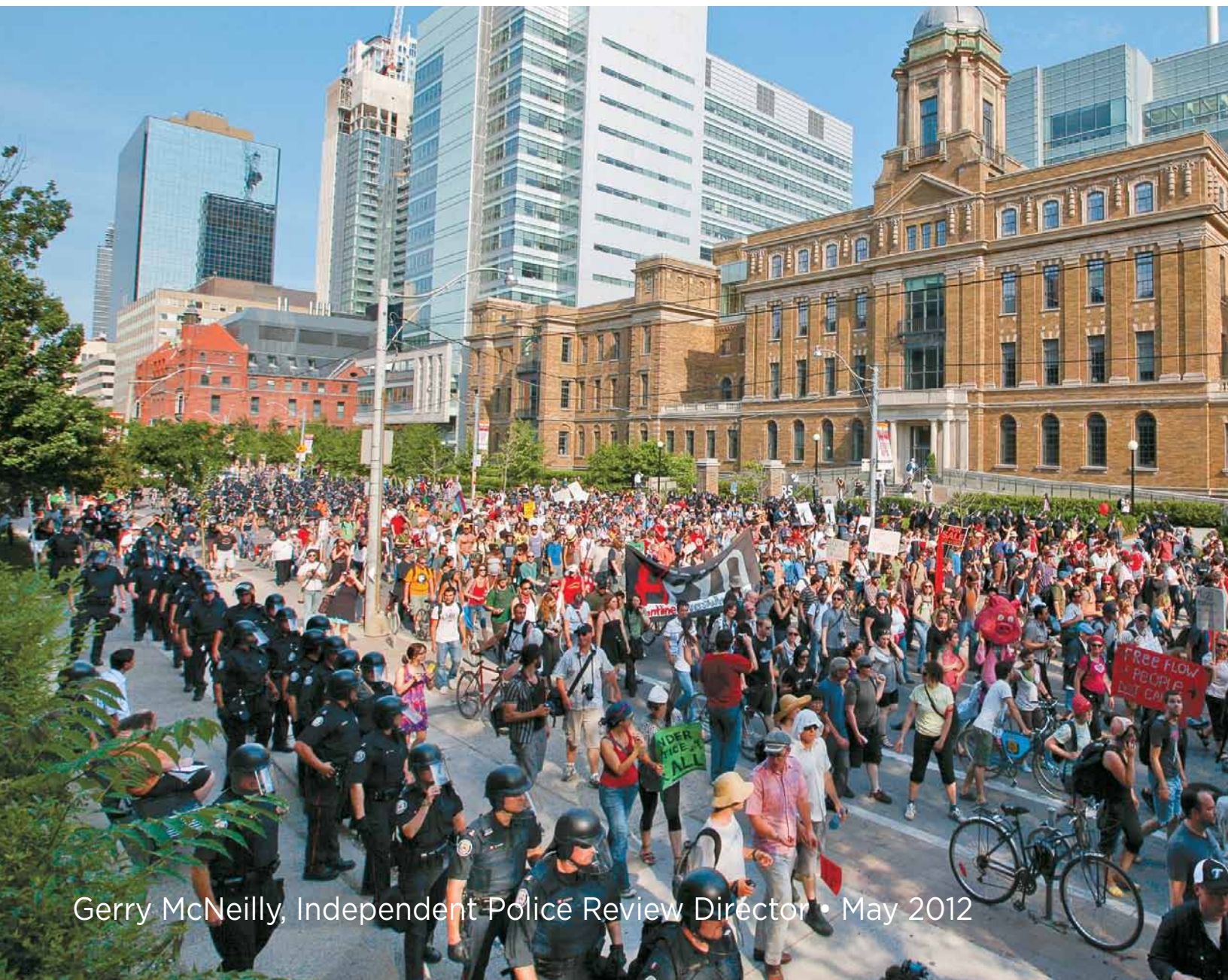




OFFICE OF THE INDEPENDENT
POLICE REVIEW DIRECTOR

policing the right to protest

G20 Systemic Review Report



Gerry McNeilly, Independent Police Review Director • May 2012

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Director's note



In June 2010, when Toronto hosted the G20 summit for international leaders, the event attracted thousands of protesters. What occurred over the course of the weekend resulted in the largest mass

arrests in Canadian history. These disturbances had a profound impact not only on the citizens of Toronto and Canada generally but on public confidence in the police as well. It is my hope that this Report will provide a comprehensive account of the G20 security operation – from planning to conclusion. This Report is not about condemnation. It is about learning, moving forward, and using the lessons learned to improve future events of this scale.

The results of the massive G20 security operation were significant. Although the summit itself was not disturbed, the security operation disrupted life as usual in downtown Toronto. We saw high security fences, police patrolling in riot gear, people demonstrating for all sorts of causes, protesters in black employing “Black Bloc” tactics, businesses vandalized, property destroyed, and police cars burned. Toronto lost its innocence that weekend. We realized we were not immune to mass protest and violence, and not removed from police having to employ extraordinary tactics in order to keep the peace.

At the conclusion of the G20 summit, my office began receiving complaints regarding police conduct. In total we received 356 complaints, and the analysis of these complaints revealed allegations of a pattern of conduct that occurred throughout the summit. I determined that it was necessary to begin a systemic review of the G20 and what had happened. In July 2010, I announced that my office would be conducting this review.

In preparing this Report, the Office of the Independent Police Review Director (OIPRD) has had the advantage of reviewing reports and documents that have already been written on the Toronto G20 summit, along with the many reports prepared after similar events in other jurisdictions.

What occurred in Toronto during the summit is not much different from what took place in other cities that have hosted international gatherings. In addition to attracting large protests, these gatherings also tend to attract small groups of individuals who intend to commit criminal acts in the midst of peaceful protests and spark widespread disorder.

The fact that so much has already been written about public order policing during international gatherings speaks to the need for improving police planning, training, and operations in this area. More important than that, it highlights the significant value we place in our fundamental freedoms, such as the freedom of expression and peaceful assembly. One of the fundamental goals of this Report is to help ensure the protection of the right to peaceful protest as well as the duty of law officers to police those protests.

The disorder that occurred during the G20 summit and the ensuing police response certainly came as a shock to many, including some of the police. As a result, some members of the public have expressed a loss of trust in the police, and the police themselves have engaged in their own critical assessment of their actions.

The vast majority of police officers carried out their duties in a professional manner during the G20 summit. Many made personal sacrifices to prepare for the summit, and many placed themselves at significant risk during it. For many officers, this was the first time they were part of a security operation of this magnitude, and it was the first time they were faced with such a large number of protesters, some of whom were intent on destruction, riot, and violence. The officers who acted within the law, who carried out their duty to serve and protect with diligence and respect, must be congratulated, commended, and thanked.

All in all, given the size of the summit security operation, its integrated nature, the number of police jurisdictions involved, and the short time frame for planning, policing was generally carried out very well. Some things need to be corrected and improved, and it is my hope that this Report and its recommendations will go a long way in assisting with that.

Over the past 20 months, we have been reviewing tens of thousands of documents, videos, and personal accounts of that weekend to prepare this Report. Like any investigation, the more you search the more you uncover. This new material in turn requires requests for additional disclosure and more interviews. At a certain point, the information becomes overwhelming and the decision becomes where to stop. I have faced challenges in preparing this Report, but through hard work and determination we have completed a document that is a credit to the OIPRD and to civilian oversight of policing.

One of many issues we faced was with disclosure in terms of both numbers of documents and delivery. The sheer volume of information was time-consuming to prepare, deliver, and, at our end, to research and evaluate. Scheduling and conducting interviews with officers and civilians from services across Canada presented many challenges for me and my staff. It required the coordinated efforts of many people, layers of approval including police associations and lawyers, and a great deal of time and cooperation. Another issue for our investigators was officer identification, for many reasons. But the fact that some officers removed their name tags cannot be ignored. With the number of officers and services involved in the G20, identification of officers who were involved in complaints about police conduct was a challenge that required a great deal of time and effort. Because the information uncovered in our investigations provided a valuable resource for the systemic Report, I wrote to Toronto Police Chief Blair requesting his assistance in identifying officers. I would like to thank Chief Blair for his cooperation.

