. After walking around, she spotted the bottles, without the bag, lying on the banner.

It should be noted that during questioning on 1 August 2001, Mengoni made not a single reference to ever having seen or handled the bottles, despite being asked to recall every detail she could remember.

Fiorentino, an Ucigos official who had travelled from Rome with La Barbera, was also present.

Although he initially said he had not seen the Molotov cocktails, he changed his mind after seeing the film, claiming Luperi had shown him the bottles. He said Luperi had expressed great satisfaction and excitement at the find, stressing that it showed the search had been worthwhile. He said he knew nothing about the find before or after the section of film, only learning on his return to the police quarters that Luperi had entrusted it to a "scientific" colleague.

There is not much point in focusing on the credibility, vagueness or lack of information provided by Mengoni, as with other witnesses who produced versions no more fluent than those of the defendants. They were faced with telling the truth and incriminating not just their superiors but top-ranking police officials in Italy. Given their position, they have not been judged too harshly but the extent of their reticence or zealousness should be considered in other proceedings. Instead, the focus is on the period after Troiani and Burgio were no longer in possession of the bag, which had been handed over to the top-ranking state police officials.

It remains unclear why Luperi, a few steps from the building where the search was centered, should leave his men working there and look around, entrusting his "special" find to a complete stranger. It's also unclear why he then immediately re-entered the building, leaving Mengoni alone with the bag, and why she, in turn,

should enter the building, using an odd side door for some reason, only to then go back out and return to where the rest of the operation was taking place.

The possibility of reconstructing a precise chronology of events by comparing phone records with the film makes all the defences suggested meaningless. These show the contradictions between what happened and the defendants' statements.

The call Luperi is seen making began at 00:41:33. The same film shows others in the courtyard making phone calls afterwards, including Mortola, Canterini and Murgolo. Analyzing the phone records of Mortola, this second piece of film takes place two minutes afterwards. At that moment, inside the door of the building, in the gym, the banner was lying with the finds, including the Molotov cocktails, under the eyes of Gratteri, Caldarozzi and Luperi.

The question again arises as to why Luperi would entrust the bag to Mengoni, only to immediately enter the building and start organizing the finds inside, including the Molotov cocktails. Luperi's claim that he was alone after the phone call, which lasted 31 seconds, is undermined by the same footage showing most of the officials still in the courtyard, including Mortola.

The fact that Luperi appeared in the building so soon, where he found Caldarozzi, the highest ranking investigative official, overseeing the Flying Squad search, and that he gave him the bag and then returned to conversation with Mortola, who had remained in the courtyard, makes his statement - that he had not seen an investigative police official nearby and had had to call Mengoni from outside - all the more incredible.

At the same time, the film also disproves the reliability of Mortola's statement, which Luperi relied on, regarding the discovery of the bottles inside the building. Mortola said he told the two Flying Squad men who showed him the bag to place it on the banner. But the banner had not yet been stretched out. As shown by the film, it was only unrolled afterwards, at the time Luperi was holding the bag. The final stage of the bottles within the school should not be overlooked.

Statements by Mengoni and other witnesses place the bottles on the banner, in full view, without the bag. The idea that an investigative police agent or official removed the bottles from the bag, without the express authorization of someone in command, placed them on the banner and destroyed the bag, which was part of the evidence, must be ruled out. This would mean that the unknown inspector from the Naples Digos had contravened a direct order from a superior to keep the bottles safe in a quiet place. Yet it's unlikely that any evidence has ever been handled with less care or attention to investigative protocol. It's clear that there was no need to handle the bottles in such great secrecy only to put them on full public display a few minutes later.

The question remains as to why top-ranking police officials would allow a find to be displayed for media purposes that should have been painstakingly conserved to search for any traces of its creator and who it had belonged to. This utter disregard is staggering, even more disturbing than the display of the bottles on a table in the police station during the next day's press conference. It must be assumed that the police had no serious investigative intentions with regard to the bottle.

Seeing the film did not shift Gratteri from his position. He continued to maintain he had seen the bottle prior to the footage, in a different context. He claimed he

saw the bottles, clearly visible, in the hands of a plain-clothes officer in the courtyard.

Gratteri has no recollection of having discussed the discovery of the bottles and the film failed to jog his memory.

He claims he saw the bottles prior to the period in the film, although in different circumstances and without the bag. But this last detail is illogical: if he saw the bottles without the bag beforehand, why would they have then been placed in their original bag (ie they one they were found in on Corso Italia) to be shown to the officials? And why would the bag then have been removed again for their placement on the banner?

It's already been pointed out that admitting he had been present or had seen the find for the first time when it was handed over would have meant admitting he knew who the find could be connected to. And, even before that, he would have had to explain why he had not requested precise information on the matter and dealt with the conflicting statements of those who said they had already accepted the bottles. Later, he would have had to explain how he came to include a precise statement, in his report, that the bottles had been found on the ground floor near the door, in an area visible and accessible to everyone - a detail that not one of the others present recollected and which conflicted with what Troiani said.

This requires us to believe that the blue plastic bag with the two Molotov cocktails was in a clearly visible location at the entrance, through which 150 police officers charged, and was neither spotted then nor during the later search - even though dozens of police were scouring the room right next to this area as they rummaged through the occupants' backpacks, under the command of experienced Flying Squad and Digos officers. Furthermore, that the find on which

the arrest of all the building's occupants was based was made not by qualified investigators but by Flying Squad men, who were not authorized to search the premises.

The bottles needed to have been found inside the building and clearly visible by everyone in order to justify the mass arrest.

Instead, it's significant that the banner was spread out shortly after the discovery of the Molotov cocktails, the appearance of which meant the search could end. Top officials were notified but laying the finds carefully on display, perhaps ahead of a press conference, contrasts with the trouble outside the building. Then, things changed, with the order to return to the police station. The banner was bundled up and the objects carried away. Film shows the bottles remained without their bag, carried outside the school and placed on a van by Deputy Catania of the Padua Digos.

10. The injured, the arrests.

The massive number of injuries undoubtedly hindered the operation but it can't convincingly be said to have been the top officials' principal concern above all else. According to statements, the arrival of the medical staff occurred in somewhat chaotic conditions. They were greeted with such a large number of serious injuries that they were forced to try and treat some people in the gym. Despite the officials' alleged focus on the injuries, not one of them went near an injured person and none of them was trying to coordinate the arrival of the medics.

Despite witnessing the injured with his own eyes, in a TV interview press chief Sgalla denied that the large number of ambulances in Via Battista stemmed from the raid, already laying the groundwork for the official version of prior injuries.

The seriously injured were sent off in ambulances under guard, those with lighter injuries or none at all were ordered into armoured police vans, arms raised hands behind their heads, a position they had to maintain throughout the journey.

There's disagreement over the moment at which it was officially decided to arrest all the occupants, some saying in Diaz, others at the police station, but from the moment they were ordered into the van with their arms up, they were being treated as though they were under arrest. The vans were headed for the Bolzaneto temporary detention centre.

While it's true that during the summit, some people were taken to the centre merely to be identified, photographed and fingerprinted, there was no reason to justify the forced transport for identification purposes [after the raid], which, furthermore, required that the AG be notified. The use of illegitimate practices, set up to cope with the perceived exceptional circumstances of the period, does not change considerations that there appears to have been an immediate decision to proceed to a simple identification of the occupants. The report, which was marked as having been drawn up at 03:00, states that the arrests were carried out at 01:30 "at the end of a house search", in other words, while still at the school; on the other hand, the report could only cover what had already happened and, in technical terms, the procedural deadlines for issues relating to their right to liberty are calculated from the moment someone is deprived of their personal freedom, which for the Diaz occupants, happened as they were being forcibly transferred outside the building they were sleeping in. Communications between several officials at the police station explicitly reflect the organizational problems of transporting such a large number of people but no one managed to put a precise figure on exactly how many had been arrested. Murgolo, irritated, made repeated phone calls asking for a coach to transport the "prisoners". It appears completely reasonable, if not obvious, that the decision to either arrest

or not arrest those in the school had to be based on evidence gathered at the scene, given that it was an arrest of those "caught in the act".

It's unlikely that having overseen and been involved in everything, that Luperi and Gratteri would not have been involved in the PG's decision to make the arrest. Their presence suggests they were involved in the decision-making process.

The top-ranking officials involved weren't sitting behind their desks, they were involved hands-on in the entire operation.

Gratteri and Luperi instead tried to "offload" full and exclusive responsibility on to the highest investigative police officials, Mortola and Dominici, who were the only ones to sign the crime report sent to the Judicial Authority.

It isn't a question of trying to identify different levels of responsibility. A group of top officials assumed command during the operation, the same ones who decided on it and who participated in it, guiding the work of those under them. The later act [making the arrest official] was merely the inevitable next step needed to justify the former events, which is the light in which events in the police station and the continued discussion should be seen.

But this discussion only centred on the initial stage of deciding the search and carrying it out. Once the objective had been reached, it seems likely that the top officials left the investigative police to deal with the nitty-gritty of the arrest reports.

Many said the operation reminded them of a similar mass arrest carried out in the Paul Klee School on the morning of 21 July 2001. The charges in this case

were also conspiracy to commit crime and those arrested were also released by the magistrate.

The police saw the Diaz Operation as a chance to "make up for" serious incidents carried out by extremists during the G8 demonstrations and rebut charges of police ineffectiveness.

National Deputy Police Chief Ansoino Andreassi, the highest-ranking state police official there, was the one who decided a change of police strategy was needed, prompted by the arrival of La Barbera on the afternoon of 21 July and the final round of planned demonstrations, which represented the city's most serious security phase. This is not just a hypothesis but a fact. Andreassi himself pointed to key events that indicated a tougher police approach was required. This involved the SCO taking direct responsibility, starting with the Paul Klee School operation, and inevitably leading to the Diaz search. The objective was to ensure a large number of arrests.

La Barbera's arrival confirmed this objective, which was to restore the police image of effectiveness in any way possible,

Prefect La Barbera said he travelled to Genoa on 21 July to make contact with foreign police, given the large number of foreigners arrested, not to wade in and try and take over at the last moment to take credit for results.

The patrol led by Di Bernardini that was attacked that evening was part of an operation of "mixed patrols" (ie composed of men from different divisions) tasked with searching the city and trying to find those responsible for the trouble of the previous day. By this time, however, most of the activists who had travelled to Genoa were on the point of leaving, so the order from the chief of police to carry out patrols was, in Andreassi's opinion, questionable.

The need for initiatives that could refute charges of police ineffectiveness was also evident afterwards, in the police's stubborn support for the actions undertaken, despite the total lack of effectiveness at a judicial level.

The fact that a press conference had been called indicates that the Diaz operation was meant to be a police public relations exercise. This is confirmed by the presence of top-ranking police figures, which was bound to heighten media attention.

It seems extremely unlikely that the police violence was nothing more than out-of-control fury at the simple act of being locked out of the premises. The fact that the police, en masse, overstepped the basic rules of caution that they had reportedly been told to follow is impossible. Either these rules didn't exist or else the orders were never given. Rather, it appears as though directly opposing directions were given.

Although the top officials witnessed every stage of the operation they didn't intervene and there isn't a single moment in which they appeared to have acted as "guarantors" of caution or tried to halt what was going on.

It was difficult to justify an operation that had been based on an inappropriate motive to begin with and had then been marked by excessive violence and serious injury, producing nothing convincing in terms of evidence. The results of the operation were even more critical, given the protests in the area, and particularly in the GSF office and press centre, where police entered the building illegally but where there were witnesses to the savage operation that had taken place in the building opposite.

Combined with the large number of ambulances, which certainly didn't contribute to an image of firm police authority, it appears likely that the only answer appeared to be to produce an arrest at any cost. All of this was taking place under an international spotlight, given the number of young foreigners among the injured, and it would eventually require explanations to the chief of police and the Interior Ministry. This situation appears to provide more than sufficient motive for the defendants' alleged crimes.

The individual charges against the defendants will now be considered. It appears that the differences between what really happened and what was written in the records sent to the Judicial Authority were not only known to those who wrote the records, but also to Luperi and Gratteri, the only ones not classified as investigative police.

Luperi arrived at the site following the team led by Mortola and was in front of the building in time to see the school door being closed and the first, unsuccessful attempt to batter down the gate (prior to the use of the vehicle). In the film, he can be seen standing slightly to the left of the building with other officials, including Mortola, level with some trash containers. This location gives him a clear view of the building, meaning he was in the "front line" during the preparatory phase prior to the entry.

La Barbera appears to be standing in front of the gate in some film, although it isn't entirely clear, but this tallies with his claim that he approached Canterini at the last moment to "suggest" he proceed with breaking down the gate. According to the prefect's version, he felt this was the right thing to do, given the tension he had noticed among the men. He gives no further explanation as to why he felt this

but one need simply consider that at this moment, Mark Covell was already being beaten up, just a few meters to the right of the gate.

Gratteri always maintained he arrived at the gate at a later moment, so had no say in the decision to break down the gate. He repeatedly said that when he arrived, he spotted people trying to flee the building, using side scaffolding, and he ordered agents on hand to deal with the situation. Gratteri's claims cannot be considered accurate if, as it appears, he is suggesting that he only arrived, or at least only intervened and assumed some form of command of the situation, after the building was entirely in police possession. As the film shows, he was already at the site at the moment of entry and the violent police charge.

It's true that Gratteri, La Barbera and other officials moved away from the building when the police were inside, attacking the occupants, turning away. The presence of other defendants at that moment is also certain. Statements put Ferri and his team (including Cerchi and DI Novi) in the same position initially occupied by Luperi and Mortola. The latter heading one of two columns that arrived at the building. Caldarozzi and Mazzoni followed Gratteri. Di Sarro, heading the other column, reported that he only arrived at the site after the gate had been knocked down but before the premises had been entered. Di Bernardini, part of this column, said the same. Cicimarra was the only one who claimed to have been involved in the entry, coming in from the side door after the 7th Unit agents and going straight to the first floor, where the latter were still involved in sporadic incidents of violence. Dominici said he initially headed for the Pascoli School before realizing it was the wrong building, at which point he went over to the Pertini School, which he entered, trying to find out what was going on the upper floors. On the first floor he met other top officials, including Luperi.

Given that all these were present at the operation, it makes their statements regarding the entry and development of events less ambiguous.

Reconstructing the entry into the building proves that the officials, after a brief stop in the courtyard, entered the ground floor and some of them, afterwards, the higher floors. As such, they were able to verify the events later recounted in Canterini's report. The officials first entered the building when the police were still engaged in violent action on the upper floors (see the film illustrated in frames 78-87). Evidence of the situation outside, the proof that there was never a "dense hail" of objects and the manner in which the search was carried out prior to the "discovery" of the bottles, suggest that not one of the defendants could have written, read or signed the Judicial Authority report "innocently". The only episode in which they might reasonably have relied on someone else's account was that involving Nucera. Interestingly, this is the only episode where a direct source is mentioned. This is why not all the defendants have been charged with the regards to that particular episode.

But given the Nucera episode's absolute incompatibility with the situation they witnessed first on the ground floor and then on the first floor, where they encountered numerous injuries and pools of blood, it should surely have roused their suspicions in relation to the alleged resistance.

The continual reference to anonymous sources of information is an element that makes the defendants appear even more suspicious. As everyone was there, either involved in the violence or witnessing it, no one could give a statement regarding those who had written or signed the official records, in case these had been made in good faith, unaware of what really happened.

Canterini's report was the only element of "proof" regarding the alleged resistance and this appears to have been requested and then painstakingly examined by Gratteri.

The final records give an odd, impersonal account, recording the fact that something happened, but something which none of those who signed it was able to testify to personally or provide information regarding a primary source.

The arrest report was materially drawn up by Ferri, Cicimarra and Di Bernardini, as well as Gava who, having gone only to the Pascoli School, was in no way connected to events in Diaz. All members of the SCO, they went to Bolzaneto to draw up the arrest report at the order of Caldarozzi.

At the same time, SCO Inspector Mazzoni, also at Caldarozzi's order, drew up the search report. The report forming the crime report, which was signed by Mortola and Dominici, was drawn up by Gallo and Schettini, respective members of the Genoa Digos and Flying Squad. They played no part in the operation and therefore based their report exclusively on statements from those who had just returned.

Gallo and Schettini received only a general outline of what happened, reconstructing the facts as seemed logical from the information they were given. Gallo mentions discussions with Gratteri, Caldarozzi, Mortola and Dominici over crucial elements of what happened, highlighting the problem of ascribing responsibility in the key episode of the Molotov bottles.

Witness statements were obviously no help, with each saying they had gotten the information from someone else.

Di Bernardini said he had not mentioned the Molotov cocktails because Caldarozzi had not requested a report on this specific incident.

Out of all the confusion, the only, known primary source for the bottles was Troiani.

Even if Mortola's claim was viable, why would he not have questioned the Flying Squad Division for the names of the agents that showed him the bottles?

It remains to be considered whether the charges of falsification against Nucera, also involved his co-defendants, most notably, those who drew up or signed all the Judicial Authority records (arrest report, search report, crime report), as well as those in charge, his direct superior, Canterini, and Luperi and Gratteri.

There can be no doubt that Nucera and Panzieri were responsible for the charges of complicity in fraud and falsification brought against their co-defendants. But it must have been obvious even to those drawing up the arrest and the crime reports how full of contradictions and oddities Nucera and Panzieri's versions of the attack were. In fact, unlike with the rest of the operation, a specific request was made for the agents who confiscated the weapon to be identified, as well as for a service report describing the episode.

