

Pandemic Reflexes: Lockdowns and Arrests in Victoria, Australia

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Theme: [Police State & Civil Rights](#)

Ugly. Rough. The police of the Australian state of Victoria muscling their way in. The father and children watching. It had all arisen because the pregnant mother in question had engaged in conduct defined as incitement. In a post on her Facebook page, Zoe Buhler had urged Victorians to protest the coronavirus lockdown rules over the weekend. She encouraged the practising of social distancing measures to avoid arrest and the wearing of masks, subject to medical exceptions. "Here in Ballarat we can be a voice for those in Stage 4 lockdowns [in metropolitan Melbourne]. We can be seen and heard and hopefully make a difference."

Social media sniffers in the state police picked up the scent and repaired to her Ballarat home in Miners Rest. Buhler promised to take down the post. "I didn't realise I was doing anything wrong. I'm happy to delete the post. This is ridiculous." She noted the presence of her children; the fact that she was due for an ultrasound appointment in an hour. She inquired about clarification about the term "incitement", a word she genuinely did not comprehend.

Subsequently, she claimed the police had shown some basic courtesy. "Sorry about my bimbo moment," she [stated](#) on reflection. But she refused to resile from her view that the conduct had been "too heavy handed, especially [to arrest me] in front of my children and to walk into my house like that." She remains ignorant about the meaning of incitement.

The Buhler arrest was coarse, incautious, suggesting a tone-deafness prevalent in law enforcement. It was unusual in ploughing common furrows across the political divide. *The Australian* was assuredly predictable in its denunciation, having never quite taken the virus that seriously (deaths we shall have, but managed responsibly), though it was hard to disagree with associate editor Caroline Overington's [plea](#). "You can accept lockdown and support saving lives but you should still oppose cuffing anyone – much less a pregnant woman."

Janet Albrechtsen took matters into another register with her school girl [claim](#) of fascism, a term she had no inclination to define. Albrechtsen has never been troubled by forensic details, but she was correct to assume that Buhler will not necessarily be seen as hero or martyr. Protesters are approved or repudiated depending on the flavour of the moment, and the ducking stools would be out. "Maybe she's into crystals? Maybe she's an anti-vaxxer?" She certainly did not share views "common with rich hippies in Byron Bay."

The legal fraternity were more than a touch unsettled. The Victorian Bar was deeply unimpressed by a police operation that seemed, not merely rough in execution but untutored, and said so in its [media release](#) on September 3. "We recognise," its president,

Wendy Harris QC [explained](#), “the importance of compliance with the law, but enforcement of those laws needs to be proportionate and consistent.” Arresting Buhler and handcuffing her in her home in front of her partner and children “appeared disproportionate to the threat she presented.” Case law in Victoria – *Slaveski v Victoria* and *Perkins v County Court of Victoria* – had held “that a police officer is not entitled to use handcuffs on a person merely because an arrest is made.”

Another thing also niggled the Victorian Bar Association. “Consistency in the enforcement of the law is also critical; without it, confidence in the rule of law is undermined.” This was a less than subtle swipe at mixed responses from the police: the enforcement measures taken against Buhler were “apparently at odds with other reported and more measured responses by authorities to organisers and protesters of similar protesters planned or carried out in contravention of public health directives.”

Greg Barns, National Criminal Justice spokesman of the Australian Lawyers Alliance, was similarly shaken. Writing in [The Age](#), he was baffled by the views of Assistant Commissioner Luke Cornelius, who claimed that the police had been “polite” and “professional”. Police were good enough to assist Buhler to contact the hospital to make another appointment for the ultrasound. Hardly the point, fumes Barns. “They should not have arrested her in the first place.” The result of such muscular policing has been to gift Buhler the PR campaign and ensure “greater sympathy for those who are wanting to launch protests against the Premier [Daniel Andrews] and his government’s draconian laws.”

The mild mannered Rosalind Croucher, president of the Australian Human Rights Commission, [also took to the debate](#), “dismayed” by the Buhler arrest. “In times of crisis, such as this pandemic, our rights are as important than ever.” Temporary measures to limit rights and freedoms to control the spread of infection might have been necessary but “must always be proportionate to the risk – and managed appropriately.”

Buhler’s case is one of several arrests conducted this week, some of which would have caused fewer twangs of sympathy or outrage. James Bartolo decided to mix reality television with pandemic law enforcement, filming his own arrest and [posting it](#) to Facebook. Unlike Buhler, Bartolo is your traditional figure of practiced conspiracy, claiming to have better insight into the world of manipulated wickedness than most. Through [The Conscious Truth Network](#), he chest-thumpingly advertises his credentials as “truth seeker, freedom fighter, utopian advocate”.

This fine former specimen of the Australian army and addled body builder [is convinced](#) that COVID-19 is but a Trojan horse, the fiendish, fictional product of a “treasonous and corrupt network of filth” intent on enslaving us. A truculent Bartolo, in his three-minute long video, is seen arguing that the police was unlawfully trespassing on his property. “You don’t have authorisation to be on the property.” But the paperwork was in order; the police duly made their way in, arresting the 27-year-old for alleged incitement, possession of prohibited weapons and two counts of resisting them. An advertising stunt had been successfully executed.

These displays have caught the Victorian Police flatfooted. It was always bound to resonate with some politicians. On September 4, David Limbrick of the Victorian Legislative Council and member of the Liberal Democrats [wrote an open letter](#) to Victorians expressing his shock and disappointment with the state government’s response, claiming that those

authoritarians who had forced Victorians to wear masks “and their enablers have been unmasked.” While not explicitly pointing out specific acts of the Victorian police, the theme of his note was clear enough. “The intrusion into our lives gets more personal and more extreme every day. The Government has given the police free reign [sic], so no wonder their behaviour just gets more outrageous.”

Limbrick has also encouraged protests, but suggests forms that do not breach the regulations. “It’s simple – bring your pots and pans, beep your horns at 8pm, and let your neighbourhood know that we don’t have to suffer in silence.” An even sounder [suggestion](#) is advanced by Barns. Make better laws, avoid sloppy drafting which leaves “enormous discretion in the hands of the police” and “educate and try to reduce tension and stress in the community.” As for Buhler’s case, they could have made things simple and civil: take her up on the offer to remove the Facebook post, explain why it was in breach, and be on their way. A sensible thought for an insensible time.

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Featured image: A woman walks her dogs in Fitzroy Gardens park as police and defence force officers patrol in Melbourne, Victoria, Australia [David Crosling/EPA]

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