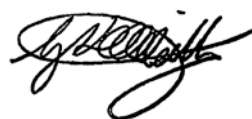
My office interviewed and requested disclosure from numerous officers from police services across Canada, but most extensively the Toronto Police Service, the Ontario Provincial Police, and the RCMP. I would like to thank all the services that cooperated with my investigation and with the preparation of this Report. I appreciate the time spent and frank discussions that occurred, providing both insight and perspective to the inside workings of the G20 integrated security team.

I would also like to recognize all the civilians who were interviewed and provided their insight. My office interviewed civilians offering many perspectives, including those of protesters, media, duty counsel, and legal observers. I appreciate their participation in this review. I would also like to note that we received 16 submissions regarding the G20 systemic review, and I appreciate the time that was spent in preparing those submissions.

I would like to personally thank all my staff for their hard work and professionalism throughout this project. I have learned a great deal about conducting systemic reviews of this nature, and my staff and I will take our lessons learned and move forward, improving our practices as an organization. It is in this spirit that I trust my recommendations and analysis are received by both the public and the police. In a democratic society, it is important to recognize that our fundamental rights and freedoms can only be exercised with the assistance of the police. Both police and the public have a duty to encourage and assist in peaceful protests. This systemic review has driven home the necessity that these two groups work together to ensure that these rights can be exercised in a positive and meaningful way.

The intention of this Report is to provide insight into what occurred and to present an accurate account of how and why events unfolded as they did. Throughout the systemic review process, my goal has been to encourage understanding and to promote trust in the police and in policing. The recommendations in this Report aim to strengthen that trust. I sincerely believe they provide a map to improve the interaction between the public and the police during large-scale events, and I hope that both the police and the public throughout Canada can benefit from the lessons learned at the G20 in Toronto.

Gerry K. McNeilly



Independent Police Review Director

Executive summary

As part of its membership in the G8 and G20, Canada committed to host the 2010 G8 and G20 summits. In June 2008 the Canadian prime minister announced that the G8 summit would be held on June 25 and 26, 2010, in the small town of Huntsville, Ontario, about 200 kilometres or three hours' drive from Toronto. Not until December 2009 did the federal government announce that the G20 would be held in Toronto on June 26 and 27. The Metro Toronto Convention Centre was officially chosen as the venue on February 19, 2010. That left the federal and provincial authorities with just four months to plan the security and policing needs for the summit. As a result of these short timelines, planning was rushed and inadequate, leading to a breakdown in executing many of the operations during the event itself.

The G8 and the G20 summits were the largest domestic security operations in Canadian history. Almost 21,000 security personnel were deployed. The close time span between the two summits, and the location of the G20 in a large city, created a distinct set of circumstances and challenges for Canadian security operations. Never before had one nation hosted both the G8 and the G20 summits back to back and in two different locations, so planning for these two summits in Ontario in 2010 surpassed many previous summits in scope, scale, and complexity.

Security planning for the G20 summit

The Royal Canadian Mounted Police (RCMP) had overall responsibility for security during the G20 summit and the legal authority to establish security zones. This force set up three zones in all, with varying levels of security. The Controlled Access Zone covered the areas immediately surrounding the Metro Toronto Convention Centre and the hotels in which the internationally protected persons (IPPs) and dignitaries were staying. This zone had the highest security and was surrounded by a three-metre-high anti-scale fence. The Restricted Access Zone wrapped around the Controlled Access Zone and was also fenced in. The Interdiction Zone extended several city blocks beyond the perimeter

of the Restricted Access Zone. Outside of that was a large Outer Zone that took in most of downtown Toronto. The RCMP policed the Controlled Access Zone and the Restricted Access Zone, while the Toronto Police Service (TPS) had jurisdiction in the Interdiction Zone and the Outer Zone – the areas where the protests occurred.

Security planning and operations for both the G8 and the G20 summits was coordinated by the Integrated Security Unit (ISU), led by the RCMP in partnership with the TPS, the Ontario Provincial Police (OPP), the Peel Regional Police, and the Canadian Forces. Both the security planning and its implementation depended to a high degree on the intelligence gathered on potential security threats to the summit. Throughout these preparations, the police carried out several threat assessments. Their intelligence told them that anarchists using the Black Bloc tactics of street violence and disruption would be at the summit and buildings in downtown Toronto, especially in the financial district, would be targeted.

The Major Incident Command Centre (MICC) was the central point of command and control for the Toronto Police Service. The TPS G20 planning committee created the operational plan and provided training for TPS and outside services (except the RCMP) taking part in the G20 security operation.

The training that did occur was largely delivered electronically, with minimal in-person instruction. The officers saw photos and videos of previous summits showing violence, weapons, and injuries to police officers. They were led to believe that the crowd would likely become violent and were told to be prepared. There was little attempt to prepare them to support peaceful protests during the summit.

Inevitably, in the weeks leading up to the G20, some groups posted calls on the Internet for militant and confrontational action to “humiliate the security apparatus” in the area surrounding the summit meetings and in the streets of Toronto. And just days before the meetings began, Toronto police found

stashes of potential weapons, groups of old bicycles locked together with new locks, and fire hydrants with their caps loosened.

Rallies and protest marches began in the week before the G20 leaders arrived in Toronto. Police began to stop and search protesters who were gathering to demonstrate or people they considered suspicious. Messages and information issued generally by the police emphasized threats to the public; they appeared to be targeted more at keeping people away from downtown Toronto than in facilitating peaceful protest. Many demonstrators saw the police as having a “them versus us” approach to security, and tensions between the two groups significantly increased.

The media focused on this potential for confrontation rather than on the imminent summit meetings. The drama was exacerbated further when the media learned about a new regulation, passed hurriedly by the Ontario legislature, which applied the *Public Works Protection Act* (PWPA) to the fence around the Interdiction Zone around the summit site. The public had not been told about this long-forgotten law, which had been passed in 1939 to prevent sabotage on the eve of the Second World War, and people became aware of it only as a result of arrests that took place after the regulation came into force. It seemed that it had been passed in secret, and that’s what the media reported.

The regulation had not been passed in secret, but the TPS announced it publicly only in the wake of the arrests. Police Chief Blair told the media that the security designation extended five metres out from the fence. That information was not correct – the boundary for PWPA authority was at the fence itself – but although the mistake was corrected internally in the TPS, it took some time to filter down to individual officers, and it wasn’t until the G20 was over that Chief Blair said anything about the change to the public. When asked by reporters at a news conference if there actually was a five-metre rule, he replied, “No, but I wanted to keep the criminals out.”

On Friday, June 25, commanders in the MICC, which was located on the third floor of police headquarters, had their first sighting of the Black Bloc right on their doorstep. Closed-circuit television (CCTV) cameras on the building captured video of a group of masked people dressed in black in the centre of a demonstration on the street outside.

Queen’s Park, Saturday, June 26

On the opening day of the summit meetings, June 26, labour groups and various other associations organized a large demonstration. The Southern Ontario Anarchist Resistance (SOAR) coordinated a second demonstration to take place during the Canadian Labour Congress march. SOAR posted information online stating it would confront the police state and Toronto’s corporate culture with militant and confrontational action, seeking to humiliate the security apparatus.

At the appointed hour, between 7,000 and 9,000 protesters set out on the “People First” march from Queen’s Park south on University Avenue. A line of police officers with bicycles walked in front of the march, bicycle officers rode alongside, and police cruisers brought up the rear. When the march turned west on Queen Street, protesters challenged police lines at every intersection along the route. Police officers put on their helmets to shield themselves from objects that were being thrown at them.