The investigative police officials and agents who discussed, evaluated and drew up the arrest, search and crime reports cannot be said to have knowingly acted fraudulently. But nor does a lack of evidence against them prove that they acted in full good faith.

These public officials made no effort to try and identify the alleged aggressor, relying instead on the description of the attack, apparently corroborated by the rips in the jacket and vest, the weapon used and the presence of a "witness" (used as evidence of resistance on the part of all the occupants, even though this was just one person).

The immediate aim (the arrest) and the "benefits" of the operation did not require any moves that would have undermined the general concurrence in elements needed to justify the arrest, raising doubts over what really happened inside the institute.

Furthermore, Nucera and Panzieri were responsible for the statements, so those writing the reports felt no need to delve further, particularly when the alleged events tallied so well with the overall aim.

The simulated attack didn't just help the operation but also the men who ordered it and the unit that was first in the building - the unit responsible for the worst violence and the one whose commander drew up the service report highlighting the resistance.

The clear evidence of serious injuries might have been enough for someone to have carried out an act that not only justified the action of the Flying Squad but also provided protection for those in charge. It's interesting that the episode occurred during the first phase of events, when the situation was still chaotic, and realizing the damage done, it could be used to indicate generic resistance. According to Canterini, Nucera was taken to the commander, where he told a large group of people, including those overseeing the operation, what happened, showing them the ripped jacket and vest.

It's possible that Nucera and Panzieri took the action of their own accord, becoming part of the body of proof needed to support the arrest of all the occupants, the only way to justify a rash, repressive operation.

The charges of falsification with relation to Canterini's service report, in which he describes things he has no personal knowledge of and is unable to cite the original sources of, appears similar to the alleged attack on Nucera.

While Nucera's co-defendants all vigorously deny their involvement, the motive they attribute to Nucera is the same one that seems logical with regards to all the other incidents of falsification, starting with the Molotov cocktails, whose origin appears to lie with the Flying Squad.

However, the Flying Squad was certainly not the only division that feared blame for the gratuitous violence. It's suspicious that only Canterini's division was asked to produce a report regarding the occupants' resistance, starting with the hail of objects, which in order to be credible, could certainly not have been directed only at those wearing the Flying Squad uniform. It was clear that any later investigation would have highlighted the participation and responsibility of other divisions in the excessive use of force. On the other hand, if the Flying Squad sought to justify its actions through the sole report of Canterini, it could easily have added in false descriptions of other clashes that would have rendered force necessary.

The fact that all divisions officially assumed responsibility for the excessive use of force, with the excuse of prior injuries, leaving Canterini to report the events following the entry on behalf of everyone, is a sign that the responsibility was widespread and that no one within one division could accuse someone in another without the risk of incriminating himself.

The falsification of evidence, such as using the workmen's tools and the backpack frames, were intended solely to justify the arrest. The idea that only the Flying Squad falsified evidence runs into several problems. If the sole motive was to cover for what they had done, it would have been risky to act without the knowledge of the others, whose support, or lack of opposition, they were reliant on. The nature of the proof - particularly the Molotov cocktails but equally the

other evidence and the false statements - cannot be particularly tied in to the Flying Squad's interests. The evidence was geared towards depicting the occupants as violent extremists, not showing the need to quell immediate resistance with physical force, which the bottles had nothing to do with. Shared motives and interests is a reasonable explanation for the compatibility that emerges from parts of this investigation. This would explain the absolute consistency in the records passed to the Judicial Authority as well as the support for the defendants among those not being investigated.

Not one of those present was able to recount exactly the events shown in the film with regard to the Molotov cocktails without running into some confusion or contradiction.

The defendants tried to claim that they could only be responsible for events described in the reports they signed of which they had personal experience and that as they had not been involved in any of these, they had acted in good faith, on information provided by colleagues.

But signing a report, based on others' statements, about an operation in which one participated is considerably different from producing a report regarding one that the author had nothing to do with, as with Gallo and Schettini, or even Gava and Aniceto Leone, who were only indirectly and marginally involved

Another detail difficult to support in this network of coincidences is the fact that the search report was signed only by nine people, not even reflecting the participation of the divisions deployed. Those who signed it belonged to the flying squads-SCO division (apart from Nucera and Panzieri), which was not engaged and not entitled to act as investigative police in this matter, openly violating measures laid down by the Genoa police commissioner during the preparatory meeting. Panzieri drew up the report regarding the confiscation of the jacket and

vest, and the knife. Nucera had no authority to sign the search report, either formally or substantively. In a report to his commander, later passed to the AG, he said he had been asked by an official, unknown to him, who was part of a group of "high officials from the Genoa Police Department and other Police Offices" to add his signature. Mortola told him to do so. Of the other seven who signed the report, Gava and Leone hadn't even set foot inside Diaz, three belonged to the same division, the La Spezia Flying Squad (including Ferri), while the other two were Di Bernardini of the Rome Flying Squad and Chief inspector Mazzoni of the SCO.

Most of those chosen to sign the search report were not the obvious choices. Given that it was prepared on the afternoon of Sunday 22 July 2001 and not filed with the Public Prosecutor's Office until after 18:00, it's difficult to believe that they couldn't find any more appropriate signatories. Furthermore, the report isn't even signed, while the signatures on the investigative police records were almost indecipherable. It was only on 28 August 2002 that a full list of the signatories was produced, although one name has not been traced.

The arrest warrant was signed by the same unknown agent, as well as by Mortola, Di Sarro, Dominici, Cicimarra and Caldarozzi.

In the case in question, nearly all of the activities testified to and described were neither witnessed or carried out by the report's signatories.

The report provided no named sources for the described events and nor were the signatories even the commanders of the divisions involved, which might have explained their direct involvement.

The defence tried to argue that the formal, remote style of the report came from the fact it was compiled from a series of other reports: namely Canterini's on the

resistance, the search reports and Nucera's and Panzieri's reports. But with the exception of Nucera, all these reports in their own turn refer to other unnamed sources.

If we accept that the original source of a claim cannot be identified when drawing up a report, signed by mere authors, then surely that undermines the value of the document itself as the witness cannot be traced. The obvious answer, if not one primary witness can be traced, is that either an event never happened, or it happened entirely differently than suggested, in other words, illegally.

The charge of falsification stems firstly from the alleged resistance and the violence inflicted on the occupants, and secondly, from the production of evidence, either simulated or manufactured.

The deliberate falsification or manufacture of evidence and the occupants' innocence is clear from the following circumstances, for which there are no alternative explanations:

1) the decision to consider the workmen's' tools and the backpack frames as home-made weapons; 2) the careless heaping up of clothes and knives; 3) inventing a location for where the bottles had been found (which could nevertheless not have belonged to the occupants) having merely been informed at the moment they were handed over that it had been outside the building. Some defendants admitted there had perhaps been a superficial analysis of the evidence, attributing it to the pressure and tension of the period.

The inability to draw specific links between the occupants and the objects shows that the defendants must have been aware that some of them were innocent. The search methods and the bloody excesses of violence used to control the

occupants mean they can't even say they were under extreme pressure at the time [having rendered the occupants helpless].

Without exaggeration, it can be claimed that everyone was complicit in what happened, as shown above. With the exception of Luperi and Gratteri, the rest were also investigative police and therefore signed a document containing false statements.

The presence of the top-ranking officials reinforced the criminal behaviour of those carrying out the search. The agents' determination to achieve a certain target and the officials' failure to intervene despite their presence created a sense of security in those carrying out the acts.

Each person who signed the act did so at the clear order of their superiors, working towards a single aim. The development of the operation and the methods used, all combining to damage the occupants, show that each defendant was aware that his own, personal statement diverged from the truth and was able to perceive that statements by the others were equally untruthful.

The charges against the defendants converge on an utterly illegal arrest. A strained interpretation was put on some events, which, while not totally fabricated, became formal falsification used to artificially support at any cost the deprivation of personal liberty.

The lack of evidence following the search led those writing the reports to formulate fantastical theories, suggesting that all those arrested were part of an organization known as the Tute Nere, whose leaders allegedly chose the building as their logistical support base for carrying out their criminal program. The extent of these individuals' links to the organization can clearly be seen from the remark in the arrest report: "the aforementioned youths were clearly members of the so-

called Tute Nere organization, which is fully confirmed by the discovery and seizure of various items of black coloured clothing".

This was backed up by the logical deduction that "the presence within the building of so many other young people from different European countries cannot otherwise be explained; they had come to Genoa to demonstrate against the G8 summit and had gathered in the building at the specific order of members of the organization." Reading such statements gives rise to grave doubts over the seriousness and previous investigative work. It names leaders, orders and strategic plans of an association with paramilitary traits. The investigative scenario is founded on a concrete basis with the analysis of documents seized from the 24-year-old German citizen, Szabo Jonas, described as "one of the most important figures within this criminal association". This was the only incident in which papers were ascribed to someone. Brief notes on the back of one of eight, hand-written pages in English - whose unknown content the arrest report implies is of a subversive nature - are described as a full plan. This is meant to show, as confirmed by the Molotov cocktails, that the building was "being used for the strategic planning and material creation, by all those present in the building, of tools to be used against the police". The phrase that appears on the page in question, italicised in the arrest report, states: "there are 200 people in front of me working on every kind of passive armament" - this is a comment on a sketch, which clearly shows the well-known system of padding - something like body armour - that the so-called "Tute Bianche" had publicly been advertising since before the summit started and that Szabo, as he repeatedly pointed out, had seen during a demonstration he had attended at the Carlino Stadium (which got a great deal of press coverage).

Instead of using the sentence in the very specific context in which it was made, it was grossly distorted in the arrest report and then used as emblematic of all

those arrested (whose link with Szabo is hard to develop) to construct an improbably planned attack on the police.

Reading the arrest reports and other papers, it's impossible to ignore the fact that not everyone arrested was inside the building, even though the charges were based on the active resistance of the building's occupants, who had closed and barricaded themselves inside. Mark Covell, for example, was grabbed in Via Battisti, outside the gate and literally smashed to the ground even before police had entered the building. No one suggested he'd been complicit in the violent resistance, there was no evidence given of his ties to the others arrested, the Molotov cocktails or the black clothes and items that were considered proof of the crime. Other people (Jaroslaw Engel, Szabo Jonas and Laura Jaeger) were arrested while they hid outside the building, after having fled. The brutality of their capture has already been highlighted; here it need only be pointed out that fleeing does not constitute resistance. In any case, to suggest they fled the building after having committed or been complicit in violent acts requires proof; furthermore, the different circumstances of their position compared to the others arrested should have been highlighted.

No mention was made of the fact that after being beaten and injured, they were grouped into this criminal association.

The fact that the reports do not specify the different locations or even times at which different people were taken cannot be attributed to the confusion of the situation as it extends to every aspect of the operation. Instead, the gaps appear perfectly coherent and suitable for the objective, which is pursued with determination, through the fantastical prose of the report.

The film shows that the attack on Covell was clearly visible to anyone standing in front of the building at the time, particularly given that the violence was carried out by three separate, successive groups of police officers. The body of the British journalist lying on the ground, in a clearly visible pool of blood, could be seen by anyone entering the courtyard, even for a short period of time. As each of the defendants entered the school courtyard, he was clearly in a position to see Covell. The film itself shows plain-clothes police standing by watching the attack, without intervening. Some statements described the presence of an official wearing a mustard coloured suit, partially bald, clearly in command at this moment. Mortola was filmed standing a few steps away, in front of the Flying Squad vehicle.

Lieutenant Cremonini, surrounding the building with his Carabinieri officers, noticed the unconscious body lying on the ground. He pointed it out to two officials, one of which Gratteri, asking if he could help the injured individual. Both said they were already aware of the situation. The second official ordered him to reassume his position, saying only that an ambulance had already been called. This attitude is not just negligence but complete indifference. However, it's confirmation that this serious episode arose not just from a loss of control and from being overlooked. It appears that not a single official drew up a report or ordered anyone else to write one in regards to this injury - the gravity of which, the circumstances and the location, should have made it particularly embarrassing and suspicious, as there were a 100 police officers present compared to just one injured man. But in view of the formulation of the "global" arrest record, the indifference and lack of report regarding this incident fit in perfectly: just being in the vicinity of the Diaz School at that moment acted as kind of containment that would inevitably lead to someone's arrest, particularly if they were had injuries that no police officer could have justified. Not even Canterini's report. In the situations just recalled, as well as in numerous others, first and

foremost those involving serious injuries, there is evidence that those arrested had no connection whatsoever with the charges brought against them. Even when initial confusion might have led to them being grouped with other occupants, the investigative police officials and top figures - who, as it was shown in the case of Covell, were well aware of the circumstances surrounding the arrest - were perfectly capable of ordering their immediate release and had a duty to do so. The examination of individual cases has been omitted, because there was no evidence to support their arrest to begin with. Furthermore, going back into detail regarding names and surnames, highlights the lack of witnesses and agents assuming responsibility for the action.

This would be unthinkable if not for the risible excuse of "confusion". The lack of any evidence, shown by the dismissal of the charges in preliminary proceedings, is even more serious if seen through the reconstruction of events in which only the aim of arrests can provide any explanation for the fabrication of evidence.

The arrests were a clear goal: first, as a normally positive outcome of such an operation, secondly, deliberately pursued during the course of the operation with the frantic search for evidence able to justify the decision to carry out the operation to begin with, and finally, sought at any cost, as a way of justifying an otherwise disastrous manoeuvre, with an enormous human cost and not a shred of useful evidence. The discovery of the Molotov cocktails was a turning point, covering the crimes and the serious injuries, which, in themselves, would have been enough to undermine the police image even if the operation had produced the hoped-for results.

The attitude on the officials' return to the police station has been described as one of satisfaction, for what was clearly considered a positive outcome to the operation. The development of events after that dramatic night - pressure from the public, able to follow events in real time through the media, regarding the clearly disproportionate human cost of the operation - allowed those involved to

reconsider their handling of the episode. But they opted for complete justification, continuing more determinedly down the path they had already chosen.

11. Illegal arrest and abuse of office.

The abuse charged by this Office centres on illegal conduct by public officials, violating norms that govern how the power and duty of arrest are used. These abusive [arrests] were based on the fraudulent omission of elements, which, if included, would have blocked the arrests - in other words, those detained would have had to be released given the lack of evidence against them. (This would therefore also have automatically eliminated charges that they had been " caught in the act" of committing a crime). The police even exploited and made misleading use of the (falsified) evidence report - the basis of the precautionary measure - in order to deliberately seek to deprive them of liberty.

Describing the conduct as abuse of office requires an evaluation of the relationship between the imputed *fattispecie*, and illegal arrest as formulated in Art. 606 of the Penal Code.

This is not only an important question in terms of substantive law but also in terms of procedure. The latter is a fundamental issue in identifying which body has the authority to judge the defendant's alleged crimes: the abuse of office allegation should be considered by a panel of judges, in accordance with Art. 33 bis c.1 b) of the Criminal Procedure Code; for the other charges, the indictment of most of the defendants and all the crimes herein alleged should be tried before a single judge, unless proceedings are merged during that phase, given the clear connection between the evidence in the different proceedings.

The jurisprudence of previous illegal arrests cannot be invoked as a precedent in this matter, as the arrests in accordance with PC Art. 606 must be considered

in relation to the fattispecie of false imprisonment - in other words, the abusive conduct giving substance to the crime.

Even the most recent rulings on illegal arrests, however, cannot entirely be disassociated from the set of concepts developed regarding abuse of office, if for no other reason than that PC Art. 606 has remained unchanged and still uses the same bland terminology of the past: innominate abuse.

In effect, the norm covering illegal arrest has not been modified in the same way as PC Art. 323, meaning that it is currently an outdated leftover from a legislative system that is no longer reflected in the general rules regulating abusive acts committed by public officials, particularly after changes introduced by Law 234 of 1997.

This "historic" element had a considerable impact on the system and means that an evaluation is required of what area is covered by the fattispecie being considered, taking into account theories and doctrine developed on the subject of abuse by public officials, as well as the legislative changes of 1990 and 1997.

The latter legislative modification regarding abuse of office was intended to create a kind of fattispecie for a crime entirely different than those existing previously. This was done by typifying the material element of the crime in the case of conduct that violates law or regulations - in other words, when someone fails to refrain from acting either in their own interests or in those of others close to them, or in prescribed circumstances - as well as by establishing that actions designed to bring material gain and/or deliberately and unfairly inflict damage must be an essential element in the crime. These elements mean that a misuse of power that does not amount to a formal violation of the law or regulation will not be covered by abusive conduct punishable under PC Art. 323. However, there still exists the possibility of committing an illegal act through procedural records used either for public service, i.e. through activity forming part of the

procedural process, or in behaviour that is formally illegitimate and causally important for determining the unjust event.

The radical legislative changes of 1997 to the *fattispecie* of abuse therefore appear to have altered how this area relates to other criminal charges.

As well as modifying the crime of abuse in terms of the conduct, the outcome is affected by an increased statutory penalty and a reserve clause operating on the principle of *consunzione*.

Therefore, given that only a smaller number of those crimes that were once covered by illegal administrative/procedural action are now punishable, it can no longer be assumed that the different forms of conduct outlined in PC Art.s 323 and 606 will substantially coincide.

Furthermore, the safety clause in PC Art. 323 and the prescribed punishment would allow the norm to be applied in cases of illegitimate behaviour formally and intentionally directed at causing harm, even if partly by using administrative measures depicting different crimes.

This must be presumed to cover instances in which the illegality of the conduct, intended to cause unjust damage, manifests itself through a complex action, partly through constructing the appearance of a legitimate arrest and partly through violating procedural norms aimed at protecting a citizen's constitutional right to freedom. This constitutional right should have required that, faced with the truth and aware of it, the public official recognized that there were elements preventing the legal use of the precautionary measure; in other words, the official should have immediately released the person arrested.

The *fattispecie* covered by PC Art. 606 can only be applied in instances of misuse of power (in accordance with jurisprudential and doctrinal interpretation of the new *fattispecie* under PC Art. 323 that excludes from the concept of "violating

the law" an illegal act through an abuse of power); in other words, in cases where there is not absolute power, the expression "abusing powers of position" can no longer be applied to acts violating the law, as typified by the current Art. 323, without violating the principle of obligatoriness.

When what actually happened has not only been distorted or exaggerated by the public official but entirely fabricated with the aim of justifying the formal arrest record, the record itself might have the appearance of being in accordance with law. However, in effect, it is nothing but the illegal product of an independent action that preceded and contributed to the adoption of the precautionary measure, consisting precisely in the alteration or manufacture of the only elements that would have justified it.

In such cases, the arrest is not abusive under PC Art. 66 because it does not qualify as an arrest but is instead the illegal product of an abusive use of public power, and as such, could be covered by PC Art.323. Consequently, PC Art. 605 is no longer the only way to bring charges of conduct relating to illegal arrest, as suggested by jurisprudential interpretation (see also the supreme court ruling of Cass. Sez.V n.38247 del 16.10.2002, Liburdi, which on the same fattispecie, distinguished between false imprisonment and false arrest by focusing entirely on the psychological element).

The conduct under examination is therefore more complex and extensive than just illegal arrest, because it began, in part, at the moment of planning the elements needed to formally justify the arrest, and continued all the way through to the violation of the law protecting citizens' liberty.

In connection to the *consunzione* clause, the special relationship that might arise between the crime of abuse under CP Art 323 and the teleologically related crimes of fraud deserves a mention.

These are acts subject to a more serious statutory penalty than that provided for in PC Art 323.

The Supreme Court has already made several rulings allowing for the charges to be considered together.

There is no special relationship between the falsification that preceded the arrest and the actual arrest itself because, as recognized in clear, recent rulings, the courts have a different purpose in considering charges of abuse and those of fraud. As such, they must be treated differently. In one, the conduct damages public faith in the genuineness of public records, while the other involves the honesty and transparency of administrative activity whenever it involves the rights of third persons.

This reconstruction also meets a sense of substantive justice in instances similar to sub-judice proceedings, clearly drawing the line between the falsification of public records (in itself enough to justify the state's punitive interest) and their later use for the illegal purpose of depriving someone of their liberty, not required by the preceding falsification.

12. Responsibility for injuries

Charges for the injuries were originally considered for all the officials involved in the Diaz Operation who were in charge of the various divisions. However, they are now only being brought against Canterini, Commander of the experimental 7th Unit of the Rome Flying Squad Division, his deputy, Fournier, Inspectors Fabrizio Basili, Angelo Cenni and Ciro Tucci, Superintendent Carlo Lucaroni, Vice-Superintendents Vincenzo Compagnone, Fabrizio Ledoti, Pietro Stranieri and Zaccaria Emiliano, all non-commissioned officers acting as squad chiefs and all in positions of command over the personnel deployed there.

The decision was based on the mass of evidence available to support the accusation in personal terms, given that it was impossible for plaintiffs to identify individual perpetrators. This is a key factor in analysing responsibility. Similarly, at no point during the investigation was it possible to identify responsibility for each single episode. On the other hand, it has emerged that attacks were made by police at all levels and from all units present. Furthermore, it has been seen that all individuals arrested outside the building were subject to unjustified violence and, in some cases, presumably carried out by police who did not even enter the building.

The evidence could be used to formulate the charges (initially brought against a greater number of people, including those in charge) in the shape of a genuine punitive expedition, with relative orders and instructions for violence to be used as a way of dealing with the school's occupants. As evidence of this, the following should be recalled: 1) The absolute uniformity of police behaviour regardless of their division; 2) the presence of officials in command of each of the police units comprising each larger division, as well as, obviously, the larger 7th unit of the Flying Squad Division; 3) a verified functioning hierarchical chain of command, which was still overriding at that level.

But the ground had already been laid for what would follow, regardless of any last-minute instructions or more substantial advance planning. In fact, the attack on the police patrol had provided the opportunity for the operation; it's therefore reasonable to imagine that each agent had not only been told the school was a hideout for violent extremists, but also that the operation was directed against individuals that had just attacked a police patrol. The operation's usefulness as part of a general, wider policy can be seen in its immediate portrayal and conceptualisation as a "just response".

Following days of tension over the numerous, dramatic clashes with demonstrators and the damage caused, the police were already fired up. The consequences of this pent-up anger seemed a foregone conclusion if not adequately and professionally controlled. One might infer from the uniform, organized nature of police action that night that they had received specific orders to act violently. However, such a conclusion would not take into account that such violence could have arisen spontaneously in this context. Furthermore, the prosecution would still have to show where and when the order came from. The investigations have not produced sufficient evidence for this conclusion, but they do reveal grave negligence in the formulation and organization of the operation.

Identifying criminal responsibility among those who were in charge at various levels required careful evaluation of sufficient evidential proof. Without evidence of those directly responsible for the individual episodes violence and orders given, it appears more appropriate to focus on the material situation that each individual might have faced. In the indistinct mass of police officers that burst into the school, individual behaviour outside the collective action cannot be excluded. In other words, it is possible that some individuals sought to contain or prevent injury to others. Furthermore, it was physically impossible for some to act, while minor injuries during the operation's first phase meant others were not involved throughout, as shown by the reports of certain squad chiefs. While these were very few indeed, the plaintiffs have also testified that some of the agents were not violent, while others even sought to protect individuals from the perpetrators of violence.

Evidence for complicity of all the police in the injuries to the building's occupants therefore encounters a first limitation because episodes occurred that would suggest - at least by introducing a reasonable doubt - that some agents might not have participated in any of the action. In fact their behaviour, while not passive, cannot even be interpreted as having causally contributed by facilitating the

events, in other words, they cannot be charged with having contributed to injuring others by their mere presence.

However, other elements must be considered regarding material charges of complicit behaviour against all agents in divisions that were present in the building (despite the difficulty in proving this particular point in itself). In this regard, the details of the precise situation that each agent faced within the building on the various floors is significant, as is the particular timeframe, despite the operation's speed and intensity during the bloodiest phases. The fact that most of the occupants were concentrated in on the ground and first floors should also be taken into consideration.

Therefore, the results already discussed must be analysed more carefully. There can be no doubt that the collective action of all the divisions expressed a common, aggressive purpose, clearly evidenced by the insults and battle cries accompanying the indiscriminate beating. The deliberate use of the batons, the kicks and the spitting on the occupants suggest a furious outburst of a charged-up aggression, which exploded without any control, first in the initial wave of attacks and later in the assaults on already bleeding bodies.

In terms of rigorous proof, it must be borne in mind that the anonymity of the agents and operators comprising the "assault troop" makes it impossible to identify the route and consequently establish where individuals were located within the building. In turn, this makes it impossible to assess the role of individuals in the context of the material circumstances that can be deduced from the plaintiff accounts. This is particularly the case in regards to the groups comprising a mix of various flying squad and Digos units, who acted in a less unified way as they were not organized groups and - for the most part - entered the building after the flying squad units broke in (even though the occupation and control of the building was still fully under way).

However, the period of entry can establish who was in the final position, given the difficulty in pinpointing who was involved. The numerous plaintiff statements - who have pointed to plain-clothes operators as among those carrying out the violence (including some of the more serious incidences) - suggest that certain individuals dominated the violence, although other operators failed to stop it. There were some small interventions but these mostly occurred after the damage had already been done.

The format of the individual units of necessity means their action must have been carried out in certain parts of the building, as it is unlikely they would have acted this way, even later, on all floors of the building.

It therefore appears very difficult to theorize a collective complicit action for the injuries caused to all the occupants, regardless of where they were located.

Proving that those in charge were responsible for having failed to act to prevent injury, in accordance with **PC Art. 40**, is unworkable owing to the impossibility of establishing with sufficient certainty the situation at the moment of entry - i.e. the precise format of the teams. Once these were inside the building, they moved with greater independence and freedom, and less coordination.

A different conclusion must be reached in regards to the 7th Unit of the Flying Squad Division commanded by Canterini, his deputy and the squad chiefs charged today. In regards to this division, there are a number of fundamental circumstances that played no part in the action of other divisions or individual agents.

First and foremost, this was an organized division, operating in uniform unlike the others; it had a hierarchical structure and internal chain of command crossing various levels, from the squad chiefs through to the commander, and, importantly, was able to stay connected via an earpiece that every single member

of the team had, allowing for unified action, the imparting and receiving of orders and information ensuring unified behaviour.

In second place, this division's main purpose is as an "anti-riot" force, specifically trained to safeguard public order, which in this case involved securing the premises that were to be searched, and preventing and fighting violent reactions to the operation. It follows that this division would therefore lead the way during the break in and occupation of the building, as well "controlling" the people present. Besides the footage that has been repeatedly referred to, the statements regarding the immediate actions of the Flying Squad Division, on all levels of the building, are overwhelming, with identification of the squads facilitated by the fact that it was the only division in uniform and with full equipment.

While it cannot be established which unit or units agents in plain clothes belonged to, and consequently who was in charge, the injuries by the Flying Squad Division can be exclusively ascribed to them, making a chain of command easy to follow.

The failure to identify members of the Flying Squad Division who did not directly cause injuries or facilitate them by being part of those involved in the entry - even though their names were on the lists officially filed - introduces a serious element of doubt. Furthermore, the members of the 7th Unit have uniformly refused to answer questioning - a line of action that the top levels and the squad chief, equally unanimously, did not follow.

The statements of the defendants, the commanders and squad chiefs provide the elements for formulating responsibility in relation to the injuries inflicted on those arrested.

These statements reveal how the various squads entered the building, the times involved and the routes they took indoors. It has already been discussed how the

squad chiefs, currently standing trial, have assumed an almost uniform line of defence in ascribing themselves the role of "witnesses" to gratuitous violence, often described in detailed language, but of which, obviously, there is no mention in Canterini's official report.

Apart from the fact that this testimony incriminates the person giving it, reflecting that police from other divisions participated in the violence, the utter implausibility of the information provided should also be stressed.

By his own admission, squad chief Lucaroni headed the first team that broke into the building by the main entrance, confirmed by the objective fact that two of his men had the same injuries from breaking down the door. The situation, meaningful in itself, does not exempt the defendant from recounting - in complete contradiction to the footage - that he found police from other divisions already inside the building engaged in scuffles with the occupants (whose statements further refute this unique version of what happened).

Of the other squad chiefs, some (Compagnone, Cenni, Basili and Fournier), entered through the main door, others through the door on the left, where Flying Squad men were always in the frontline. Canterini also entered from the side door, finding himself, by his own admission, behind most of his men. The speed with which the agents took control of the ground floor allowed a growing number of agents to head for the upper floors, even if they came in from the main entrance, which led immediately into the large gym. The absolute concordance of the plaintiff statements as a solid basis for reconstructing what happened within the building has already been highlighted, and need only be compared with the contradictory versions of the defendants, some of which even confirm the plaintiff statements by describing some of the same events although in different terms. Some general considerations only need be raised here. When they don't blame other divisions who inevitably arrived before them for the clashes and scuffles (in

other words, the gratuitous violence), many squad chiefs recount that they were personally involved in sporadic actions that required them to use force. They said that these were carried out in an extremely professional manner and without any blood being spilled.

Going on the versions provided by the defendants, the implausible conclusion is that the 7th Unit was actually underused, despite being the largest in terms of numbers and tasked with occupying and securing the building.

Following the path taken by each squad within the building, according to the declarations given, one almost ends up with the disturbing feeling that having broken in, the division found itself faced with the same, uniform scenes. On one hand, injured and bleeding bodies lying on the ground and on other, scuffles under way between occupants and police from other divisions.

Occasionally the theme varies. Squad chief Tucci, for example, after entering from the side door (therefore after the other squads had already entered through the main door), described the clashes under way and admits that men from his own unit were involved. No batons were being used in his description of the struggles (which were denied by the men in question); instead, improbably, these involved "mutual pulling of hands", he said. There are also mentions of sporadic ambushes, which call to mind the one-off episode of Nucera. In all these cases, unknown attackers disappeared, dispersed or were stopped without excessive use of force.

Even more unique was the version of deputy commander Michelangelo Fournier, who openly admitted to being one of the first people to enter the building from the main door. Partly contradicting other statements, he explicitly declared he had personally seen no resistance during his time in the building, nor had he seen any objects being thrown prior to the entry.

He goes on to describe his arrival alone on the first floor where, surreally, he was faced with a series of people lying on the ground wounded. Approaching a girl lying on the floor in a pre-comatose state, he says he instinctively took his helmet off and ordered his men to immediately stop what they were doing and withdraw outside. He says he shouted "basta! Basta!", alarmed and disgusted by the scene. In his version, the shout was directed at no individual in particular but was a general outburst of emotion.

Fournier's intervention was recalled by nearly all the plaintiffs on the first floor, most of whom foreign, who were able to physically describe the official. The detailed versions of the plaintiffs, however, describe the development of events fairly differently, but place his outburst in a realistic context, at the culmination of the violence and its dramatic consequences. The occupants described how Fournier was forced to repeat the order several times before the agents obeyed, so determinedly were they engaged in their actions against those present. From what Fournier said, it is certain that he arrived on the first floor just a few seconds after entering the building.

Yet, it will be recalled he was one of the first ones in the building, making it impossible for him to have already found a number of people already lying on the ground injured, particularly so seriously, if none of the agents were still in action. But plaintiff statements describe a long series of beatings by the agents, who ranged up and down the corridor, with the order to stop arriving late. They also identify Fournier as present on the same floor during the worst incidences of violence, and some even say he participated personally. In effect, Fournier was noticed earlier but it was only once he ordered his men to stop that the actions stopped, not before. Therefore, his claim that he arrived entirely alone and only once the damage had been done cannot be reconciled either with the logical progression of events, based on the entry time, but also with all the witness

statements, some of whom even describe him as present when the wounded were being mocked.

The only explanation for his frequently repeated version - which Fournier himself acknowledges is something of a "mystery" - is a questionable loyalty to the men in his unit and some misguided concept of personal honour that prevents him from accusing his own men. In fact, he continually praises the professionalism, clarity and cool-headedness of his men, despite the different descriptions presented by the plaintiffs, whose detail and consistency leaves no space for alternative versions apart from these declarations of faith.

While Fournier refutes the statements of most of his colleagues regarding the crucial, salient points of the operation (such as the throwing of objects, the resistance, the hostility encountered outside, that 7th Unit men were in first), his version is basically consistent in his portrayal of a bloody and unjustified operation. However, it is an operation committed by others, from which he seeks to distance himself, without, however, providing any details that would allow for those responsible to be identified.

His refutation of the most straightforward evidence echoes similar declarations made by others. Just as those squad chiefs who entered the gym first described unbelievable scenes - a mystery explicable only through infiltrations or other police having entered the building before the door was broken down - so Fournier, one of the first to arrive on a floor where a homicide could have been committed, portrays a ghostly scene, with bodies already lying on the ground and nothing left to do except try and help. The description of events appears heartbreaking, shaped by dismay and indignation; but it is not completely convincing at this level if compared to the powerful sensations conveyed by the plaintiffs' versions. Gone is any mention of the agonized screams of the injured, the baton blows, the enraged shouts of "bastards". The omission is not just the result of professional

detachment. The repeated insistence, even beyond the evidence, of the operation of other, phantom divisions, either in uniform or in plain clothes, loses all cognitive content and becomes nothing more than a message aimed at reiterating only that 7th Unit men were not responsible for the bloodbath.

The professionalism of the 7th Unit becomes an element that, of itself, is meant to lead to the conclusion that such brutal actions could never have been committed by its members.

Some have even underlined that the seriousness and violence of the injuries, as described by the plaintiffs, were incompatible with tonfa batons (used only by the 7th Unit), particularly if used incorrectly. This claim was based on the fact that if the T-shaped baton were used incorrectly - ie somewhat like a hammer - to strike the skull or arms, it would have caused far more serious injuries than those actually suffered by the plaintiffs, despite the fractures. Taking this approach, the injuries that appeared most serious could not be attributed to its use, given that each operator was trained and perfectly aware of the particularly dangerous damage that the instrument's improper use could cause.

This argument is not entirely pertinent and not just because based on self-reasoning and circular logic. Numerous statements describe the agents using the tonfas like normal batons, which appears plausible given the accuracy of descriptions of the 7th Unit's uniform. The accurate descriptions of the uniform, frequently made more convincing by the wealth of detail provided, already identify the attackers' division, meaning that the batons being used had to be tonfas, given that no other division had them. It should further be noted that despite official instructions, photographic material exists testifying to the improper use of the tonfas, to say nothing of the fact that the Carabinieri RIS examining the confiscated batons used by the 7th Unit found traces of blood on the handle.