By 3 pm, the main body of the march had turned north on Spadina, as planned, and made its way back to Queen’s Park, without incident. In the rear, however, near the intersection of Queen and Spadina, someone in the middle of the crowd lit a flare, or some other incendiary device, and black-dressed protesters sprinted east on Queen. Other protesters split off from the main group heading north to follow them.

As they ran east, some of the black-dressed protesters attacked one of the two police cruisers that were at the rear of the march. The officer trapped inside was hit in the head with a pole. A small group of fellow officers got the threatened officer out of the car, but they were surrounded by a large

number of protesters chanting “Whose streets, our streets.” The officers were ordered to leave the cars and, when they did, the crowd swarmed the cars.

The crowd, led by people in black, continued east, overturning mailboxes, breaking windows, and attempting to smash storefronts and ATMs as they ran down Queen Street and turned south on Bay Street. At Bay and King streets, two police cruisers were set on fire. As the cars went up in flames, the crowd sprinted east to Yonge Street.

On Yonge Street, crowds of shoppers and onlookers rushed to get out of the way as this group ran north, led by people dressed in black who smashed windows and vandalized property as they went. TPS Deputy Chief Warr, the Incident Command Lead told the Incident Commander in charge at the time that he wanted “the crowd shut down now.”

Though the police were in constant pursuit of these rowdy protesters, they could not keep up with their progress through the streets on that Saturday afternoon. The riot equipment, or hard tac, that public order unit (POU) officers wear weighs approximately 100 pounds, so they cannot move easily or quickly in it. During the G20, these officers were transported in vans and charter buses, but they frequently got gridlocked amid demonstrations or caught in traffic because their civilian drivers were not authorized to drive through red lights. Another problem arose with the officers who had been brought into Toronto from other police forces to assist with crowd control on the streets. Some of these POUs did not have TPS liaison officers to assist them in getting around the city. One POU commander said he was never exactly sure where he was going as they were continually loading and unloading off buses. Another said that a colleague picked up a rudimentary map from a subway box to assist them with getting around the downtown core.

Late in the afternoon, both public order units and bicycle and mobile officers were ordered to Queen’s Park to arrest the rioters from the Yonge Street march. The remnants of the main demonstration that marched on the planned protest route via Spadina Avenue and College Street were still scattered

throughout the grounds of the park. Protesters dressed in black were seen taking off their dark clothes and blending into the crowds.

There was clearly a rising level of frustration among both the officers on the ground and the commanding officers in the MICC about the lack of control that the police appeared to have over the protest on the streets and their inability to stop the Black Bloc vandals. According to the night shift Incident Commander, this frustration went right up to Chief Blair, who called the day and the night shift Incident Commanders into a meeting at around 5 pm and questioned why police officers weren’t visible on Yonge Street. The day shift Incident Commander put it down to the difficulty in moving POUs that required transportation to the areas where they were to be deployed.

The night shift Incident Commander said Deputy Police Chief Warr told him that he wanted him to take back the streets. “I understood his instructions to mean that he wanted me to make the streets of Toronto safe again,” he explained. “He wanted the streets that had been made unsafe by the terrorists that were attacking our city to be made safe again by restoring order.”

When the night shift Incident Commander took over Incident Command, he immediately informed command staff that they were going to take steps to restore order and that the process might involve mass arrests. He ordered POUs to sweep north from the intersection of University Avenue and College Street. POU officers shouted at the protesters to move or be arrested. Some officers fired rubber bullets, followed by muzzle blasts of tear gas. The long-range acoustic device (LRAD) was deployed, warning protesters once in English and once in French that “the violent behaviour of some members of this demonstration is causing a public safety concern. Reasonable grounds to arrest exist, and force may be used. For your safety, you are now requested to leave this area.”

No dispersal route was given in the announcement, and the police moved immediately on the crowd. It is evident that a great number of the people at Queen's Park did not hear any announcement, and, in any case, a police order to "move" does not meet the standard of "clear directions." Even if some people in the crowd did hear this communication, they had no time to react or comply with it.

It is fair to say that the level of force used in controlling the crowds and making arrests at Queen's Park was higher than anything the general public had witnessed before in Toronto. In some cases the use of force was excessive.

The Esplanade, Saturday, June 26

Some of the protesters who were pushed out of Queen's Park decided to march north to Bloor Street. By 9 pm a crowd of about 500 marched east on Bloor to Yonge Street, where they turned south. More people joined the group as they marched south on Yonge.

Police were concerned that this group intended to go to the security fence on Wellington Street. The police blocked off access to the fence by setting up lines across some streets so that the crowd would be diverted in another direction. As the crowd moved along, so did the police, to ensure that the marchers did not reach the security fence. The protest group was described as loud, but not hostile or aggressive.

The crowd continued moving south and east until it arrived in the area of The Esplanade and Yonge Street. The protesters gathered in front of the Novotel hotel to show support for the striking workers there.

Just after 10 pm this crowd, now 200 to 300 strong, was boxed in by lines of riot police who blocked the street east and west along The Esplanade. While demonstrators sat down in the street and chanted "Peaceful protest, peaceful protest," the police line began to advance, limiting the space and movement of the crowd. At approximately 10:30 pm the police, following orders from the Major Incident Command Centre, announced that everyone in the crowd was

going to be arrested. More than 260 people were arrested. The exact number is difficult to determine because of the unreliability of TPS arrest records.

The night shift Incident Commander explained that he ordered the crowd to be boxed in and arrested because, as he said, "I wasn't able to box in Queen's Park, so the mobility was there and, again, highlighted my concern and the need for this boxing in." He said he did not disperse the crowd because he needed to isolate the protesters and arrest them. They were in a "riot situation," and he had to break with normal TPS procedures, "to go outside the box," and not disperse the crowd.

University of Toronto, Sunday, June 27

The Graduate Students' Union (GSU) at the University of Toronto was one of several places that billeted people who came to Toronto from out of town to protest at the G20. The police had been watching the GSU since Friday, June 25. They had contact with University of Toronto security and knew when the buses of protesters arrived.

On Saturday morning, June 26, before the People First march, the Director of the University of Toronto campus police ordered a retired TPS police officer, who was working under contract as a private investigator with the campus police during the G20, to go into a building opposite the GSU and photograph people as they came and went into the students' union. According to a GSU representative, the building was closed and locked from 10 am until 5 pm. Police continued to watch the GSU throughout Saturday evening.

At around 9 am on Sunday morning, the TPS POU Alpha Section Commander entered the GSU and advised parties present that they were under arrest for participating in an unlawful assembly. Some of the people who were arrested stated that police officers dressed in riot gear swarmed into the gym and woke everyone up at gunpoint. They described officers as being verbally abusive and using force as they arrested and removed the occupants.

The Commander said he did not suggest that an unlawful assembly was taking place inside the GSU. He acknowledged that he did not know whether all the GSU occupants had been involved in the events of the preceding day, but he had reasonable grounds to believe that *some* people in the GSU had been involved in illegal activities on the Saturday. It appears that he intended to arrest everyone and then release those who were found not to have participated in criminal activities on the previous day. In fact, though, all the GSU occupants were taken to the Prisoner Processing Centre on Eastern Avenue and detained there. In total, 108 people were arrested at the GSU. Later that same afternoon, the charge was changed to conspiracy to commit an indictable offence – mischief.

Stop and search

The number of times police stopped and searched people in downtown Toronto increased exponentially between Friday, June 25, and Sunday, June 27. Many police officers believed they were obeying orders in stopping and searching people arbitrarily. On Sunday morning, senior officers were called to the MICC for a briefing and given instructions for the day. These instructions were passed on to the sergeants and staff sergeants, who then briefed officers before they went on shift for the day. The officers told the Office of the Independent Police Review Director (OIPRD) that they were ordered to investigate anyone who was carrying a backpack and anyone who was wearing a disguise – gas masks, balaclavas, bandanas.

In the days and weeks leading up to the G20, however, the mainstream media, as well as alternative media and protester websites, had all published or posted advice on what to expect at protests, what to take to protests, and even what to wear. Almost every one of them urged people, as protection, to take gas masks or swimming goggles and to carry bandanas soaked in vinegar with them. As a result, a great number of people fit the newly invoked police description of “suspicious individuals.”