But in terms of this defence, the same argument works in reverse. In other words, if the 7th Unit men had used the tonfas as they were meant to be used - as an effective instrument for fending off attacks, particularly from armed individuals - there would have been no injuries and they would subdue any resistance without a high cost in human terms.

In any case, a trained, numerically larger unit, if adequately directed, should have been able to take control of the operation rapidly, as well as dealing with any intemperate behaviour on the part of other divisions. Continued insistence on skill and professionalism risks producing a counterproductive argument, by adding elements that would suggest a deliberately violent operation intended as revenge against the demonstrators.

From the analysis covered several times, it follows that the defendants from the 7th Unit under the command of Canterini should be considered fully responsible for the injuries to the occupants of the school. While there is no proof of their direct participation in particular episodes, the aforementioned defendants can be assigned the responsibility of having been complicit with those who carried out the crime, given the methods of action. In their different ranks, they guided and conducted the charge and entry into the building, directly witnessing the lack of any attacks from the occupants and the motiveless, indiscriminate brutality of the first wave of police, who were then joined by others. The nature of their role in command and control of the operation meant that their mere presence consolidated and implicitly supported the actions of their subordinates.

The unity and solidarity of the division, made even more effective by the radio earpiece worn by all the defendants, allows the collective action to be considered as a mutually interdependent group action. This is particularly the case given that the various squads spread out over the various floors of the building and each one was clear on the route taken, according to the statements of those involved.

Those in the frontline trusted in the strength and contribution of those following and vice versa. Fournier's intervention, for the reasons already considered, arrived too late and cannot in any case be viewed as a disassociation from what was happening, and certainly not as having stopped the abuse. The same goes for the intervention of squad chief Ledoti, if that official recognizes himself as the agent described who temporarily protected one of the girls from the rage of other agents.

As well as charges of complicity, an alternative charge might be responsibility for injuries through failing to act in accordance with PC Art 40. There is no doubt that each of the defendants was in a position to act as guarantor for the conduct of his unit members and that he therefore had a legal duty to supervise the behaviour of those under him. The control required was particularly significant in the context of the operation, given that each individual, at his own level, shared responsibility for command, which they could materially and effectively act upon given their physical presence on the scene. It cannot seriously be questioned that they failed to make any conscious move to stop the detrimental action, despite their awareness that the situation required such action. Gross negligence might also be charged against the defendants, given the foreseeability of the events and the fact they had assumed responsibility for the risk of such behaviour arising from the clearly, unjustifiably aggressive intervention. In fact, one need only consider the circumstances of fact known to each defendant -in other words, the verified lack of collective, violent resistance, which, given that the police vastly outnumbered the occupants, would have been quickly subdued even if it had occurred. This would have been immediately obvious at the moment of entering and then later during the search of the various levels and rooms of the building.

13. The illegal transport of the Molotov cocktails to the Diaz School.

Evidence exists that Pietro Troiani and his assistant Michele Burgio were complicit in the crime of transporting a weapon of war and of materially filing a false police report.

Troiani, accompanied by Burgio as his driver, had assumed responsibility for sealing off the zone during the search operation of the Diaz-Pertini School, using personnel that were already on hand for patrols, as well as others who volunteered. Footage exists showing the presence of agents in anti-riot gear, the colour of the belt indicating a different unit than that commanded by Canterini; they were therefore probably members of the Rome Flying Squad, some of whom stated they were in Piazza Merani and Via Battisti, opposite both the Diaz-Pertini and the Diaz-Pascoli school buildings.

The difficulty of identifying these people has already been discussed. The official lists of personnel participating in the operation did not include these names. Furthermore, attempts to identify exactly who was present have proven impossible - despite the fact one investigator was given the sole task of establishing precisely who participated in the operation. Troiani and Burgio were not tasked with entering the Diaz-Pertini school to "secure" the premises; Burgio's presence, in fact, has been documented in Via Battisti and Piazza Merani at about the same time as the building was being broken into and searched. Troiani also appears in the footage, showing him with other officials who didn't enter the school during the first stage of entry.

Burgio, at the orders of his superior Troiani, was almost certainly responsible for the material conduct of having illegally transported explosives, at least for having transferred the find from the vehicle to the school. Furthermore, the illegality of the transport stems directly from how the explosives came into their possession. The statements of Guaglione, Piccolotti and Donnini confirm that the Molotov

cocktails were found on the afternoon of 21 July 2001 during the course of a sweep of the area surrounding Corso Italia following clashes there.

That Burgio had access to the evidence, temporarily stored in his vehicle, was admitted by Donnini himself, who had instructed Guaglione to place the two bottles in a vehicle belonging to the Flying Squad, which happened to be that of Burgio.

Independently of Burgio's own declarations, before he'd been placed under investigation - when he admitted he'd had possession of the bottles as early as Corso Italia and that he hadn't received orders as to what to do with them - the defendant was physically described by Di Bernardini as the person accompanying Troiani with a bag containing the bottles in the school courtyard. This description tallies with the assistant's features, particularly regarding his robust frame and greying hair. Burgio is also clearly indicated by Troiani as the "material carrier" of the bottles inside the courtyard and recognized in the footage showing him close to a group of officials observing the crime.

Ample confirmation is also to be found in the phone records of Troiani and Burgio, which show contact between the two defendants immediately before and after the scene showing the group of officials around the bag with the bottles.

It therefore appears certain that Burgio transported the find from Piazza Merani, where the vehicle was parked, to the Diaz School courtyard.

This conduct supports charges of illegal transport and was used to plant false evidence against all the occupants of possessing explosive devices.

The illegality of the conduct lies in its purpose; it cannot be justified as carrying out a duty or by the title of the defendants (public officials belonging to law enforcement bodies), who aided each other in the conduct.

The transport of the devices could only have been justified if it occurred during the course of seizing or securing discovered arms, with the contextual assumption of formal responsibility regarding the circumstances of the discovery.

This moment should logically have preceded the arrival of the bottles in Piazza Merani. But even if one accepts that the find made in Corso Italia had been "forgotten" onboard the vehicle where it had been temporarily placed, its natural destination should have been the Police Station, without any "intermediate stops", for the registration of the find and a report, or at least an entry for the AG records.

The service entries on the circumstances surrounding the find were instead made by Piccolotti and Guaglione (almost at the same moment as the find was illegally travelling to the Diaz School). They drew up a report on the sweep carried out around Corso Italia, including the discovery of the Molotov cocktails, although the officials at that time did not know what fate the bottles would meet.

The defendants carried the devices to the building where the search was being carried out with the clear intention of ensuring the bottles were found in the course of the search. The fact at this time they gave only vague "verbal" indications on where they found the bottles - plainly outside the premises and, regardless, not corresponding to the reality - reveals a conscious intention to attribute possession to the occupants. The omission of formalities imposed by the case and the indication of circumstances surrounding the place where the devices were found - different from what actually happened (undoubtedly known to both defendants) and allowing the find to be linked to the "operations zone" - are further elements showing a clear intent to materially plant evidence pertinent to the crime that was the reason for the search.

There are so many and such significant contradictions in Troiani's reconstruction of events that they play a key role in evaluating his responsibility and that of his

driver. His statements during the interrogation, already mentioned, repeatedly show that he knew bottles were in the vehicle being driven by Burgio, confessing that they were taken out of the vehicle at his orders. He seeks to defend this action by declaring that it was "irresponsible"; that he did not know of the existence of the material evidence before, having only learned of it through Burgio and his men; that he had wanted to "rid himself" of an inconvenient find, without understanding the nature of the operation taking place inside the Diaz School.

It is untenable that Troiani was not aware of the significance of the operation being carried out, given that: a) he had been under Caldarozzi's instructions for organizational help with the evening patrols of 21 July (both as personnel and logistical support); b) by his own admission, he knew of the attacks on the patrol being headed by his colleague Di Bernardini; c) Caldarozzi had ordered him to be available for an imminent operation at a school with the aim of sealing off the area surrounding the building, where there would be action to "flush out" those who attacked the patrol led by Di Bernardini (and therefore the individuals responsible for the clashes the previous day, whom the patrol had been trying to identify).

It is of little importance whether Troiani's claim on 31.05.03 - that he did not know the precise reason for the search of the building - was true or not. It is inconceivable that in those circumstances Troiani, deputy commissioner and not just a simple inspector or police superintendent, had not found out or not been informed of the reasons for the search, because it's clear that he must have received some information, even the bare minimum, of the reasons for the search; it's clear that he was not someone lacking in the professional police background required to understand the full significance of the operation. In fact, one of the volunteers recruited by Troiani, David Valeri, revealed that he had offered to escort the "detainees".

This minimal awareness is enough, revealing an understanding that regardless of whether the operation Troiani witnessed from the courtyard was a check or a search (which he and his men had been brought in to ensure went off peacefully), it was aimed at finding material evidence for a crime. Bringing the bottles to the scene, saying that they had been found "nearby" (lying, therefore, about where they had been found, even amid the confusion of all the different statements made under questioning, and intended to indicate a finding place increasingly close to the building), amounts to providing a strong piece of evidence that could be used against those in the building.

Even the contact Troiani claimed during his last interrogation to have had with Di Bernardini - informing him of the presence of the two devices on one of his vehicles and prompting Di Bernardini's invitation to "have them brought here!" - can be seen as a valuable offer: that of providing material that might get him out of a potentially embarrassing situation if necessary.

His position in the courtyard would have been a good vantage point for assessing the problems the operation was running into, given the extreme number of injured being carried to ambulances and the frenzied search taking place inside the building for evidence to justify the action.

If Troiani was the diligent, dedicated official described by Donnini, it seems unbelievable that he would have suddenly chosen that chaotic, troubled moment to "rid himself" of an inconvenient find that he didn't know what to do with, thereby risking complicating and hindering the operations under way. It seems far more logical that he wanted to make himself useful, offering a contribution to the operation. No irresponsibility, no ignorance of correct procedures could justify a telling gesture of such significance, which was, in fact, welcomed and accepted by those carrying out a search that had until this point proven almost fruitless.

Furthermore, Troiani was tasked with logistics and supplies. This was his field. It is of little import whether he fully realized how the find would be used. It was already a material element of indirect police falsification, simulating evidence of a crime through the material provision of a find that had until then been in the vehicle driven by Burgio. Even if the bottles had been used as material evidence in the serious charges laid out in the arrest report of the building's 93 occupants, abstractly, the conduct could have amounted to grounds for charges (see ruling Cass. Sez. VI n. 8827 of 9.7.1999).

The courts have accepted charges of indirect falsification, even when the accused, while not specifically indicated, was nevertheless easily and unmistakably identifiable (Cass. Sez. VI n.10260 of 11.10.91). It is impossible that Burgio and Troiani did not realize the nature of the search taking place under their eyes. As those responsible for having found and been in possession of the devices, both were under a duty to write a service report regarding the discovery, which neither did.

It might be argued that this same clear operational context in which the find was made should not be applied to Burgio, who merely informed Troiani of the existence of the Molotov cocktails and was ordered to transport the find to the school. However, this does not tally with the evidence indicating that even Burgio was aware of the context of the situation.

It is clear from the footage, in particular Exhibit 234, that the area where Burgio was guarding the vehicle was neither far from the school building nor peaceful. Burgio had therefore been able to witness the operation right from the beginning; like everyone present, he was able to hear the shouts coming from the building at the time of the break in, the sound of the doors being broken down and glass smashing; he witnessed the capture of Jaroslaw Engel, who, injured, was taken to an area near his vehicle; he appears at the side of a person being led by a

plain-clothes agent, as though "under arrest" (with an arm immobilized behind his back and grasped around the neck); he was able to see the coming and going of plain-clothes agents in anti-riot gear, of Carabinieri and officials crossing the piazza, heading to or returning from the school; he also witnessed the arrival of the ambulance and the treatment of the wounded. All these elements made it clear, if it weren't already, that a significant police operation was taking place, with large numbers of vehicles and men involved, as well as a substantial number of "prisoners".

Burgio clearly understood the implication of carrying the bag with the bottles into the heart of the operation; he was well aware what his duties would be as the finder of explosive devices, even given the pressing conditions that may have prevented an investigative police officer taking official possession of the find.

No reliance can be placed on the confused reasons given by both as justification for the discovery of the most significant piece of evidence in the entire search.

Every incoherence and illogicality is resolved, as soon as placed in the actual context of that evening, taking into consideration the numerous statements describing this stage of the operation and the footage. As soon as elementary logic is applied, the purpose of these actions and their significance is plain to anyone with a modicum of sense.

Images and statements regarding the method used to bring the bottles into the courtyard provide further evidence that both defendants were aware of the illegality of their conduct. Burgio recalls having hidden them under his jacket and taken them out in front of Di Bernardini. Troiani - in the courtyard while the find was being shown to the officials as well as afterwards, awaiting indications from Caldarozzi - also appeared to have arrived in the courtyard "secretly", if it can be shown that he entered without the rank markings on the shoulders of his jacket and with his helmet on. He was certainly known to both Di Bernardini and

Caldarozzi and should therefore have had no need to hide his identity from his colleagues in the courtyard. The presence of numerous journalists and TV cameras must have indicated a need for prudence - the same urge that led many of the police officers involved in the operation to cover their faces with handkerchiefs, despite the fact there was clearly no operational requirement for such a move.

If covering his ranks was meant to hide his identity for the group, or at least those who didn't know Troiani directly, it appears entirely contradictory and irrational that he would then stand with the group of officials for so long. If he wanted to hide his identity, rather than handing over the bottles directly to that group of officials, he would have tried to avoid direct contact or identification through talking with officials known to him. Furthermore, if hiding his rank was not for the reason here suggested but for the one proposed by Mortola's defence, all those officials who knew Troiani would have to be considered participants in the action. Some of the film evidence (Exhibit RAI No. 173 p. 3) is useful for considering these arguments. This shows Troiani with the rankings clearly visible on his uniform, trying to help the agents escorting the first people arrested, while Mortola is also present giving instructions and overseeing the operation. It's clear that at that moment, Troiani had no fear of showing his ranks to the person who, a few minutes previously, he had been trying to trick, according to the defence's reconstruction.

14. In the GSF building. The arbitrary search of the Pascoli School.

Closely linked to the search of the Diaz-Pertini School was the police's entry into the building opposite, the Pascoli School, which was part of the same complex.

Genoa municipal council had allowed the Diaz Pascoli school building at Via Cesare Battisti 6 to be used by the Genoa Social Forum, in accordance with Law 251 of 03/07/2001 (under which Liguria regional authorities provided funding in order

to "set up service areas, spaces and structures" for those participating in initiatives and gatherings during the G8).

Statements made to the investigative police on 23 July 2001 by Genoa council's sector road network and security head, Paola Spagnoli, and the delivery report of 11 and 12 July 2001 show that Genoa council had acquired and rented writing, computing and electronic materials, as well as telephone and network equipment, which was being used for free by the GSF. The entire building, equipped with computers, phones and writing material was made available to the GSF, which during the demonstration period had turned it into a press centre.

None of the records cited, which form the body of the crime report arising from the Diaz operation, contain any mention of the intervention or operation carried out in the Diaz-Pascoli School, even though this was particularly significant and was carried out by a large number of operators.

An explicit mention of the operation in the Pascoli School appears only in the service reports of Chief Commissioner Salvatore Gava (of the Nuoro Flying Squad), Deputy Commissioner Filippo Ferri and Commissioner Alfredo Fabbrocini (Calabria Crime Prevention Division). However, these reports were never sent to the Judicial Authority but were acquired only in the course of investigations for the present proceedings, sometimes after they had been drawn up specifically for that purpose.

In his report of 24 July 2001, Gava noted that, together with personnel from the Nuoro and Rome flying squads and the Crime Prevention Division, he had entered the school through a back gate, following the head of the Genoa flying squad, Dominici. It was only once they were on the third floor that Gava said he realized that it was not the building for which the search had been planned in the police station in accordance with TULPS Art 41. Nevertheless, he carried out a

"summary check" of the building itself, in which he remained for only a few minutes, he said.

Personnel from the Genoa Digos (see the service reports of Maurizio Capovani, Anacleto Bassani, Giovanni Pantanella and Barbara Garbati) also reported their own entry into the building at a later stage, unconnected with the first entry, and even described investigative police activity being carried out on that occasion. In particular, Capovani says he entered the building together with Special Agent Anna Vannozi, following plain-clothes colleagues wearing bibs marked "Polizia", and, immediately realizing it was not the correct building, turned and left with his colleague.

In Bassani, Pantanella and Garbati's report, drawn up only on 8 August 2001, the agents state they arrived in Via Cesare Battisti and immediately noted that a person on the upper floor of the Pascoli School was filming; a plain-clothes agent wearing a police bib was in the next window, pointing to the person filming. They said they then entered and went upstairs to the second floor, to the room where they had seen the person filming. According to them, there were already state police in the building, both plain-clothes with the bib and in uniform. The Digos operators apparently found no one in the room but they saw four micro-cassettes, which they took to the Police station where it was placed with the rest of the material seized during the operation.

The operators justify not having drawn up the seizure report or having registered the objects with the mistaken conviction that they should have been registered with the other material (seized from the Diaz-Pertini school).

There are numerous witness statements regarding the development of that "accidental" entry, its purposes and the methods used.

These statements clearly show that the police carried out a full, thorough search.

The occupants unequivocally and with no contradiction stated that the police went beyond a mere identification of the people present, carrying out searches and seizing items.

The statements say that the police entered various rooms, ordered all those present to leave and to sit on the ground in the corridors of the various floors. They then began going in and out of rooms and searching through backpacks.

Similar, if not identical, behaviour was described by occupants on all the different floors of the building.

At the moment the police entered the building, nearly everyone was on the first, second and third floor. The fourth floor was being used as storage and almost no one was in the basement or on the ground floor. Some people fled to the roof and hid there, where they were not discovered by police, who did not carry out a painstaking search of the premises.

According to the occupants, during the search, the police took their things, put them in boxes (Nadine Moser) or black bags (Alessandro Minisci) and carried them away. The objects removed were cell phones, cameras, video-cameras, film roll, video cassettes and floppy discs.

It therefore seems as though the police were interested in all objects that could be used by the occupants to communicate with outside or to document (either through film or sound) what was happening in the building opposite at that moment. The use of phones was expressly forbidden, as referred in other cases. Statements by the occupants on this point were backed up by various other elements that emerged during the course of the investigation, some of which from the state police itself. First and foremost was a document: the Genoa Police Headquarters Flying Squad report entry dated 30 July 2001, on the registration of items seized during the search of the Diaz Pertini School, drawn up for

transmission to the Public Prosecution Evidence Office. The document shows that the investigative police official tasked with registering the material (Deputy Superintendent Riccardo Grispo) discovered numerous objects not listed on the confiscation report, sent to the Judicial Authority for validation, of items seized and taken to the Genoa Digos buildings.

In other words, there were many more objects than indicated in the seizure report meant to document it. This would certainly tally with the idea that items seized by the police not only during the Pertini search but also elsewhere ended up in the Digos offices at the police headquarters.

The detailed list of material, of which not a trace is to be found in the seizure report sent to the Judicial Authority, is emblematic of the method used for the search at the Diaz School and casts even more doubt on the reliability of the report, in terms of where the items were discovered, where they came from and how they were then stored. Two significant incidents have already been referred to: the seizure of property belonging to Szabo Jonas, who had said his bag had been in the Pascoli school, and the "disappearance" of tape in the video-camera of Gieser Michael Roland, which is mentioned into the seizure report (see above at note 62). Here it should be highlighted that the complete list of material referred to in the entry of 29 July 2001 led the Public Prosecutor's Office to order the immediate delivery of all the material that had not yet been delivered or reported to the Judicial Authority. This list included items such as a tennis ball, tampons, swimming costumes, rags, some items of clothing (a skirt, a raincoat, a glove and six t-shirts - all black naturally), kitchen knives, Swiss-army knives, banners, posters and four video cassettes (documenting the police's entry into the Pertini school, although this would only be realized at a later point).

Reports by Gava (24 July 2001) and Bassani, Pantanella and Garbati (8 August 2001) must also be considered. In the first, Gava states he carried out a

"summary control" of the building; in the second, the three Digos officials state that they entered the room of the school, saw four micro-cassettes on a table, which they took away to the Digos offices. One of these cassettes was tampered with in order to make its images legible on a regular VHS, during which operation, the Police admits that some "interesting" images were wiped. The contents of this tape (Exhibit 189), documents the arrival of the police at the Diaz Pertini school gate, the entry and images of what could be seen happening inside the building through the windows. The soundtrack provides a commentary by the Pascoli school occupants of the break-in to the Diaz Pertini School all the way through until the police entry into the Pascoli school (some shouting can also just be heard before the filming abruptly stops).

Other video images (footage by a RAI3 operator used in a montage of images by Indymedia and another find, erroneously classified as "Diaz Search" but apparently showing the search in the Pascoli building; Exhibit 32 p. 1) confirm that the police went beyond the mere identification of those in the building. The Indymedia video (transposed into Exhibit 198.3.p.3) show the occupants sitting on the ground along the corridors, backs to the wall, while plain-clothes agents wearing police bibs walk up and down the corridors and in and out of rooms. In all, it appears to indicate an action far beyond that required for a simple identification.

The activity cannot, however, be classed as a full search.

In accordance with procedural roles (Articles 247 and following of the Criminal Procedure Code), searches as a means of finding evidence consist of a search and the later seizure of items (the subject matter of the crime or items pertinent to the crime) and this precisely describes the conduct of the state police who entered the Pascoli building, making it irrelevant for the purposes of judicial categorization whether the search was more or less swift or merely summary (as numerous of the occupants testified to).

More significantly, it was a property search, carried out in the building and in the rooms of the school, which Genoa council had made available for the GSF to use.

During the property search, the police also searched several of the occupants, after which objects in their possession were also searched (backpacks, cell phones, cameras, video-cameras etc.).

Considering the relevant section in the Criminal Procedure Code on the basis for such actions - either at the order of the Judicial Authority or under the initiative of the investigative police - it appears plain that in the case at hand, there had been no authorization by the Judicial Authority nor had any of the special cases allowing investigative police to take such action of their own initiative been met; in other words in accordance with Article 352 of the Criminal Procedure Code, none of the conditions had been met, nor were any of the special laws on weapons, narcotics or public order relevant.

As has already been underlined, Pascoli was being legitimately occupied and used by the GSF under an official act by Genoa city council, delegated by a state law.

The GSF had therefore organized the school as its own offices and press centre, making the many rooms (on the second and third floor) available to print, broadcast and wire journalists. It was well known by officials at the Genoa Police Headquarters (see the aforementioned statements by Mortola) that a number of GSF coordinators were in the building, as were lawyers from the Association of Democratic Jurists, doctors and nurses, accredited Italian and foreign journalists, as well as European and Italian MPs; furthermore, the Pascoli school, unlike the Pertini building, was not being used to house demonstrators.

It is therefore impossible to find any evidence, no matter how weak, as to why the police believed there might have been weapons in the school building. And not even weak evidence would have legitimised the entry into the other building.

And in fact, the occupants' declarations reveal that the police, rather than looking for weapons, appeared entirely focused on seizing items that the occupants could have used to document what was happening at that time, not only during the operation in the opposite building but also, more generally, what had been documented during the street clashes at the summit.

In regards to this, it should be noted that unlike the Pertini operation, the police in no way based their action on TULPS Art 41 or any such norm that could have justified the action. Instead, they simply said that no search had been carried out. The search of the Pascoli School clearly did not fall into the categories prescribed by law, making it illegal and arbitrary.

Furthermore, the police did not draw up a report of the operations carried out in violation of the Criminal Procedure Code Art 357(2)(d), did not deliver a copy of the report to people whose items had been seized, thereby violating CPC Art 355 (1) and most importantly, in violation of CPC Art 352 (4), did not transmit a report of operations (neither within the required 48 hours or afterwards) to the Public Prosecutor for validation.

Instead, as has already been underlined, the official police version, coinciding with the aforementioned report of Gava (24 July 2001) is that the entry into the Pascoli School was accidental, as poor organization meant that several divisions ended up there rather than in the Pertini building. Once there, however, they decided to carry out a "summary check" for security reasons, and, regardless, the police were present in the school for only a few minutes.

However, this version is intrinsically illogical and therefore implausible. It's abstractly possible that some of the police divisions - particularly if composed of agents from outside Genoa who were unfamiliar with the area - might have ended up in the wrong building by accident given all the confusion. However, this is merely an abstract possibility because, given the deployment of vehicles and men,

as seen in the film of Exhibit 234 on the Diaz Pertini School operation, there could not possibly have been any uncertainty as to which building was the target. On their arrival in the road, they would clearly have seen that the gate and the doors of Pertini were being broken down or had just been broken down, while the premises were being surrounded by Carabinieri officers.

It is no more acceptable, even abstractly, that once they realized their error, they decided to search the rooms anyway, rather than immediately withdrawing from the premises and heading for their real target.

In fact if, as claimed, only the Pertini School was meant to be searched as only this building met the conditions prescribed under TULPS Art 41, then why, realizing he'd ended up in the wrong building, would an investigative police official not immediately withdraw and move to the correct premises? Why would he order a "summary" search of the premises (and people) when he had no legitimate authority under law to do so?

The occupants' statements suggest the police were in the Pascoli building for between 30 and 45 minutes, undermining the police claim that they were there for only "a few minutes".

The fundamental unreliability of the police version was one of the elements indicating an awareness of an abuse of power on the part of investigative police officials.

Claiming they entered the school by accident and that no search was carried out is an implicit admission that they knew the legal conditions required for a search there did not exist.

The occupants' statements that the police banned them from using phones and other objects seized (cell phones, cameras, film, video-cameras, tapes etc), as well as the aforementioned reports by Gava (254 July 2001) and, particularly,

Digos officers Bassani, Pantanella and Garbati, are a clear indication that the operation had been planned in advance. Furthermore, it was planned and carried out, in the full awareness that the pre-conditions for such an operation did not exist, and therefore that it was illegal. The aim of the operation was to prevent the occupants from observing and documenting what was happening in the building in front, in other words, the violence taking place in the Pertini School.

Bassani, Pantanella and Garbati's service report states that another agent had pointed out one of the occupants filming from the window. They say they went to the room and seized four micro-cassettes without drawing up any kind of report afterwards.

This kind of conduct is clearly only possible following an order and accompanied by a clear indication of the purpose of the action.

However, in his statements to the Public Prosecutor on 10 August 2001, Mortola, then director of Digos, unequivocally stated that the entry into the Pascoli School was dictated by "the need to secure the area outside the building", given that the numerous occupants could have "hindered the operation under way in the building opposite".

The theory that the building had been entered by accident was clearly constructed afterwards to justify or to head off requests for justifications, even before the formal launch of investigations by the Public Prosecutor's Office. Once the defendants came under investigation, they returned to this theory. The voluntary and deliberate entry into the Pascoli School building was, in fact, clearly represented in a fax message sent by Colucci at 17:15 on 22 July 2001 and directed to the chief of police. This stated: "At the same time as the search, an inspection was carried out inside the GDS press centre in the building opposite the Diaz school complex, without any further actions or operations being taken owing to the absence of any security-related problems."

What happened in the Pascoli School was therefore perfectly in keeping with a generalized arbitrary use of power, with the purpose of allowing the operation in the Pertini school to be carried out; this could also be seen in the illegal arrests and violence on people outside the building.

Against this distorted backdrop it appears as though a search of property and persons was carried out that failed to meet the cases prescribed by law, amounting to an abuse of power, with conscious intent and awareness that the power was being abused.

The conduct described can be classified under the so-called "special wrongfulness or illegality" violations established under PC Arts 615 and 609, which require an abuse of public office accompanied, in terms of falsification, by an awareness of the abuse (Cass. Pen. Sez. VI, 5/4/1996 - Geracetano, n. 3413).

In other words, the subject must have carried out the search even though aware that the legal prerequisites did not exist.

Any analysis of subjective evidence must therefore be based on this premise.

It appears evident that those in charge of divisions, who led their men inside the school and ordered the search, must have been aware that the search had not been authorized by the Judicial Authority and that the material circumstances of the situation did not allow them to carry out such a search on their own initiative.

In fact, no report was drawn up of the action, nor was any validation requested from the Judicial Authority, which was instead provided with an entirely implausible version, under which no search had been carried out in the school and that the building had merely been entered by accident.

Different considerations must be reached with regards to the individual agents making up the various units.

These played no role in the decision-making and organizational stages, merely following those in charge of their divisions and doing as they were ordered. In this kind of situation, it is impossible to formulate certain proof that every single agent was aware of the search's illegality.

It is clear that the individual agents were given no information regarding the existence of judicial authorization, nor were they informed of evidence that would have legitimised a search, that being reserved for those in charge.

This does not mean that individual agents didn't develop serious doubts regarding the operation's legality during the course of the action in light of what they personally saw (see, for example, the record of the Luigi Fazio's interrogation by the Public Prosecutor). Once again, it must be borne in mind that it is not the prerogative of individual agents to question the legality of an operation.

The order to carry out the operation is not, of itself, intrinsically illegal, which would have allowed for them to refuse. Therefore, each subordinate could have legitimately assumed that the Judicial Authority had issued a decree authorizing the operation.

Any doubts regarding the legality of the order would only have arisen during the course of the operation, in light of what was happening. This does not lead to different conclusions regarding the existence of falsification, which foremost presupposes the subject's awareness of the arbitrariness and therefore of abuse.

However, the state police agents went beyond searching the building and also restricted the liberty of the occupants.

First and foremost, it must be recalled that there were some extremely peculiar aspects to events inside the room occupied by the Association of Democratic Jurists (set up as the GSF's legal office on the first floor), both in terms of the seriousness of what happened, as well as in view of the fact that nothing similar

occurred in any other part of the building. Events in the room in question should therefore be examined independently and separately.

The analysis of police action in the building therefore excludes, for the time being, events in the legal office.

The aforementioned statements by the occupants demonstrate that once in the building, the police ordered the occupants to leave the rooms, sometimes using their batons as threats. They were told to sit in the corridors, to maintain a certain position (lying down, sitting or kneeling) and not to use any phones, either mobile or landlines.

Hon. Graziella Mascia and her aide, Giacomo Conti, said they visited the various different floors of the school and saw the occupants seated along the corridor with their backs to the wall.

Massimiliano Carboni said he was taken to the gym in the basement (the press room) and made to kneel with his hands in the air. He said other people in the room had been made to assume the same position.

Carboni's statement is supported by that of Andreas Huth, who said after walking across the third floor, he was made to go downstairs to the basement in the press room, where he was ordered to kneel alongside others already in that position. Ronny Brusetti, who was already in the basement when the police arrived, described similar circumstances, of being ordered on to the ground, facedown.

Hon. Luisa Morgantini said she saw occupants on the first floor kneeling on the ground in the corridor and that moving through the building, she witnessed the same situation on other floors.

Many recalled having been forced to sit down along the corridor on the first floor. Enrico Cordano, who personally said he had not been ordered to take any position, said he saw other occupants on the ground along the first floor corridor.

Daniela Morando, who was on the second floor, said she personally had not been obliged to take any position but she recalled seeing other people on the ground in the corridor.

Halbroth Anneke, Moser Nadine, Huth Andreas, Plumecke Tino, Valenti Matteo e Trotta Marco were all on the third floor and said they had been ordered to leave the rooms they were in and sit on the ground in the corridor. Testoni Laura and Fletzer Enrico's statements supported their claims. Having been on the first and second floor respectively, both recalled having gone upstairs to the third floor and having seen everyone lying down in the corridor. According to statements given by William Hayton and David Jones, before people were allowed to sit, they were made to stand with their arms against the wall, some for as long as 20 minutes.

Numerous occupants recalled that they had been prevented from using cell phones, cameras and video cameras.

The occupants' statements on this point are clear, precise and unequivocal.

Furthermore, the fact that the police forced the occupants to leave the building and to lie on the ground is confirmed in numerous remarks made by defendants or individuals under investigation during interrogations by the Public Prosecutor: Garbati Barbara (questioned 24/9/2002), Vannozzi Anna (questioned 23/9/2002), Fazio Luigi (questioned 16/4/2003), Ferri Filippo (questioned 20/9/2002), Salomone Nicola (questioned 15/11/2002) and Gava Salvatore (questioned 13/2/2002) all said they saw occupants lying on the ground along the corridors.

Further confirmation of the occupants' statements comes from the aforementioned film footage, which shows the occupants sitting on the ground along the corridors and plain-clothes police officers wearing bibs walking up and down the corridors and going in and out of the rooms. It's obvious that those under investigation had realized this by the time of their "confessions".

The results of the investigation have therefore verified that the state police did not just carry out a search for certain items but also identified the occupants, made them leave the rooms they were in and assume a certain position on the floor (kneeling, lying or sitting depending on the case), and prevented them from leaving the building or using cell phones, video cameras and cameras.

The occupants' statements, referring to the basement and the first, second and third floors, reveal that the same situation occurred throughout the building.

With the continuing exception of what happened in the legal office, two cases must be highlighted in which the police behaved differently: this was in the medical room on the first floor and in the room being used by Radio Gap on the second floor.

The occupants of the latter (Gallo Alessandra, Salvati Marino, Morando Daniele, Achino Emanuele and Alberti Massimo) were recording at the moment the police entered. Their accounts unequivocally state that the police demanded their ID and once having confirmed their identity, left the room, without obliging them to assume any special position or break off recording.

Doctors Cordano Enrico and Costantini Massimo were in the medical room when a policeman entered, removed his helmet, and asked to see their ID. He allowed them to continue working, even using their cell phones.

First and foremost, given that the occupants were prevented from leaving the building throughout the time the police were there, charges of wrongful detention must be considered, in accordance with PC Art. 605.

The occupants estimate the time the police were in the building as between 30 and 45 minutes. This period corresponds to the limitation on their personal freedom, given that as soon as the police left the building, the occupants were free to leave. It's therefore questionable whether this limited period of time could be considered long enough to provide grounds for charges of wrongful detention.

However, in accordance with PC Art 605, the crime must be excluded for another, logically preceding legal consideration. The search of the school was carried out by the police under conditions not allowed by law. This therefore unequivocally constitutes an abuse of power and is a crime under PC Articles 615 and 609. Any search entails a necessary infringement of personal liberty of the subject being searched; in fact, it is precisely because any search infringes on a constitutionally protected right, such as the right to freedom, that Art 13 of the Constitution includes an exemption clause.

Assuming that the search was outside the conditions permitted by law, and therefore an abuse of power, the illegal infringement of the passive subject's personal liberty connected to the search itself is punishable under PC Articles 615 and 609 on arbitrary searches.