Many police officers ignored the basic rights citizens have under the Canadian Charter of Rights and Freedoms and, by stopping and searching people arbitrarily, they overstepped their authority. Wearing bandanas and carrying heavy backpacks are not reasonable grounds to stop and search, and police should have used much more discretion.

Queen Street and Spadina, Sunday, June 27

At approximately 5 pm on the Sunday, a large protest of more than 700 people began marching north on Bay Street from King Street and then turned west on Queen Street West. Although they were disruptive, interrupting pedestrian and vehicular traffic and causing streetcars along Queen to stop, this group was non-violent. By the time the crowd reached Queen Street and Spadina Avenue, it had attracted more protesters, members of the media, and a number of curious onlookers.

When the night shift Incident Commander assumed control of the MICC, he ordered public order units and more bicycle officers to Queen and Spadina to box in the group and to arrest them all for conspiracy to commit mischief.

Just after 7 pm a torrential thunderstorm began. About 400 people were detained in pouring rain for four hours while the arrests were being processed. One of the protesters said: “After an hour under that pouring rain, I was shivering. It was getting very cold. We didn’t know what was going to happen. We couldn’t believe that they were going to arrest everyone, which eventually happened. So after a while, I was so cold that we decided to surrender in order to get out of that situation, to get to a warm place. I would have done anything to get away from that situation.”

POU commanders made two requests to the MICC – the LRAD to communicate with the crowd, and an exit route for people to leave the area – but both requests were denied. The commanders on the ground were forced to shout instructions to the crowd, but many people did not hear them. Some police officers went against orders to allow people in distress a way out. In an audio recording, one police officer on the line can be heard saying, “He’s maniacal this MICC, he’s maniacal.”

In the end, Chief Blair himself went to the MICC. He called the Incident Commander and the Public Information Officer out of a meeting and ordered that the people at Queen and Spadina be released “unconditionally and immediately.”

By then, more than 300 people had been arrested or detained at the intersection, most of them for breach of the peace. It was unreasonable and unnecessary to have continued over a four-hour period to arrest people one by one during a severe rainstorm.

Containment

During the G20, containment was used as a tactic on at least 10 occasions. On The Esplanade and at Queen and Spadina, protesters were contained specifically to arrest them – a response that conflicts with the policies and procedures of the Toronto Police Service, the Ontario Provincial Police, the RCMP, and most other police services. However, this tactic was part of one Incident Commander’s strategy to “take back the streets.”

As a result of this action and others, the operation of the MICC during the night shifts on Saturday and Sunday became dysfunctional. Communications within the MICC and between the MICC and field officers frequently broke down. The Incident Commander accepted little input from Operations Chiefs and others in the MICC who were there to offer support and advice, and, in effect, he took away the independence and decision-making from the operational commanders on the ground.

The Prisoner Processing Centre

People arrested during the G20 were, for the most part, sent to the Prisoner Processing Centre (PPC) in Toronto’s east end. The Toronto Police Service was the lead in both planning and operating the PPC. TPS used examples from previous G8/G20 summits to plan the size of the facility, and it decided that the PPC should have a capacity of 500 prisoners. It also decided that the PPC would be a “unique entity that does not fit into the definition of a lock-up.” That description would allow the planners to use existing policies, procedures, and regulations for the PPC operational plan.

The PPC was intended not only to hold prisoners arrested during the G20 but also to serve as an operation centre for various investigative services. By these means, the planners hoped to create a seamless operation in which the detectives had immediate access to prisoners and could charge or release them based on the investigative information provided.

Specific procedural training was minimal to non-existent for officers who were performing day-to-day duties in the detention centre, but it was also seriously lacking for senior officers. One location administrator in charge of prisoner management had not received a fire or an evacuation plan in case of an emergency and was told to use the other location administrator, on the opposite shift, as a resource. The lack of training and preparation meant that staff were not able to deal with the sudden influx of prisoners beginning on Saturday night and continuing through Sunday.

It is quite evident that the G20 operation plan for the PPC was not sufficient or detailed enough to provide guidance to those operating the facility. The gaps in the overall plan are obvious, and they were brought forward to senior management in advance of the G20 weekend. There was no plan for breach-of-peace arrests, for example, indicating that those planning the PPC did not consider the possibility that people arrested on this charge might be brought to the facility. There was no policy or procedure for the prisoners to speak with a lawyer or to have access to a telephone, and no process in place to release them.

The G20 planning document indicated that the arresting officer was responsible for filling in the hand-off team (HOT) sheet, or arrest card, at the scene, but, in the turmoil on the streets, this paperwork frequently was not completed. The lack of accurate and completed paperwork as protesters arrived at the PPC caused serious problems both in processing prisoners and in investigating the reasons for their arrest and detention.

Paperwork from the PPC was also sporadic and incomplete. For example, the OIPRD received disclosure giving three different numbers for “arrested persons”: total arrests, 1,112; G20 persons arrested, 1,057; and the prisoner booking program, 886 arrests. In addition to our own findings, complainants and witnesses consistently identified and raised 12 main issues of concern about the PPC: access to duty counsel, access to a telephone, meals, overcrowding, excessive period of detainment, environmental conditions, privacy, handling of property, medical attention, treatment of young offenders, use of flex cuffs, and strip searches.

Conclusions

The incidents that occurred on the streets of Toronto during the G20 weekend of June 26 and 27, 2010, resulted in the mass arrest of more than 1,100 people and in hundreds of protesters being contained. There appears to have been a lack of thorough planning and preparation for the G20, and, although insufficient time was certainly a factor, the operational planning committee should be faulted for the decision that it would be “business as usual.”

The violence that occurred on Saturday afternoon left the MICC scrambling to react, and its approach to crowd control changed dramatically that evening. The result was an overreaction at the MICC, causing an almost complete clampdown on all protesters and the mass arrests. These arrests in turn had serious repercussions on many other parts of the security process, including arrest procedures, transportation of prisoners, and detention at the PPC. The system became overwhelmed, and, in some areas, it broke

down. Hundreds of people were inconvenienced, many were deprived of their Charter rights, and it is fortunate that, in all the confusion, there were no deaths.

This systemic review focused on the planning, training, implementation, and overall policing of the G20 security zones controlled by the Toronto Police Service, specifically on the “hot spots” where the majority of incidents occurred. Our findings and recommendations are provided to assist those planning future events and to help create a balanced approach to policing large protests.

Findings

- Toronto Police Service planning for the entire G20 security operation was incomplete and inadequate and very general. It did not provide a proper breakdown of operations, so it was impossible for officers who were unfamiliar with TPS methods to have an appropriate understanding of how the plan should be executed. Even those who were from the TPS, but lacked long-term experience with the force, were either unaware of the procedures assumed in the plan or simply did not follow them.
- TPS did not have a great deal of experience in planning and executing operations of this magnitude. Other Integrated Security Unit members had more knowledge and understanding of large international events, but the operational plans for crowd control and for the Prisoner Processing Centre were entirely the responsibility of TPS. It seems that expertise that was available within the TPS was not adequately used.
- The operational plan did not include time for standard operations: for example, moving POU officers from one location to another or, when such a move was required, what the preferred route would be. The plan provided few specific details, such as appropriate crowd control methods or standard TPS practices. As a result, once all the different services were deployed, there was no cohesive plan.