In other words, the crime of an arbitrary search punishes the search itself, for the seizure of items and the infringement of the subject's personal liberty strictly linked to that search.

In this instance, therefore, a charge under PC Art 605 cannot stand due to the limitation laid down in Art 609, which, like Art 615, is a peculiar norm in respect to PC 605 and safeguards the same right of personal freedom.

With regards to the present case, it must therefore be ascertained whether the infringement of the subject's freedom was consequent and necessary to the search, in which case, charges can be brought only under Art 609. This would mean there had been an infringement of the right beyond what was strictly necessary to carry out the search. If so, other concurrent charges can be brought.

The Supreme Court recently ruled on this area, in relation to events that occurred in the Naples Raniero Barracks on 17 March 2001 (Cass. Pen. Sez.VI, 9/12/2002 n. 1808).

In the aforementioned sentence the court held that charges of wrongful detention could not be brought against police taking demonstrators from the hospitals where they were being treated to a police barracks. It distinguished between cases in which freedom is infringed without the public official having the power (cases falling under PC Art 605) and instances in which the power is established by a law that has been abusively carried out (in which case Art 605 cannot be used, although other charges can be formulated).

As well as carrying out a full search, including the confiscation of items, the police identified everyone present and prevented them from leaving the school until the operation was over.

Criminal Procedure Code Art. 250, which regulates how property searches are carried out, expressly provides that a property search warrant issued by the Judicial Authority can allow for the search of individuals present or arriving on the premises. The same article adds that the Judicial Authority can also order, with sufficient reason, that "some may not be allowed to leave the building before the operations are concluded". The final part of the article establishes the compulsory execution of the order against any offender.

A systematic interpretation of the norm produces the conclusion that the same power is conferred by law on the investigative police in the event that they start a search of their own initiative.

During their search of the school, the police therefore had the power, albeit arbitrarily exercised, to search the occupants and therefore identify them and order them not to leave the premises until the end of the operation. The inappropriate infringement of the occupants' personal freedom must therefore be considered consequent to and inherent in the illegal search and therefore covered by the charges available under Art 615 and 609.

The lack of any reason for the order not to leave the building therefore seems irrelevant in terms of the legal formulation under consideration, which, at most could be another element of arbitrariness in the search itself.

However, the police did not just prevent those present from leaving, they also ordered them to exit the rooms they were in, to sit, kneel or lie on the ground, to assume a certain position and not to use telephones.

This aspect undoubtedly constitutes a further element, separate from the search and not benefiting it in any way.

A wide interpretation of CPC Art 250 might conclude that the power to prevent someone from leaving includes the power to order someone to assume a certain position and behave in a way that makes the search possible, or at least does not hinder it. However, this can certainly not be thought to extend to ordering someone to lie down on the ground and assume this position for more than half an hour or to assume an unmoving position against a wall for a significant period of time.

The order to leave the rooms and sit/lie on the ground in the corridors is therefore undoubtedly an infringement of personal freedom beyond what is strictly necessary to carry out a search.

In fact, if the search of a person can include the order to assume a certain position (eg standing against a wall, arms spread, hands up), it's clear that the order in question will only be valid for the time strictly necessary to carry out the act in question. The occupants, however, have given accounts of being forced to stand with their hands against the wall for between 5 and 20 minutes.

The order not to leave the premises and, even more significantly, to assume a position on the ground, cannot therefore be logically connected to the necessities of carrying out a search.

The purely oppressive nature of these orders and the lack of any practical connection or benefit to the search can be seen from the humiliating nature of some of the positions people were ordered to assume (lying prone on the ground, kneeling) and the length of time involved (the entire duration of the search).

The order not to use cameras and, above all, phones, was entirely illegal, given that the law expressly allows individuals being searched to contact a lawyer for assistance (CPC Arts 356 and 114).

Furthermore, what happened in the medical room and the room being used by Radio Gap, shows that the identification and control could have been carried out in the presence of the occupants without such restrictions.

The police conduct - ordering them to leave the rooms, preventing them from using phones or cameras, and making them assume sometimes humiliating positions - are all evidence that they went behind the needs of the search and there are therefore grounds for charges other than arbitrary search.

Given that wrongful detention has already been excluded for the aforementioned reasons, the most likely charge would be coercion, in accordance with PC Art 610, aggravated under PC Art 61 (9).

The situation involved further, unnecessary infringements of personal freedom, obtained with the threat of force (brandishing batons) against individuals, who, being subjected to the search, were already temporarily barred from leaving the building.

In this case it must also be asked whether only those in charge of the divisions involved should be held responsible or whether individual agents should also be called to account.

The prosecution opted for the first solution, although for different reasons than under PC Arts 615 and 609.

As discussed in relation to the arbitrary search, the order by those in charge to carry out the search - given that the individual agents were not aware of other elements - did not in itself seem illegal enough to justify a refusal to carry it out. Each subordinate would have, in good faith, presumed the existence of a Judicial Authority decree ordering the search; furthermore, the individual agents would not have been in a position to assess whether there were suitable conditions justifying a search initiated by the police. In the case under examination, however, it was impossible for the agents present not to be aware of the restrictions imposed on the occupants (leaving the rooms, sitting/lying on the ground, not using phones) and of the fact that these restrictions were not necessary with regards to carrying out the search.

Factual considerations make it possible to exclude liability for individual agents involved in the search.

Unlike his superiors who were in charge of entire divisions, each agent's legal duty was only to block the commission of crimes that he was directly aware of.

So given that the described conduct, while spread out over many floors, did not occur in all the rooms and that in some, the agents' conduct was correct (in terms of imposing restrictions beyond what was necessary for the search), the responsibility of individual agents could only be proven by tracing each episode to a particular division, or better yet, to each single squad and then to the individual members of that squad.

In fact, it is clear that each agent cannot be held liable for everything that happened in the school but only what occurred in his presence.

While the results of the investigation have produced a fairly in-depth understanding of events, there is not enough evidence to trace responsibility for each episode to one squad rather than another, nor to identify those materially responsible.

In view of this and the inability to identify those materially responsible for the restrictions imposed on the occupants, only those in charge of the divisions involved can be called to answer.

Events in the GSF's legal office, occupied by the Association of Democratic Jurists, must now be considered.

This was the second room on the right on the first floor eastern corridor (Via Cesare Battisti) (Photographs 122 and following).

Those present in the room (Galvan Fabrizio, Minisci Alessandro, Lenzi Stefano and Bria Francesca) have reported that four or five police officers burst into the room brandishing batons and yelling at everyone to drop to the ground facedown, accompanying their orders by banging their batons on the tables. When everyone

was lying on the ground, they began smashing computers, monitors and telephones with their batons. The occupants recalled hearing the noise of the baton blows and objects breaking, and out of the corner of their eye could make out the movements of police officers hurling objects to the ground. Bria and Minisci also said they themselves were struck by police at that time.

The occupants were then ordered to stand up and were taken into the corridor, where they were ordered first to kneel and then to sit against the wall.

While on the floor in the corridor, some of the occupants (Galvan Fabrizio, Arzaroli Graziella and Bria Francesca) recalled seeing agents enter the room, close the door behind them, and then come out again a few minutes afterwards.

Minisci also said he saw some police officers leaving the school carrying black bags.

Numerous occupants said they entered the legal office after the police had left the school and saw many broken objects, including telephones, monitors and computers. Many of those interviewed also said they had personally verified that some of the computer equipment had been dismantled and was missing inner components (hard disks - in other words, the memory).

Documentary evidence confirms the occupants' statements.

First and foremost, the report of material seized from the Diaz Pascoli School, drawn up on 23 July 2001 by the Carabinieri of the Genoa operations unit states that some of the equipment seized (in particular a monitor and other PC parts) were already damaged at the time they were found.

Secondly, the head of Genoa council's sector road network and security, Paola Spagnolli, said that on 22 July 2001 - therefore before the equipment was

returned to the city council - she inspected the school and witnessed various broken computers in the room in question,

The photograph file compiled during inspections by the Carabinieri in the school on 23 July 2001 also unequivocally shows that objects had been damaged (Photos 122 and following).

Photos 125 and 126 show the state of the room, Photo 130 shows a smashed telephone and Photos 129, 136, 137, 138 and 139 show a number of dismantled computers with their inner parts missing.

A film (Exhibit 192.20 p.3), part of the Rai3 footage already mentioned, further supports the occupants' statements; this shows what remained of the computers after some of their parts had been taken away. The missing parts were not only hard disks but also CPUs and DSL communication ports. Removing these parts required spending time in the room with screwdrivers in order to dismantle the computer cases and in order to access the individual internal components. This operation not only had to have been carried out deliberately, it also required relative tranquility (the GSF expert interviewed, explaining the damage to the equipment, described it as a "scientific" operation), after the occupants had been taken from the room and ordered to sit along the corridor, as stated by the aforementioned witnesses. Filmed evidence by Hamish Campbell, of which the original has been acquired, shows the same scenes just after the police had left the building (Exhibit 239).

If the first stage of "furious behaviour" can be attributed to "impetuous" conduct, the second stage appears far more meditated and geared towards an ulterior objective.

The occupants' description of what happened suggests two stages to the police behaviour.

The first phase involved the destruction of monitors, computer equipment and parts, and telephones by baton blows or by hurling the objects to the ground.

The second phase involved dismantling some of the computers, removing the internal components (specifically the hard disks) and taking them away. Naturally, without mentioning any part of this operation in the report.

Formulating a charge for the first stage is not particularly difficult. This is a crime of causing damage, under PC 635, with numerous aggravating factors (having committed the act with violence and threats to the person, by imparting the order to lie facedown on the ground by brandishing the batons and by striking two of the occupants, Minisci and Bria (PC Art 635 (2)(1)), damaging property belonging to Genoa municipal council and destined for public service (PC Art 635 (2)(3) in relation to PC Art 625 (7)), and with abusing the powers invested in carrying out a public duty Art 61(9)).

However, formulating a charge for the second phase is more complex. The removal of the hard disks, the failure to draw up an arrest report, the failure to register the finds and the failure to deliver all the material to the Judicial Authority via the Evidence Office, all indicate possible charges of appropriation, clearly by a public official, given that they were members of the state police. This could allow for charges of appropriation by a public official ("peculato", under PC Art 314).

The concept of appropriation contained in PC Art 314 since the reform of Law 86 of 26/04/1990 is very broad. It can be interpreted to cover every form of conduct by an official incompatible with his right to possession and accompanied by "uti dominus" (using an item as though it was one's own, taking it away or destroying it). In this sense, the conduct of a public official who fails to deliver an item to the Judicial Authority after having gained possession of it through seizure is undoubtedly covered by the concept of appropriation laid down in PC Art 314.

The crime of "appropriation by a public official" requires the object to have come into the public official's possession by reason of his office or while in service.

A police official who has acquired the item through a coercive action relating to his office, i.e. by seizing it, undoubtedly has possession of the item. Furthermore, if it were held that the computer hard drives had been seized by the police, irrespective of whether illegally or arbitrarily, the acquisition of the interior parts would consist in an arbitrary act of seizure and therefore punishable under PC Arts 615 and 609; the failure to hand over the objects themselves after the seizure would add support to charges of appropriation of items that a public official not only gained access to but material possession of, which clearly qualifies as "appropriation by a public official".

The events in the legal office were entirely unique, given that nothing in the investigation suggests that similar behaviour occurred in other rooms of the building. The police behaviour in that room therefore appears to have been entirely independent, distinct from a general assessment of what happened in all the other rooms.

The action - entering the room yelling and brandishing batons, ordering everyone to lie facedown on the ground with the implied threat of being beaten, smashing and throwing objects to the ground - suggests charges of actual criminal behaviour rather than a police act, no matter how illegal, such as seizing items. This is suggested both by the lack of any respect for the formalities of a seizure and by the impossibility of defining the items removed as evidence or pertinent to the action. The utter lack of any police report regarding the action and, above all, the failure to request Judicial Authority validation, mean these actions cannot be categorized as a police seizure for evidence.

Printed lists of lawyers - members of the Association of Democratic Jurists who were willing to defend demonstrators - and demonstrators who had been

separated from their original groups and were missing were removed, as were the hard disks containing statements by demonstrators and names of other missing individuals.

The paper material could not possibly have had any connection to potential crimes.

The same conclusion must be reached in regards to the computer hard drives.

It might be argued that the statements collected by the GSF probably dealt with alleged crimes committed by the police during the demonstrations, which might therefore have been useful for identifying some of the demonstrators present at the time of the disorder. However, such an argument would have no legal basis. Arts 17 and 21 of the Constitution give everyone the inviolable right to freely express their thoughts. Therefore, merely being present at a march or the site of a demonstration cannot be considered useful evidence for identifying criminal behaviour; in any case, any such seizure must be based on an a priori justification.

Furthermore, given that it was clear and evident that the items could not be considered "the subject matter of a crime", PC Art 103(2) bars their seizure.

The items removed could, abstractly, in no way fall under the category of seizure for evidence.

Considering how they were removed - particularly in light of the aforementioned assessment of the purpose of the police intervention in the school and the types of objects seized in all the other rooms - makes it clear that the behaviour in the legal office was not intended as an implausible search for evidence of a crime. Instead, it appears to have been aimed at preventing the occupants, particularly the lawyers, from documenting what was happening in the building opposite and what had happened the previous day by destroying the statements collected.

If the items taken could not plausibly have been appropriate for seizure, then it appears that the police conduct in the legal office cannot be tied to the concept of seizure for criminal evidence and must instead found appropriation charges against the agents.

This action could therefore be the basis for charges of aggravated theft, in accordance with PC Art 625 (2)(7) and Art 61 (9), and violence to objects (dismantling the computers) in public buildings destined for public service, committed through the abuse of powers invested in officials engaged in a public service.

During the course of the preliminary investigation, through the invitations to appear for questioning, charges of aggravated theft against the defendants were raised.

However, a more careful consideration of the circumstances surrounding the conduct suggests that peculato (appropriation by a public official) would be a more suitable charge.

Whether the items seized could be designated evidence of the crime or material to it, is irrelevant to a charge of peculato, as is the fact that the investigative police and agents' behaviour was part of an illegal police operation (because it violated procedural norms and had no legal foundation). This is because the defining jurisprudential elements of peculato are that the agent behaves in a certain way and that there is some connection between the appropriation of the objects and the carrying out of public functions.

It is certain that, while having entered the GSF building illegally, the agents and police officials were working within the context of a broader operation that was only meant to affect the Diaz-Pertini School. The reasons and circumstances of the situation ensured they entered a direct legal and material relationship with the

damaged and/or appropriated items, even though they did not come into possession of these items legitimately through a seizure warrant. In regards to extending the sense of the regulation under Law 86 of 1990, the Supreme Court (Sez. VI n. 3879 of 24.4.85) has ruled that possession should be understood not only to mean material possession of an item but also legal control of items materially held by others, which the agent can obtain legally through his position (apart from the illegality of the measure itself). Ruling Sez. VI n. 943 of 2.2.84, regarding a state police official who appropriated an item belonging to someone under arrest, took the same line.

In this case, the crime is clearly attributable not only to the officials who gave the order but also to the individual agents, who materially carried out the deed.

In fact, the circumstances of the episode would have made it clear to anyone - particularly a police officer - that the conduct ordered was strictly illegal, making it pointless to try and claim they were just carrying out their duty, under PC Art 51.

However, it has not been possible to identify the material authors (or even the division they belonged to) of those who appropriated the goods.

This issue will be dealt with at a later point. Furthermore, it should be noted immediately that those in the room - Fabrizio Galvan, Alessandro Minisci and Stefano Lenzi - said the police that entered were wearing a uniform made bulky by protective layers (therefore members of the public order divisions), while Bria Francesca recalled that some police were in uniform and others were in plain clothes with a police bib.

The investigation revealed sporadic and, fortunately, not serious incidences of violence to individuals.

The episodes verified can be summarized as follows:

One of the two unidentified Italian youths in the car driven by Antonella Morassutti reported being kicked by police in his leg (see Antonella's Morassutti statement);

Anna Zielish said she received a baton blow to her head while on the stairs at the first floor (see Anna Zielish's statement);

Alessandro Minisci said he was slapped in the lawyers' room (see Minisci Alessandro's statement);

Francesca Bria said she received a baton blow to her neck while lying prone on the ground (see Francesca Bria and Alessandro's Minisci statements);

Two unidentified foreign youths, treated in the basement gym by Constantini Massimo, said in English that they had been struck by police in the school entrance hall (see Constantini Massimo's statement);

Enrico Fletz said he'd been hit on the head with a baton and with a stool on the second floor (see statements by Enrico Fletz, Massimiliano Carboni and Massimo Alberti);

Andreas Huth said he'd been shoved and slapped on his face on the third-floor landing (see statements by Andreas Huth, Nadine Moser and Tino Plumecke);

An unidentified person whom Andreas Huth saw being maltreated on the stairs (see Huth Andreas's statement).

The investigation did not allow for the identification of those materially responsible for the events, with the sole exception of Huth Andreas, who identified his attacker as Luigi Fazio of the Rome Flying Squad through photographic evidence in front of the Public Prosecutor and then later, during the pre-trial evidence-taking stage.

On the other hand, given the sporadic nature of the physical violence and the fact these incidents were momentary, individual acts, it is not possible to prove that those materially responsible had received orders from their superiors nor that the latter could have prevented these incidences.

This conduct can therefore solely be attributed to those who materially carried out the violence.

The investigations aimed at identifying the state police divisions present at the school and their individual components were delegated to the Genoa Digos and, later, to the Genoa Flying Squad.

The inquiries by the investigative police revealed that 59 members of the state police had entered the school, including three officials: Deputy Commissioner Ferri Filippo and Chief Commissioners Salvatore Gava and Alfredo Fabbrocini.

With the exception of the three officials, who were obviously wearing plain clothes, the only divisions wearing uniform appear to have been the Calabria Crime Prevention Division and the Campania Crime Prevention Division. These were wearing the normal short-sleeved shirt uniform with a large black belt, rather than the uniform worn by police in charge of public order. Personnel with the different flying squads were in plain clothes with a police bib, while the Digos officers were in plain clothes with no indication of their status.

In the aforementioned service report of 24/7/2001, Chief Commissioner Salvatore Gava states that he entered the school with personnel from the Nuoro and Rome flying squads. He said that while on the third floor, he was joined by his colleague Ferri Filippo and shortly after by Hon. Mascia, who protested at the conduct of the police. He said he left the building immediately afterwards. Ferri Filippo, in his service report of 24/7/2001, said he was on the road between the two buildings and that he was approached by Special Agent Sascaro of the

Genoa Flying Squad who told him there were fewer agents in the school opposite (Pascoli) than occupants. He said he then entered the Pascoli building and went up to the third floor, where he met Gava. Immediately afterwards, he said, they were joined by Hon. Mascia, who complained of police conduct. In the meanwhile. Gava told him he had received an order by telephone to leave the school.

Ferri's version seems to be fully supported by Gava's service report. It has therefore been verified that Ferri, accompanied by the La Spezia Flying Squad, entered the building for a few minutes with the sole purpose of making sure none of the other divisions were in difficulty. However, he gave no orders to any of the staff present.

It thus appears as though the highest-ranking official in the school was Chief Commissioner Gava, who Ferri reported to when he entered the building in order to check on the situation.

According to Commissioner Fabbrocini Alfredo's service report (3/10/2001), the Calabria Crime Prevention Department under his command were merely circling and checking outside the building. He said only a small number of his men entered the building, with the purpose of providing support to other division. He said they carried out no activity of their own inside.

During his interrogation by the Public Prosecutor on 23 September 2002, Fabbrocini further stated that the Campania Crime Prevention Department was also under his command and that all the personnel under him remained on the ground floor without going upstairs.

The investigation therefore suggests that the only uniformed agents present in the school should have been the Crime Prevention Divisions, which, according to their commander Fabbrocini, remained on the ground floor and basement, without ever going upstairs. This would seem to indicate that only plain-clothes

police with or without bibs (Digos) should have been upstairs. Yet this conclusion contrasts with other investigative results.

First and foremost, this is not confirmed by the footage. As well as the greater number of plain-clothes officers wearing bibs, moving back and forward along the corridor and entering and leaving rooms, the film images of the first floor show a number of agents wearing the short-sleeved shirts of the Crime Prevention divisions outside the room being used as the legal office. This picture is confirmed by the occupants' statements. As well as unanimous agreement on the presence of plain-clothes officers wearing police bibs, many recalled the presence of uniformed agents on the upper floors of the school.

It can therefore be deduced that Fabbrocini's version did not correspond to what happened and that men from the Crime Prevention Divisions went upstairs.

Not surprisingly, Fabbrocini's claim is supported by all the service reports of personnel in the Crime Prevention Divisions. These state that the divisions intervened solely on the ground floor (technically the basement) of the school. These statements - made at a later point, during the course of the present investigation - were all roundly refuted by the aforementioned filmed evidence. Filming started at around 00:15, when the search operations in the Diaz Pertini School were in full flow.

Most of the occupants also said they saw police in anti-riot gear upstairs. These agents could not have been part of the Crime Prevention Divisions, which were wearing short-sleeved shirts.

It's possible that the occupants, who were certainly not experts in police uniform, might have confused a summer uniform with that of the riot gear, or that perhaps they confused the images they saw outside the school (where there were anti-riot police) with those they saw inside.

The position of individual defendants must now be examined.

Chief Commissioner Salvatore Gava was the highest official to have intervened at the school.

Deputy Commissioner Filippo Ferri entered the school only for a few minutes. After having informed Gratteri of what he had been told by Sascaro regarding the situation in the Pascoli School, he entered the building to check conditions at the express order of Gratteri. Ferri's version on this point is undoubtedly true and therefore reliable; it is also supported by Gava's statement. The individual seems neither to have engaged in actual action nor to have given anyone orders. In light of preliminary results, this Office therefore decided he should not even be registered as one of those under investigation.

Gava Salvatore is thus clearly the highest-ranking state police official among the personnel operating in Pascoli.

During questioning by this Office on 13 February 2002, he confirmed what he had said in his service report. He added that before the operation, he had attended a meeting at Police Headquarters, in which a search of the school complex, in accordance with TULPS Art 41, had been discussed but without specifying which building.

He said he came to the building by following Nando Dominici, head of the Genoa Flying Squad, believing that the latter, working in Genoa, would be familiar with the buildings. He saw Dominici stop near a gate leading into a courtyard at the back of the Pascoli School.

He said he entered the courtyard and then the building, followed by men from the Nuoro and Rome flying squads. The Crime Prevention Unit also entered the building, although not at his orders, at those of Fabbrocini, he said. Upon entering

the building, he said, he realized almost immediately that there had been a mistake and that this was not the building intended for search.

He said he then asked Inspector Maurizio Apicella and Superintendent Davide Sascaro to contact Dominici for recommendations on what to do. He then went upstairs to check what was going on. According to Gava, he did not order any searches to be carried out, asking his men only to make sure that "those present were safe".

He said he saw agents order the occupants out of the rooms and assembling them in the corridors. He explained he did not order them to stop what they were doing, believing this would be inappropriate given that it was necessary to ensure the building was "secured".

Gava claimed he did not notice the order not to use cell phones or the appropriation of items by the police; nor, he said, did he know anything about the computers being destroyed;

He said he was then joined by Apicella, who informed him that Dominici had ordered them to leave the building; they were joined immediately afterwards by Sascaro and Ferri, who confirmed the order. Hon. Mascia then arrived, complaining of the police conduct.

According to the defendant, he entered the building by mistake and no search was carried out, merely a "summary check" or rather an operation to make sure the premises were "secure".

However, the defendant's version is intrinsically illogical and therefore appears untrue for the reasons given above.

It is important to once again remember the statements made to the Public Prosecutor on 10 August 2001 by then Genoa Digos chief Mortola Spartaco, in

his capacity as someone informed of the facts. He said that the Pascoli School had been entered in order "to secure the area outside", given the presence of numerous occupants that could have "obstructed the operation under way in the building opposite".

It is in no way credible that the personnel operating in the building carried out the search and acquisition of items without having received any orders indicating they should do so. It is even less likely that all this activity - which was clear to the occupants and is obvious to anyone watching the footage - should have escaped the defendant's notice.

Furthermore, his version conflicts with that given by his co-defendant, Salomone Nicola, during the course of questioning before the Public Prosecutor on 19 December 2001. Salomone's version makes it clear that Gava was perfectly aware of the existence of the two schools in two different buildings, one in front of the other. It also makes it clear that heading for the Pascoli School rather than the Pertini premises was no error on Gava's part but was instead prompted by a desire to search this second building while most of the forces were search the first. If this hadn't been the case, once Gava saw Salomone and most of his colleagues headed for Pertini, he would undoubtedly have asked for clarification rather than setting off in the opposite direction to the other building. In other words, Salomone's statements indicate that those who organized the operation decided, at the same time as the Pertini search was going on, to carry out an operation in the school opposite, and that this was entrusted to the command of Gava.

In terms of his position in the chain of command, while Gava admitted he was the highest-ranking officer there, he claimed he was only in charge of the Nuoro flying squad personnel, and not the other divisions. The defendant's version is also illogical in this sense. State police officers intervening in the school would have

taken instructions from no one but him, given that he was the highest ranking official there. In fact, the defendant was expressly named as the official in charge by Fabbrocini Alfredo (see interrogation report of 23/9/2002), while Inspector Salomone (see interrogation reports of 12/2/2001 and 15/11/2002) reported that Gava had ordered him to follow him into the Pascoli School, indicating that the building was to be searched.

In his service report and during questioning, Ferri said he had contacted Gava for information on the situation in the school. This shows that his colleagues also considered the defendant as the person in charge of personnel in the Pascoli School.

In fact, the defendant himself said that Hon. Mascia - looking for the person in charge of the operation in order to complain - was taken directly to Gava.

The defendant's claim that he was only in command of the Nuoro Flying Squad is further refuted by some of his own comments. He says he ordered Apicella and Sascaro of the Genoa Flying Squad to go and find out what they were meant to be doing. This order to personnel not in the Nuoro division makes it clear that the defendant was the person on site in charge of the entire school operation.

In the light of all these considerations, Gava can be charged with arbitrary search and coercion.

With regards to coercion under PC Art 610, the defendant admits he gave orders to "secure" the building and that he saw - without intervening - the police making the occupants to leave the rooms and sit/lie on the ground, even though he knew that a search could not be carried out as it was the wrong school.

The defendant's position with regards to the computers is more complex.

He not only denies having ordered the intervention, he also says he had no knowledge whatsoever of what happened.

However, a different conclusion may be reached by a logical evaluation of the investigation overall.

The details of the incident - entering the room yelling and brandishing batons, ordering those present to lie face down on the ground with the implied threat of violence from the batons, smashing and throwing objects to the floor, opening computers and removing internal components - indicate conduct that was so clearly criminal that none of those engaged in it could have failed to realize this.

Furthermore, the repeated descriptions of how the appropriations were carried out - if evaluated in the light of prior considerations regarding the purpose of the police intervention in the school and the type of objects seized in all the other rooms - make it clear that the police conduct in the legal office was not aimed at finding evidence of a crime. Instead, it was intended to stop the occupants, and in particular the lawyers, from gathering statements and accounts documenting what was happening in the building opposite and, in this case, what had already happened during the demonstrations of previous days.

In view of these considerations, it is entirely implausible and illogical that the intervention in the legal office could have been an autonomous, spur-of-the-moment and unplanned initiative by individual members of a division.

In fact, it is never made clear why some (five or six) simple agents or rank-and-file state police officers would have decided to engage in such blatantly criminal conduct, clearly without any personal advantage to themselves, with the sole purpose of committing a crime or harming a group of young lawyers that they didn't even know.

It's therefore clear that what happened was carried out by an unidentified group belonging to the state police following a precise order from one or more of their superiors.

And if it's logical that they received an order, this could only have come from one or more of their superiors, among which Gava.

If it is accepted that the conduct was pre-planned (even if just in terms of organization) and that the order came from someone higher than Gava, he would nevertheless have been aware of the order and would have had a legal obligation to stop the event.

As the highest-ranking official present, it was impossible, particularly in the final stage of the operation during the appraisal, that he didn't notice the presence of internal computer parts among the items collected.

In the aforementioned service report of 3/10/2001, Fabbrocini Alfredo clarified that the Calabria Crime Prevention Division under his command mostly just secured the outside of the building; only a small number of his men entered the school to help those already there, he said, and they did nothing whilst inside.

While being questioned by this office on 23 September 2002, the defendant recalled that he was also in charge of the Campania Crime Prevention Division and that Caldarozzi had informed him that a search of the school should be carried out and that his divisions would have to surround and secure the building being searched. He also said that once he arrived, he saw police inside the school to his right (i.e. Pascoli) and that he ordered his men to surround the building. Agent Santopolo then told him that men from the division had entered the building because they had been asked to do so by those inside. He said he then entered the building, together with Santopolo and saw some of his men on the ground floor (actually the basement); all the personnel under his command remained on

the ground floor and did not go upstairs, he added. He was the only one to go upstairs, where he met Commissioner Gava. He said he told Gava that his division should leave the building as soon as possible, in order to secure and protect the exterior, as they had been told. Gava told him to wait for replacements in order to ensure the safety of the personnel working inside the building. He then left, ordering his men on the ground floor to wait for replacements before leaving.

Technically, the Crime Prevention Divisions were not under Gava's command. However, when Crime Prevention Divisions join investigative police operations, such as during a search, they are there exclusively to support the other divisions at work, in order to ensure their safety. So in this sense, once Gava had asked them to support the operations inside the building, Fabbrocini was not able to leave without an order from the official in charge of the operation, which in this case was Gava.

According to the defendant, the Crime Prevention Divisions under his command played no direct role in the search and merely ensured the safety of other divisions involved in the investigative police operation.

The defendant claimed he had nothing to do with the decision to carry out the search and stressed his "good faith", referring to his belief that the operation was legal. Fabbrocini's divisions played no direct part in the search, which was carried out by other divisions with investigative police functions (the flying squad units and the Digos), and instead was in charge of providing security. However, this does not mean that Fabbrocini cannot also be charged with arbitrary search under PC 615 and 609.

It's clear and undeniable that the escort and security by the Crime Prevention Divisions provided a material contribution to the prohibited conduct, i.e. the illegal search, which was in part possible due to the help of those divisions commanded by the defendant.

The latter therefore made a casual contribution to the conduct relating to the charged crimes.

The previous considerations regarding the lack of legal grounds for police to decide to search the building must also apply to Fabbrocini. As police commissioner on a level with Gava, and, like Gava, also in the school, he had a legal duty to stop conduct contrary to the law, even if this meant disobeying blatantly illegal orders. In this light, it becomes irrelevant that the defendant had been in charge of one thing (providing support and security) rather than another (actually searching and appropriating the items).

These same considerations should lead to the defendant being charged under PC Art 610.

Furthermore, it should be recalled that the divisions under Fabbrocini's command did not just act as support, they were also involved first hand.

If the Crime Prevention Divisions' job was to provide an "escort" for other divisions and ensure their safety, then it appears they justified threatening the occupants with batons and ordering them to lie down on the floor and assume a certain position with the need to "secure" the premises.

This task was directly entrusted to and carried out by Fabbrocini, through his men.

This view can be widely supported.

As has been stated, he claims that the men in his divisions all stayed on the ground floor (in reality the basement). With regards to this floor, Massimiliano Carboni said he had been taken down to the gym in the basement (the press room) and made to kneel with his hands raised, and that other people were there in the same position.

Carboni's statement was fully supported by Huth Andreas, who recalled that, after having been dealt a blow on the third floor, he was made to go downstairs to the pressroom in the basement, where he was made to kneel beside other people already in that position.

Finally, the service reports of men from the Crime Prevention Division state that in the rooms they were in, around 30 people were being made to kneel on the floor (See the service reports of: Assistant Chief Giuseppe Magrone of 12/10/2001, Special Agent Greco Massimiliano of 2/10/2001, Special Agent Paolo Santopolo of 4/10/2001 and Agent Alessandro Colacicco of 2/10/2001).

Finally, the same considerations must apply to Fabbrocini as to Gava, with regards to the charge relating to conduct in the room being used by the Genoa Legal Forum (GLF). It must be recognized that Fabbrocini's position and duties gave him a leading role of direct responsibility in terms of the operations in regards to the actions of the Crime Prevention Divisions. The presence of men (and women) from these divisions on the upper levels of the building and not just on the ground floor was testified to both by the statements of those there and the footage, which shows them inside the room worst affected. It seems as though the defendant's statements were deliberately intended to create an alibi for himself, which has been refuted. The only justification would be the institutional duty of the divisions under his command, which the defendant himself made repeated reference to; these were limited to providing support and help for individuals involved in investigative police operations. But given his full awareness of the illegality of the search and the coercion inflicted on those being searched, which extended over a period of time, this justification appears superfluous. A similar conclusion must be reached in regards to the glaring nature of events in the GLF room, in particular the objects and computer parts, which were hardly appropriated subtly or secretly. In fact, even witnesses on the floor above heard

what was going on, so it seems impossible that the person in charge of supporting the operation - who was present in the building - didn't realize what was happening, particularly while black bags were being filled with material taken from that office.

Huth Andreas, who said he had been shoved and struck on his face on the third floor landing (see the statements by Andreas Huth, Nadine Moser and Tino Plumecke), tentatively identified Fazio as his attacker during an initial stage. During the pre-trial evidence-collecting phase, he identified Fazio with certainty as his attacker, eliminating others being investigated as potential suspects (Masseroni, Lucatelli, Romano).

In a brief dated 28/2/2003, Fazio's defence highlighted numerous contradictions in Huth's statement. The defence asked for charges to be dismissed against Fazio. It also asked for Huth to be included on the list of those under investigation, claiming he had made false allegations against Fazio and had given false testimony to the preliminary investigations judge during the pre-trial evidence stage. In particular, the defence highlighted several remarks by Huth: he said was hit on the third floor while Fazio went no higher than the first floor; that his attacker had not been wearing a helmet or carrying a baton, while Fazio always wore a helmet and kept his baton on him; and that the attacker had a radio transmitter while Fazio was not equipped with a walkie-talkie. Huth was shown 11 photos from the Rome Flying Squad; a note attached to the file said that these had been passed to the Genoa Digos on 20 April 2002 but the Digos only received the file in October 2002. Furthermore, despite the defence's claim, Huth's statements received wide-ranging support during the course of the investigation.

First and foremost, it should be noted that Huth's description of his attacker during his first hearing, on 19 October 2001 (in other words, over six months

before the photographic identification, when he had not yet been shown any photos) corresponds almost precisely to Fazio's appearance.