- TPS chose to use mostly “existing TPS policies and procedures” for the operational plan. This decision may have resulted from the short time available for planning, but it created a cumbersome system that officers on the ground were not able to follow. Furthermore, police services brought in from cities outside Toronto were not familiar with TPS policies and procedures, and the minimal training program provided was not sufficient to ensure their understanding.
- The electronic system to track officers on duty failed days before the G20 began, leaving the Major Incident Command Centre with no idea how many officers were working or what services were on duty. No back-up system was in place.
- Police officers were given the impression by those in command that the *Public Works Protection Act* gave them the authority to stop and search people throughout the downtown core, often nowhere near the fence around the Interdiction Zone. Even the Toronto Police Chief was under the impression that this authority extended to a distance five metres from the fence, and, when the mistake was uncovered on the eve of the summit, the correction was not appropriately clarified to officers on the ground. The details of the police authority to stop and search was not communicated to the public, leading to confusion and some confrontations.
- Communications between protesters and the police were inadequate and sometimes non-existent. The crowd dispersal methods were often not heard by the majority of protesters, who then complained that “the police just started running at us and shoving us, yelling ‘Move.’” This breakdown in communications created increased tension and an “us versus them” attitude between the two groups.
- Protesters were not the only ones who resorted to violence during the G20. Numerous police officers used excessive force when arresting individuals and seemed to send a message that violence would be met with violence. This reaction created a cycle of escalating responses from both sides.
- Once the violence began on Saturday, June 26, police tactics changed. Crowds of protesters were surrounded and contained with no exit routes. The Incident Commander ordered the mass arrests of people at different “hot spots” throughout the city. On several occasions, people who lived in the area but were not part of the protest ended up being surrounded and contained.
- Despite clear examples of non-protesters being rounded up, officers refused to let anyone leave, indicating that they were “following orders.” The Office of the Independent Police Review Director knows of some occasions where officers on the ground personally removed non-protesters and peaceful protesters and allowed them to go home. Unfortunately, the vast majority of accounts are of officers blindly following orders – even those officers who questioned the orders that were given to them.
- The Incident Commander at the MICC referred to crowds of protestors as ‘terrorists / protestors,’ leaving the impression that they were criminals. This attitude resulted in the decision to contain and arrest approximately 1,100 people during the summit, most of whom were peaceful protesters.
- The Prisoner Processing Centre was poorly planned, designed, and operated. This detention facility was not operationally prepared for the mass arrests that took place on the Saturday night and on Sunday, leading to gross violations of prisoner rights, including detaining breach-of-peace arrestees for over 24 hours and with no access to a lawyer or a justice of the peace. In some cases the decision to detain those on a breach of the peace for more than 24 hours was ordered by the Superintendent in charge of the facility.
- The processes, or lack thereof, in place at the PPC led to prisoners being lost within the system and to inadequate staffing to deal with prisoners’ legitimate needs. The resulting problems included overcrowding, lack of basic privacy, and young offenders being placed in cells with adults.

- Paperwork throughout the G20 was not properly completed and, in some cases, not completed at all. As a result, it is impossible to state accurately the number of people who were arrested over the course of the summit weekend. The sheer number of forms that required completion according to TPS policies was unrealistic, and the resulting chaos in paperwork could have been foreseen. Even more disturbing, the lack of appropriate paperwork resulted at the PPC in several violations of human rights, including unlawful detention and arrest, no access to prescription medication or medical attention, and little or no access to food and water.
- According to the TPS, 1,118 people were arrested. The Prisoner Processing Centre reported a total of 1,112 arrested. The RCMP claimed that a total of 1,115 people were arrested. The OIPRD disclosure indicated that at least 1,140 people were arrested, but, given the lack of paperwork, there is no way to give a precise number.

Recommendations

All the recommendations as they appear throughout the Report are consolidated below. References to the chapter locations appear in square brackets at the end of each recommendation so that the reader may refer to the related evidence and discussion.

Planning

Overall planning

- 1 Police services had only four months to plan security for the G20 summit, a length of time acknowledged as wholly inadequate and one that may in fact have been irresponsible. In future, wherever possible, governments and police services should ensure that joint security events be given adequate planning and preparation time. In particular:
 - a) Policies and procedures should be developed by policing entities for future events so that they can be modified as required to suit specific events and implemented quickly.
 - b) The development of policies and procedures for future events should allow sufficient time for input from the public and police.
 - c) Police should also incorporate contingency plans into their overall policing plans. For example, there should be plans for deploying officers in response to unexpected and urgent situations. [See Chapter 1]
- 2 The Toronto Police Service (TPS) should develop policies and procedures regarding any agreements entered into with other police services for any future integrated project, regardless of its size. These policies and procedures should be developed early in the planning process. The focus must be on the

authority, structure, roles, strategic, operational, and tactical processes, and implementation. [See Chapter 2]

- 3 For any future integrated security projects, police services must contemplate that later disclosure of documents, records, and protocols will be required. Disclosure should be incorporated into the planning process. [See chapter 2]
- 4 Because of the nature of civilian protests, officers' movements must be fluid. The Toronto Police Service and all police services should develop a more robust, coordinated, and effective means to track officer movements. This ability is crucial for officer safety and for the investigation of criminal activity, as well as questions about police conduct. [See Chapter 2]

Communication planning

- 5 To ensure that officers on the ground can communicate with each other and with the command centre effectively, police services should review the failures of communication encountered during the G20 summit. Police services should work through the Ontario Association of Chiefs of Police to ensure that a consistent and workable communication system is in place for all future large-scale events and joint projects. [See Chapter 2]

Processing of prisoners

6 Police services should develop specific procedures for the processing of prisoners that reflect the circumstances, depth, and scope of large or extraordinary events; they should not use existing procedures that are meant for everyday scenarios. In the case of the Prisoner Processing Centre, it is clear that the existing procedures failed.

- a) Recognizing that extraordinary events may lead to mass arrests in the future, police services should develop policies and procedures to deal with mass arrests, especially policies and procedures to track prisoners and their belongings.
- b) In situations of mass arrest, police services should develop better methods to ensure that existing policies are followed – particularly the policies that protect the rights and dignity of the prisoners, such as access to counsel, reasonable use of a telephone, and conditions governing strip searches. [See Chapter 9]

Prisoner detention facility

- 7** Any prisoner detention facility set up specifically for a large protest event must have emergency management plans created by policing entities to provide specific instructions on what constitutes an emergency and what steps should be taken in each scenario. Every person staffing such a facility must be trained on the emergency procedures, and appropriate run-throughs should be conducted to ensure the safety and security of staff and detainees. [See Chapter 9]
- 8** The planning for any detention facility should include specific benchmarks or timelines for procedures. Such benchmarks should include the length of time before prisoners must be fed and the length of time physical restraints can be used. [See Chapter 9]

- 9** The planning for any detention facility should also specify what the physical plant should be and what the capacity is for each cell as well as designation of male, female, and youth cells. [See Chapter 9]

Command and control

Officer identification

- 10** The Toronto Police Service and other Ontario police services should ensure that the names and badge numbers of officers at public order events are displayed prominently on outer clothing and helmets at all times. This requirement should include hard tac equipment. Senior officers should also be accountable for enforcing the policy. Where major events involve more than one police service, security planning for the event should include an agreement among the police services that name badges will be used by all officers no matter what policy the individual police services have in place. [See Chapter 5]

Police responsibilities

- 11** All Ontario police services and all senior officers must take responsibility for ensuring that the policies, obligations, and requirements of good policing are met. Senior officers especially should not condone, or distance themselves from, the misdeeds or misconduct of subordinates and colleagues. To condone any inappropriate behaviour is to bring great disrespect to police and policing and weakens the public confidence in police. To this end, the *Police Services Act* of Ontario and the current *Code of Conduct* regulations should be reviewed to impose a positive duty on all officers: (a) to disclose potential evidence of police misconduct regardless of whether any public complaint has been made, and (b) to impose a positive duty on all officers to assist with investigations of police conduct. [See Chapter 5]

Training

- 12** Police services should review and revise specific training regarding the policing of large protests and applicable police powers. This training should be implemented as part of the general continuing education of officers. The training should include a clear understanding of parameters of a legal protest and the rights of protesters. Although police must train and be prepared for possible violence, training should not depict all protesters as violent and confrontational. [See Chapter 11]
- 13** Police services should provide practical training to equip officers with the skills to facilitate peaceful protest, including de-escalating potentially violent situations and communicating effectively in challenging situations. That should be the police officers' primary goal. [See Chapter 11]
- 14** The Toronto Police Service and all other Ontario police services must provide refresher training on its policies regarding use of level 3 or "strip" searches to ensure that its policies are followed. [See Chapter 9]