Two other people present on the third floor, Nadine Moser and Tino Plumecke, also accurately confirmed Huth's statement. The statements of these people tallied perfectly with Huth's both on what happened and with regard to the attacker's appearance.

In terms of the reliability of the identification and its later recognition, the following points should be noted.

The report of Huth's photographic identification on 6 May 2002 confirms that he was shown the first photo album acquired by this Office, in other words, one with 292 photos of all the personnel involved in the Diaz operation. Having seen this album, he picked out photos 56 (Paolo Masseroni), 59 (Annibale Locatelli) and 60 (Antonio Romano), although he specified that they bore a "mere resemblance" to his attacker. He did not select photo 57, that of Luigi Fazio.

Later, this Office showed the witness 11 photos from the Rome Flying Squad, passed to the Genoa Digos (with the attached date of 30 April 2002) and this time Huth selected images 3817 – 3818 – 3819, all showing Fazio. While the witness still had some doubts, he expressed far more confidence than before, saying he was 80% sure the photos showed his attacker. It's clear from the report how genuine the identification was, in particular, the sincerity and reliability of the plaintiff. In fact, Huth always expresses himself in hesitant language, the sign of a balanced person aware of the limitations of photo identification and worried about accusing someone who had nothing to do with what happened.

Furthermore, during the first stage of the identification process, when he was shown the general album, the witness merely specified that there had been a

"resemblance" rather than suggesting he had definitely recognized the individual responsible. This is perfectly logical given that the photos he was shown were considerably out of date: photo 56 was taken in 1980 and photo 60 was taken in 1979.

During this first stage, the witness did not select photo 57, that of Fazio. However, he did recognize him with far more certainty during the second stage, when he was given more recent photos to examine. This is perfectly understandable comparing the two sets of images. The one from the general album seems to show someone entirely different than the three photos sent on 30/4/2002 (3817, 3818 and 3819). The recent photos show a man with greying hair, beard and moustache, aged 45-55. In photo 57, however, the defendant is a young, clean-shaven man with dark hair. Furthermore, the photo dates back to 1971, when Fazio (born 25/2/1952) was 19. In July 2001, he was 49.

When it came to making an identification in person, Huth immediately and without any doubt picked Fazio, categorically excluding that the other three had been his attacker.

Huth's version is thus supported by a series of elements making it logical and entirely reliable.

Fazio's statements, on the other hand, appear to contradict numerous results of the investigation. First and foremost, he was unable to recall a single detail of the first floor, where he himself claimed he had been for 20 minutes. Nor was he able to give any indication as to the use to which the rooms on that floor were being put. It appears particularly strange that the defendant didn't even remember the medical room, which was on the first floor landing - in other words, right where the defendant claimed he was standing almost all the time he was there. It should be noted that this room was obviously being used as the GSF's medical room (see

Photo 111). Furthermore, the legal office was also on the first floor, and Fazio not only claimed he had not seen any damage being carried out, he also denied having seen any damaged objects. It is very difficult to believe that the defendant would not have noticed what was taking place in the legal office.

Fazio also claimed he met Hon. Mascia on the first floor and that that was the only occasion on which he removed his helmet. He said he accompanied the MP down to Gava on the ground floor. However, in his aforementioned service report dated 24/07/2001, Gava said he met Mascia at almost the same time as Ferri on the third floor - in other words, where Huth was. The defendant confirmed this detail during questioning on 13/2/2002. The fact that the meeting between Gava and Ferri occurred almost at the same time as that between Gava and Mascia was confirmed in Ferri Filippo's service report of 24/7/2001. During questioning by this Office on the 20/9/2002, Ferri recalled that the meeting occurred on the "second or third floor" (and therefore definitely not on the ground floor, as Fazio claimed).

Mascia, questioned on this point on 2/5/2003, did not recall exactly where the meeting had taken place but was certain it had occurred on the upper floors rather than on the ground level. She said she remembered that as soon as she entered the building she had gone upstairs. She did not remember a policeman removing his helmet. During her time in the building, she was always in contact with Conti Giacomo, she added. At the end of the hearing, she was shown a photo of Fazio Luigi (the one taken during the pre-trial evidence stage) and she denied any recollection of him.

Defence initiatives under CPC Art 415(bis)

Before drawing some final considerations, it appears appropriate to consider some of the requests and initiatives by defence teams in the interval since the

investigation officially closed. These deserve space only to assess whether any evidence or suggestions have been advanced that have been omitted or insufficiently covered by this report.

Apart from some independent contributions to the Public Prosecutor as the result of the defence investigation - from Mortola's defence team (technical consultations on the film), Dr. Di Sarro (the acquisition of statements by Mortola) - a request was made to acquire the records of calls made and received from the mobile phone of the on-duty magistrate, who was contacted during the operation.

The initiative first formed part of a request for records, in accordance with the Criminal Procedure Code Art 54.4, presented by the defence team of Ferri, Di Novi, Cerchi, Caldarozzi and Gratteri. It was based on the fact they had allegedly discovered information that could have resulted in charges against the aforementioned magistrate, which would have required the trial to be moved to another seat. The inconsistency of this claim - pursued by the defence all the way to the Supreme Court with an outpouring of arguments - was censured by the Director of Public Prosecutions at the Supreme Court, which it must answer to.

However, approval to access the phone records in question was granted. This is because, insinuations to one side, requests for clarification were made during certain interrogations in regards to contact with the duty magistrate and, more generally, the failure to follow conduct suggested by the Director of Public Prosecutions in preparatory meetings with representatives from the local Public Prosecutor's Office relating to the fact that arrest powers must be used in accordance with the law.

Conversations with the duty magistrate regarding the occupants' arrest have always been described as nothing more than the communication of an action and assessment that had already been carried out. This was not only suggested by the statements of those defendants who had contact with the magistrate,

particularly Mortola, but also from the timeframe of the phone calls, which the records show were made after the investigative police had already made its decision - an element confirmed by the key players' own reconstruction. The overwhelming point here is that it is always the task of any representative during an intervention to gather data and information from those who were present and participated in the operation. Furthermore, without precise indications from those who were on the other end of the line, any effort to prove what kind of contact was made with the magistrate or how frequent it was appears pointless and misleading (without even taking into consideration the insinuating purpose to which it was put). This is particularly the case given the gravity of the charges against the defendants.

Finally, Mortola's defence also asked for the agent reportedly on-board the vehicle being driven by Burgio, under Troiani, to be identified. This request was linked to a defence theory regarding the defendant's version of being shown the Molotov cocktails in the gym by two Flying Squad agents. It has already been explained why this version is not credible and contradicts objective evidence. However, this to one side, efforts had already been made to identify the flying squad men under Troiani's command, as shown in the Genoa Flying Squad's note to its special delegate. The presence of the agent in question or another agent at the time the Molotov cocktails were handed over is what needs to be proved, given that this was denied by the people who were meant to have accompanied him. The phone records and the footage offer more powerful support for the statements agreeing that Burgio alone carried the bottles from the vehicle to the courtyard, where Troiani was.

15. Conclusion.

In the aftermath of the tragic events that occurred during the police operation in the Diaz School, there was a general sense of the gravity of the situation

combined with a feeling that it would be impossible to identify the individuals responsible. This stemmed from the chaotic nature of the operation and the fact that so many men from different divisions were acting en masse. However, by the end of the parliamentary inquiry it was clear that excessive and anomalous behaviour had occurred, encouraged by a lack of coordination and by organizational holes in the entire operation. Nevertheless, it could not be said that this was what those in charge of the operation had wanted or ordered, either in the preparatory or executory phases; nor could this behaviour be considered so widespread as to be indicative of a degeneration within the police overall.

The brief inquiry by Prefect Micalizio reached the same conclusion. However, it also concluded there had been serious disciplinary negligence on the part of those in charge who attended the operation, including the defendants Luperi, Gratteri, Canterini, Dominici and Mortola.

Illegal conduct was noted during the incursion into the Pascoli School, which - given the presence in the building of the GSF and the alternative information centres - appeared connected to political interests or problems, as highlighted in the parliamentary committee's debate. In addition, there were the Diaz Pertini School episodes, undoubtedly more glaring and serious, which at the time appeared to indicate nothing more than an excessive use of force by police.

Faced with evidence that contradicted the official version given in the original press release immediately after the operation, a second version emerged. This indicated an undeniable deviation from professional standards but the gravity of the violence inflicted on the occupants led to the conclusion - perhaps unconsciously to avoid the disturbing idea of more widespread and generalized violence - that these were isolated incidents borne of the days of tension and generated by the context. Once again, however, any conclusion that the police behaviour had been uniform clashed with the admission that there had been

isolated incidents. Identifying the individuals involved was left to the investigating Judicial Authority, who was also looking into the reported abuses. There were calls and promises that those responsible for these isolated incidents should be pursued rigorously and punished accordingly.

However, as shown by the summary, the investigations verified that, in reality, the breakdown in appropriate behaviour - within an operation already considered very complex and sensitive for obvious reasons - was widespread and affected various different levels of those overseeing the forces deployed, including individuals at the very top of the command chain. This was not only the case in regards to the military and repressive aspects of the operation but also in regards to the investigative side, which was the whole purpose of the intervention. This offered a glimpse of a more disturbing reality, more clearly implicating the institutional and organizational approaches used.

A situation developed, responsibility for which could not just be chalked up to negligence. The scenario that emerged cannot merely be attributed to unprofessional behaviour, approximation and negligence forming a kind of chain of "errors ", whose concurrence and convergence appear increasingly unlikely. Instead, the picture that emerges is that of a conscious and deliberate action, which, with the apparent scope of justice, used every means of achieving its aims, forgetting that justice can only be achieved by following the rules.

It should also be taken into consideration the fact that nothing ever came of judicial proceedings against some 250 of those arrested during the summit in the act [of committing the alleged crime]. Either the arrests were not approved or the public prosecutor dropped the charges owing to lack of evidence. Furthermore, leaving to one side the 93 people arrested during the operation under discussion, other instances of [abusive] arrest were investigated following detailed complaints.

Judicial action has already been taken with regards to this or else preliminary investigations are under way regarding the falsification of reports by police.

Considering past court cases, there can be no doubt that the figures suggest an entirely unique situation, made even more anomalous by the fact that the number of those arrested was far below predictions made by the administration itself. It appears clear that everything considered, elements must have been twisted, which is the only way to explain how utterly straightforward evidence, such as that required to support an arrest "in the act of committing a crime", fell apart at the first test of legitimacy.

On many occasions, and notably in the operation targeted by this current investigation, the utmost risk was taken: that owing to probable human costs, the coercive intervention would be subject to various checks, including judicial appraisal, even more so in the event of arrests.

The pressure to obtain results combined with a sense that repeated criminal action was going unpunished, clearly led the police to believe they had justification - even in the face of public outcry - to pursue individuals they believed were "substantially guilty", irrespective of whether they had the necessary evidence, which they were, however, ready to manipulate if needs be.

It is not the judicial investigation's job to analyse possible general reasons underlying behaviour resulting in the action being charged but these are certainly relevant to questions regarding the verification and understanding of the reasons for the criminal conduct.

On the basis of the reconstruction, decisions on what action to take following the entry and search were clearly conditioned by the importance of what was at stake and the need to produce a result, which at that moment not only failed to match the high expectations that had developed but actually appeared likely to prove the

opposite. It's possible that an open admission that the operation had failed would not only have been held to reflect mistakes made at a broad level, but that this would also have had repercussions on individual careers and even undermined the image of the committed institution that the defendants represented. In other words a "reason of state" that allowed them to take the shortcut of the end justifying the means. The full involvement of the defendants in their respective positions throughout the summit, the work many of them had dedicated to preparing for the event, the tension during the dramatic periods of public order and security, could all have played a part in shaping the ideas of those who were at the peak of a battle they felt they had to win. The "political" nature of the opposition to the violent [section of demonstrators] inevitably led to simplifications and a blurring of definitions, both in identifying the enemy and in understanding the values being represented and defended.

Defences based on showing - even after the arrests were all declared illegal - that the operation had had a "just" purpose (to identify and stop individuals that might have been responsible for criminal actions carried out by members of the violent fringe) were almost instinctive. The later discovery that some of the foreigners arrested had had former brushes with the police for crimes connected to disturbing the peace were hailed as proof that the arrests had been justified and appropriate.

Such considerations appear to completely miss the point that the importance of judicial punishment is that it cannot be redeemed or counterbalanced by a person's qualities or precedents; that these could not possibly have formed part of the police evaluations as they were not known at the time the decisions were being taken.

The obstinacy in insisting that elements acquired later legitimised the results - regardless of the clear faults in the operation and evidence of the abuse carried

out - is representative of an attitude that is still unable to grasp the importance of respecting the rules of obtaining proof and engaging in professionally correct behaviour.

All the conduct attributed to the defendants - as well as other behaviour that cannot be attributed to them but which nevertheless has been shown to have occurred during the Diaz operation - express the conviction that "adjusting" or artificially "improving" the evidence against certain individuals is behaviour that, rather than deviating from the aim of the institutions, is instead required as a way of achieving this aim.

This conviction is probably at the basis of every illegal act committed by the police, whenever they are not motivated by exclusively personal aims. It originates in entirely commendable intentions, which translate into illegal behaviour. This is nevertheless considered acceptable at the point in which it becomes clear that following the rules and procedures will mean that those individuals - who are considered guilty - will not be punished.

In this light, an apparently banal detail uncovered during the investigation assumes great significance. While some elements considered fundamental to the arrests - such as the occupants' alleged resistance to police entering the building - have gradually been refuted by everyone, the only incident that the defendants explicitly and angrily distanced themselves were accusations they planted the Molotov cocktails.

This can be seen to have a double layer of importance. On the one hand, this element more than any other was of an objective nature, leaving no room for alternative interpretations as the bottles had originally been found kilometres away under circumstances entirely unconnected to the present operation. Yet proof otherwise was all based purely on statements made by personal statements. On the other hand, there was the symbolic value of having falsified the piece of

evidence, which, more than anything else, showed the dangerous nature of the individuals arrested. This evoked the scenario of a city gripped by the destructive rage of demonstrators but would instead turn out to be one of the most disgraceful acts committed by the police.

It is more difficult [for the occupants] to refute other such falsehoods and fabrications, precisely because they are linked to a single explanatory source mentioned in the service report and in the records signed by police; this is particularly the case if the rebuttal comes from those individuals painted as guilty. If similar indignation was not expressed [on the part of the police] in these circumstances, it could well be linked to the belief that a twisted account will be considered - first by the public prosecutor and then by the judge - with a certain amount of indulgence, almost taking for granted the future testimony of the "good policeman"; a policeman allowed to adjust the details, transform a hurled object into a hail of objects, the sound of glass breaking into a description of broken bottles, creating doubts over who an object belongs to by omitting its discovery, failing to register it as evidence, transporting it to a place, then "unintentionally" tampering with filmed evidence and so on. It's difficult to ignore the common thread.

Declarations of having played no part in fabricating evidence by planting the Molotov cocktails were not fully investigated (not only due to existence of footage) but only sufficiently to conclude it had fallen within an "acceptable" level of manipulating evidence - as though having seen or found the bottles in the courtyard, in the school, on the stairs, on one floor or another, was entirely irrelevant, it being enough for the expert, upright official that they had been found "in the context" of the operation. Some version would undoubtedly have been produced for the judge, but this would be a mere technicality if the proof could not match up to the required precision and efficiency - elements that didn't interest the police.

The investigation started by the Public Prosecutor's Office at the request of the judges - conducted with the necessary determination to ensure a full reinstatement of the rules and recognition of the rights that had been violated - were taken as a betrayal. There were repeated accusations, and not only in the out-of-court propaganda - that the Office was relying on collective responsibility rather than tracing down the individuals responsible. But these reactions and attitudes hide the fact that the police were only ready to admit deviation and abuse when the charges were framed against unknown and unidentifiable individuals. There have been repeated hints at the difficulties encountered in even determining the individuals present at the operation, which cannot just be blamed on the chaotic manner in which they were brought into the operation.

However, once concluded, the investigation revealed the existence of objective elements. These produced an adequate and comprehensive response to the main questions that had appeared destined to remain unanswered owing to the expected [police] reaction of trying to blur individual responsibility within the group action. Leaving to one side proof provided by the available footage, the plaintiff statements are still subject to development; this is because it is only once all the oral evidence is laid out in the trial that the detail with which events inside the Diaz School can be reconstructed will become clear. Only then will it be possible to fully evaluate the contradictions and utter implausibility of every claim made by the defendants. It will become clear how unconvincing are claims of not having seen, not having been a direct witness to events. The reason for records that are apparently authorless will also become clear.

It will become plainly apparent that the impossibility of verifying operations carried out by public officials was a way of covering up illegal behaviour, which each of the defendants assumed as his own by using them as justification for the arrests.

Indictment was not requested for the defendants out of a kind of retaliation; instead, efforts have been made to distinguish and analyse responsibility, in a manner certainly not used in regards to the Diaz victims.

A rigorous standard of proof has been adopted, far beyond the criteria required under the Criminal Procedure Code Art 125 for a criminal action. But beyond a careful evaluation of the proof, nothing more can be asked of the judge - in part, to exorcize the potentially negative impact of this case from the mere fact that individuals holding an institutional role are being subject to trial. The final decision must always rest with the judge, so long as one is operating within a constitutional system, characterized by legality, the keystone of which must be the equality of every citizen in the eyes of the law.