Police powers

- 15** Officers should be provided with refresher training in the legal parameters of their authorities to stop and search protesters, and the legal authorities to detain and arrest. [See Chapter 4]

Incident Command Management System

- 16** If, in future, the Toronto Police Service polices a large event using the Incident Command Management System, it should ensure that officers in charge of the command system are well trained in managing large-scale protests and it should train all those working in the command system, especially regarding their roles and responsibilities. [See Chapters 2 and 8]

- 17** Ontario police services should work through the Ontario Association of Chiefs of Police to review the use of the Incident Command Management System and develop a coordinated approach and consistent policies and procedures throughout Ontario for all police services. These procedures should include ongoing training and implementation for integrated or joint projects. [See Chapter 2]
- 18** If multiple police services are to work together under the same Incident Command Management System structure, training should be a cooperative effort. Those who will be working together in the system should train together. [See Chapter 2]

Diversity

- 19** In light of the diverse nature of Toronto, the Toronto Police Service should expect that persons with diverse needs may attend large-scale protests. The TPS should ensure that reasonable accommodations, as required by the Human Rights Code, are included in the planning process. For example, the TPS should have a contingency plan for providing interpretation services within a reasonable time for persons who do not speak English. [See Chapter 9]

Arrests and containment

Warnings

- 20** Police services should ensure that, before police take action to make mass arrests or arrests involving extractions from a crowd of protesters, loud and clear warnings are given and enough time allowed for protesters to comply with any police direction. Before any major protests begin, the Toronto Police Service should test its public announcement systems to ensure that public announcements can easily be heard by all who attend the event. [See Chapters 5 and 8]

Breach of the peace

- 21** The Toronto Police Service should develop policies for dealing with breaches of the peace at large protests. The objective should be to remove people from the scene of the protest and to restore the peace. The TPS policies should include criteria to determine when to arrest for breach of the peace, and, in the case of mass arrests, criteria to determine the length of detention. In any event, a detention for breach of the peace should not exceed 24 hours. [See Chapter 6]

Containment

- 22** With regard to the circumstances under which protesters are allowed to leave a “contained” area, the police must:
- a) Reorganize their policies and procedures.
 - b) During any containment procedure, all officers must be authorized to use their discretion to allow access and egress, trusting their own judgement and experience when necessary. [See Chapter 8]
- 23** The use of containment tactics should also be closely linked to the intelligence information police have received. The police must have reasonable grounds to believe that the protesters being contained are actually causing a disturbance or likely to cause a disturbance elsewhere. Innocent bystanders and non-violent protesters (where they can be identified) must be allowed to filter out. Containment should continue only for as long as absolutely necessary, and the well-being of those contained must be given as much consideration as possible. [See Chapters 6 and 8]
- 24** In situations where mass arrests may be anticipated, police services should prepare a workable model for transporting, booking, holding, feeding, and administering and ensuring the health and safety for an anticipated large number of prisoners. [See Chapters 6 and 8]

- 25** Police services should recognize that containment must not be used for purposes of effecting mass arrests but must only be used for temporary crowd control to ensure that the peace is kept. [See Chapter 6]
- 26** The *Police Services Act* and the existing Code of Conduct regulation should be revised to expand the misconduct of “unlawful or unnecessary exercise of authority” to include an unlawful or excessive detention where no physical force was used. [See Chapter 8]

Record retention

- 27** In light of the large number of arrests that did not result in a charge or resulted in the charge being withdrawn, the Toronto Police Service should consider whether it is in the public interest to retain the police records of the arrestees who were either not charged or whose charge was withdrawn. It is our understanding that TPS policy allows for records to be expunged. It is recommended that the TPS should consider exercising its discretion to expunge those records where it is not in the public interest to retain them. Further, it is recommended that the TPS should communicate that policy to the public and allow members of the public to apply to have their records expunged. [See Chapters 6, 7 and 8]
- 28** The Toronto Police Service should develop criteria for determining when it is necessary to fingerprint and photograph persons arrested for “breach of the peace.” When the TPS does fingerprint and photograph persons detained for “breach of the peace,” it should consider how long those records should be retained. It is noted that the *Criminal Records Act* provides that a record of an absolute discharge should not be disclosed more than one year after the date of the discharge. The TPS should expunge all records relating to persons arrested for “breach of the peace” at mass protests within a similar time period unless there is good demonstrable reason made to the IPRD to retain the record. [See Chapters 6 and 8]

Tactics, equipment, prisoner handling

Flex cuffs

29 Police services should discontinue the use of flex cuffs, or, in the alternative, only use them in dynamic situations, such as mass arrests, and then only for a short time, replacing them with regular metal handcuffs as soon as possible. In all cases, handcuffs should be removed from prisoners who have been searched and lodged in cells unless there is good reason to continue their use. [See Chapter 9]

Public order units

30 All police services that have public order units should continually review their tactics for maintaining public order. These tactics should enable them to respond effectively to existing protester actions or evolving actions that may be employed at major events or events of mass disorder. [See Chapter 5]

31 Police services that have public order units should look into developing POU uniforms to permit the officers enough mobility to allow them to respond quickly. The existing hard tac gear does not permit officers to move with sufficient agility. It should be possible to develop a uniform that offers much of the protection of hard tac while providing the mobility of soft tac. [See Chapter 2]

Communication and the public

32 Major events require robust communication plans. Police services in Ontario should work with the IPRD to develop plans for improved communications. The public's support for security measures is crucial to their success. Police services should develop a detailed public communications plan for major protests that includes the police's role in facilitating peaceful protest. [See Chapter 10]

33 Police chiefs and command leads should proactively communicate with the public through traditional media such as television, radio, and newspapers, as well as through non-traditional means such as social media, to address situations, to explain measures being taken, and to seek the public's cooperation. Protesters should be made aware of likely police action so that they can make informed decisions. [See Chapter 10]

34 Police services involved in large events or protests should make a greater effort to communicate policing plans to protests groups at an earlier stage of planning. As much as possible, police should develop communication strategies for protest groups that are reluctant to communicate or respond to police. Such attempts by police would go a long way to build trust and better relations. [See Chapter 10]

35 The police have a very public role. Officers must recognize that the public will take photographs and video recordings of them performing their duties, especially at events such as protests. The police must recognize the public's right to do so without being subject to detention, search, or confiscation and destruction of property. Disciplinary action specific to this issue should be developed. The Ontario Association of Chiefs of Police and the Government of Ontario should consider whether any amendment to the Code of Conduct regulation is required to effect this change. [See Chapter 10]

36 In this day and age we understand that surveillance cameras, including closed-circuit television cameras, are used on the streets daily and more so during major public events or protests. Police services or municipal bodies that put up these cameras have a duty to inform people that they are under surveillance. They must ensure that there is visible notice to the public that they are being filmed. This requirement includes signs on or near the cameras. [See Chapter 10]

37 The public needs to take responsibility for working/cooperating with police security organizations, especially when requested to relocate during incidents that appear to be bordering on danger or violence. It is recommended that police ensure that the public be informed of the reason to relocated before employing police security procedures. Thereafter the public must be aware that they are subject to police action. [See Chapter 5]

The media

Accreditation

38 Police services should be aware that large-scale events are likely to attract the attention of traditional and non-traditional media. Policies should be developed regarding criteria for media accreditation. These policies should be public documents and involve the media in their creation. Police services planning for security at large events should ensure that accreditation of all media (including new media and non-traditional media) is handled by one office. The accreditation, once issued, should be respected by police. That said, media personnel must be aware that they are subject to police action if they obstruct or hinder officers in performing their duties. [See Chapter 10]

Post-event planning

39 Following large events and protests, police services should debrief officers and discuss what worked or did not work, areas of concern, or best practices. This feedback will help to improve policies and training plans for future events. [See Chapter 11]

40 Police services involved in policing large events and protests should develop a process for consistent note-taking and record-keeping to ensure any issues of police conduct can be reviewed. [See Chapter 9]

41 The Toronto Police Service, other Ontario police services and the RCMP must develop procedures for better, more seamless, and earlier disclosure of documents with agencies responsible for oversight or reviews. [See Chapter 1]

42 The *Police Services Act* should be amended to specify the time limits for investigating complaints of police conduct arising from mass protests. The current section 83(17) requires a notice of hearing to be served within six months of beginning an investigation. Although the Act allows a police services board to extend this time, the Act does not recognize the reality of investigating large-scale events such as the G20. The Office of the Independent Police Review Director received 356 complaints in relation to the events of the G20 and retained the investigation of 207 of them. The last disclosure package from the Toronto Police Service arrived more than 13 months after G20 summit. In order to provide a consistent approach to the investigation of complaints arising from large-scale events, the legislation must recognize the workload involved. [See Chapter 1]

Abbreviations and Acronyms

ACC	Area Command Centre	JIG	Joint Intelligence Group
AMC	Alternative Media Centre	LogOps	Logistics Operations Centre
AP	Arrested person	LRAD	long-range acoustical device
ARWEN	Anti-riot weapon Enfield	MICC	Major Incident Command Centre
CAZ	Controlled Access Zone	MCSCS	Ministry of Community Safety and Correctional Services
CBRNE	Chemical, biological, radiological, nuclear, explosives	MTCC	Metro Toronto Convention Centre
CCC	Criminal Code of Canada	OIC	Officer in charge
CCTV	Closed-circuit television	OIPRD	Office of the Independent Police Review Director
CF	Canadian Forces	OPP	Ontario Provincial Police
CIPS	Criminal Information Processing System	OZ	Outer Zone
CRG	Community Relations Group	PACT	Public Affairs Communication Team
CRU	Community response unit	PATH	pedestrian tunnel system – downtown Toronto
CS	tear gas (2-chlorobensalmalononitrile)	PC	Police Constable
DEC	Direct Energy Centre	PEMU	Property & Evidence Management Unit
DRPS	Durham Regional Police Service	PIO	Public Information Officer
EDU	Explosives Disposal Unit	POU	public order unit
EMS	Toronto Emergency Medical Services	PPC	Prisoner Processing Centre
ETA	estimated time of arrival	PRP	Peel Regional Police
ETD	estimated time of departure	PRU	Primary response unit
EOC	Emergency Operations Centre	PS&EM	Public Safety and Emergency Management
ETF	Emergency Task Force	PWPA	<i>Public Works Protection Act</i>
FAIT	Department of Foreign Affairs and International Trade	RAZ	Restricted Access Zone
F&A	Finance and Administration	RCMP	Royal Canadian Mounted Police
FIA	Forensic Identification Assistant	SIU	Special Investigation Unit
FIS	Forensic Identification Services	SMO	Summit Management Office
FMIOA	<i>Foreign Missions and International Organizations Act</i>	soft tac	partial POU gear
GTA	Greater Toronto Area	TACC	Toronto Area Command or Control Centre
GTAA	Greater Toronto Airport Authority	TAVIS	Toronto anti-violence intervention strategy [used with rapid response team]
hard tac	full POU gear	TFS	Toronto Fire Services
HOT	hand-off team (prisoner)	TPS	Toronto Police Service
HQ	Headquarters	TPSB	Toronto Police Services Board
IC	Incident Commander	TSV	traffic services
ICS	Incident Command System	TTC	Toronto Transit Commission
IMS	Incident Management System	UC	Undercover
IPP	Internationally protected person	UCC	Unified Command Centre
IPRD	Independent Police Review Director	YO	Young offender
ISU	Integrated Security Unit	YRP	York Regional Police
IZ	Interdiction Zone		

Introduction

As leaders from around the world gathered in Toronto for the fourth G20 summit in June 2010, an estimated 10,000 protesters and an even greater number of police officers took to the streets. Since their inception, both the G8 and G20 meetings have attracted noisy and sometimes violent protests. Security for the Toronto G20 was the largest and most expensive security operation in Canadian history. Planning began in February 2010 and was coordinated by the Integrated Security Unit (ISU), led by the RCMP in partnership with the Ontario Provincial Police, the Toronto Police Service, the Peel Regional Police, and the Canadian Forces. They built a three-metre fence surrounding the site of the summit meetings and completely closed it off to the public. They created a security perimeter around the site, with traffic and pedestrian diversions and restrictions that subjected people living and working in a large swath of downtown Toronto to security and identity checks. The Integrated Security Unit set up a command and control structure and deployed 20,000 police officers and security personnel.

The normally vibrant Toronto street atmosphere was transformed into one of barbed wire and concrete fences, boarded-up buildings, and no-go areas. The silence was eerie and the feeling, foreboding, as Toronto braced for the G20 weekend.

On Saturday, June 26, 2010, the largest demonstration of the weekend began peacefully at Queen's Park, the site of Ontario's legislature, and made its way along a preplanned route that would take it back to its starting point. However, protesters dressed in black broke off from the main demonstration and other protesters followed. For the next two-and-a-half hours, police officers chased but never caught up with the protesters, who were able to move quickly through the downtown core. Led by people employing Black Bloc tactics, protesters left a trail of graffiti, broken glass, and destruction all along Yonge Street, Toronto's main thoroughfare.

When protesters returned to Queen's Park, they were met by hundreds of police and a degree of force they hadn't expected. For the rest of that day and

the next, police were ordered time and time again to box protesters in to keep them from moving. Mass arrests were ordered. By the end of the weekend, police had made more than 1,100 arrests, and many people were accusing them of "police brutality" and civil rights' abuses. In the days that followed, dozens and dozens of complaints poured in to the Office of the Independent Police Review Director. In all, our office received 356 complaints regarding policing at the G20. The Independent Police Review Director conducted a systemic review of the issues, and this Report is the result of that review.

This Report sets out the planning for security at the G20 and outlines the security structure that was put in place for the G20. It also examines some of the command and control issues that arose during the G20 weekend. A timeline of the protest march that took place on Saturday, June 26, 2010, and the events that occurred during and after the march is included. Chapters 4, 5, 6, 7 and 8 cover the "hot spots" of the G20 with analysis of the issues from those incidents. Chapter 9 examines the

planning that took place for the Prisoner Processing Centre as well as the operation of the facility and the treatment of prisoners held there. We have also included chapters on police communication with the public and the media and police training for the G20. Each chapter is self-contained and can be read on its own.

OIPRD mandate and systemic review

The Office of the Independent Police Review Director is an arm's-length civilian agency of the Ontario Ministry of the Attorney General, created and governed by the *Police Services Act*. The role of the OIPRD is to maintain public confidence in police oversight and to make sure that public complaints against police in Ontario are dealt with fairly, efficiently, and effectively.

The OIPRD is responsible for receiving, managing, and overseeing all public complaints against the police in Ontario. Its mandate includes Ontario's municipal and regional police services and the Ontario Provincial Police. In addition, under section 57 of the *Police Services Act*, the Director has the power to examine and review issues of a systemic nature that give rise to public complaints and to make recommendations respecting such issues to the Minister of Community Safety and Correctional Services, the Attorney General, chiefs of police, police services boards, and any other body.

G20 systemic review

On July 22, 2010, the OIPRD announced the initiation of a systemic review of issues underlying the complaints received concerning police activities during the G20 summit held in Toronto on June 26–27, 2010. By July 22, the OIPRD had received nearly 275 complaints relating to events during the G20. After reviewing these complaints, it became evident a pattern existed. The Director determined that a systemic review of the G20 was necessary to provide an overall analysis of police practices and provide recommendations for improvement.

This review seeks to identify problems and recommend solutions. The aim is not to blame any specific individuals, community, or organization. Where necessary, inconsistencies or failure to comply with policies, procedures, or reasonableness will be stated through findings of concern. But certain individuals who were the directing minds or had a decision-making role in the G20 event, security, policing, and the actions taken or applied must assume responsibility for the end result. In the opinion of the Director, they now are faced with the responsibility to accept and implement the recommendations of this review that pertain to them, and should do so in a positive manner to ensure that we have all learned lessons from this experience.

This review considered the issues of systemic concerns and developed recommendations about the practices and policies of police services – specifically to address the policing of large protests and the maintenance of public order, and generally to enhance public confidence and trust in police and policing. It aims to improve the policing of large demonstrations and to allow for peaceful protests while balancing those objectives against public order and other security needs.

The OIPRD has no jurisdiction over the RCMP, whose participation in the review was voluntary. By cooperating in this systemic review, however, the RCMP leadership has exhibited its desire to do the right thing and to recognize the role that the force played in the Integrated Security Unit.

Terms of Reference

On November 4, 2010, the OIPRD released the Terms of Reference for this review. These terms of reference provided that the OIPRD would gather information, review complaints, and conduct investigations in order to identify issues arising from policing during the G20 summit. As well, the OIPRD would consider submissions from stakeholders, including public and police organizations invited to participate, regarding their views on policing practices during the summit. The Terms of Reference appear as Appendix 2 at the end of this Report.

Disclosure

To investigate complaints comprehensively, accurately, and fairly, the OIPRD gathers as much relevant information as possible. Given the complexity of the issues around complaints against police during the G20, and to assist in the systemic review, the OIPRD requested all relevant materials from police services. The OIPRD received operational plans, policies and procedures, training materials, organizational charts, meeting minutes, Incident Command scribe notes, senior officer scribe notes, officer interviews or statements, officer notes, closed-circuit television (CCTV) and other video, occurrence reports, officer duty rosters, arrest records, arrest photos, and booking videos. The OIPRD also reviewed information from various Internet sites, including media sites and YouTube.

Most of the relevant systemic review disclosure was from the Toronto Police Service, the RCMP, and the Ontario Provincial Police. The disclosure had to be handled and reviewed carefully because some of it was of a sensitive nature. Overall, the OIPRD received tens of thousands of pages of documents and photos and several thousand hours of video footage from CCTV cameras on the ground and in the Prisoner Processing Centre, as well as video from OPP ground crews, aerial video, and audio scribe notes from OPP officers. The OIPRD also interviewed more than 600 officers and 200 civilian witnesses. The volume of disclosure was overwhelming and time-consuming to sort through and log. In addition to the extent of disclosure and the number of interviews required, the timing of disclosure created challenges for the G20 team.

At the beginning of the review process, full disclosure for the purposes of the systemic review was not entirely forthcoming by the TPS or the RCMP, the two organizations identified as having the greatest amount of the information relevant to the review.

The OIPRD requested disclosure from Toronto Police Service on August 8, 2010, and the first major disclosure from TPS was received on October 22, 2010. The OIPRD had to make multiple requests over the course of several months before disclosure, often unlabelled and incomplete, trickled in. The OIPRD received 17 separate G20 disclosure files from TPS

between October 22, 2010, and August 17, 2011. We created a tracking mechanism and a spreadsheet that was exchanged weekly with TPS. The spreadsheet itemized the disclosure being requested and received. This measure helped the disclosure process greatly, and the amount of material obtained was substantial. As investigations evolved, they often required that more disclosure be requested.

The RCMP is a federal police service and does not fall under the jurisdiction of the OIPRD. The OIPRD's first request for disclosure (of 32 documents and "things") from the RCMP was on November 9, 2010. The request yielded one document on February 22, 2011. The Independent Police Review Director met with the RCMP on March 7 and March 19, 2011, in an attempt to address the lack of disclosure received, with no results. The Director wrote to the RCMP on March 29, 2011, to convey these concerns, and the RCMP responded on April 13, 2011. The Director again met with the RCMP on July 13 and July 19, 2011, and at that point they agreed on a protocol for disclosure and the process was set up. The OIPRD actually received the first batch of disclosure on July 8, 2011, and all requested disclosure was finally received from the RCMP on October 14, 2011.

One of the challenges in the RCMP disclosure process was that the need arose to coordinate requests for particular disclosure material with the Commission for Public Complaints, the organization that oversees complaints against RCMP officers. Notwithstanding the challenges and length of time before it started to flow, when disclosure was received it proved very useful in helping to complete investigations and fill in the blanks on some incidents.

The OIPRD requested disclosure from the OPP on March 8, 2011. The disclosure requested was large and the nature of the material was similar to that requested from TPS and the RCMP. The OPP provided disclosure to the OIPRD, indexed and categorized, on March 30, 2011.

The OIPRD also requested video material, specifically unedited video of incidents that occurred during the G20, from television stations. All stations refused the request.

Throughout the disclosure process, the OIPRD considered using its summons powers provided under the *Public Inquiries Act* to legally compel documentation. In one instance, the OIPRD chose to rely on its summons powers to compel evidence. That power was regarded as a tool of last resort for three main reasons. First, once concerns were expressed and the initial challenges were overcome, police services cooperated with the OIPRD and the information obtained was considered sufficient for the purposes of satisfying the goals of the review. Second, taking an additional step to obtain further information from outside third parties that was not critical to the review would have unduly delayed the completion of the review. Finally, the use of those powers was likely to be met with litigation before the courts. Considering the amount and quality of information already available, such litigation would have been an unwarranted distraction to the systemic review. In addition, given that this was the first systemic review of its kind, the OIPRD sought to establish processes to facilitate the acquisition of information. It is hoped that should another systemic review become necessary, procedures and expectations will be in place to enable the OIPRD to obtain information more efficiently.

Part One: Preparation and Planning



Chapter 1: Background



The G20 is a group of representatives from key industrial and emerging-market countries created in December 1999 to consult about global financial issues. The G20 group includes 19 countries and the European Union and represents more than 80 per cent of the global gross national product. The first G20 meeting of finance ministers and central bankers took place in Canada in 2000. In response to the global financial crisis, the first G20 leaders' summit was held in Washington, DC, in 2008. Before the Toronto summit, G20 leaders met in London in April 2009 and Pittsburgh in September 2009.

Since their inception, both the G8 and the G20 have often attracted noisy and sometimes violent protests. The G20 leaders' summits have attracted international attention and large-scale protests since they began in 2008. Given the experiences at previous G20 summits, it was expected that large-scale protests would disrupt the summit in Toronto.

As part of its membership in the G8 and G20, Canada committed to host the 2010 G8 and G20 summits. On June 19, 2008, Prime Minister Stephen Harper announced that Canada would host the G8 in Huntsville, Ontario, a town of 20,000 people more than 200 km (about a three-hour drive) from Toronto. In November 2008, Tony Clement, Treasury Board president and Member of Parliament for the Huntsville riding, announced that the G8 would be held from June 25 to 27, 2010.

It wasn't until September 25, 2009, that Prime Minister Harper and the President of South Korea announced that the two countries would co-chair the 2010 G20 meetings, with Canada hosting the first G20 leaders' summit of 2010. No Canadian location for the G20 was set until December 7, 2009, when the government stated that the G20 would be held in Toronto on June 26 and 27, 2010. This left little time to plan and execute the event.

The decision to hold the G20 summit in Toronto was made for a variety of reasons. This meeting requires vast resources to accommodate all the leaders and officials in attendance. The 2010 G20 included an additional six nations to the 20 members as well as 10 international agencies and world bodies. The size of the each delegation ranged from 25 to 1,500 people. It became clear to organizers that a small town would not have the resources to host the event. In addition, it was unprecedented for one nation to host both the G8 and G20 summits back to back in two different municipalities, and that fact alone presented a unique security challenge.

The organization of the summit is the responsibility of the host country. After several discussions among the Prime Minister's Office (PMO), the Privy Council Office (PCO), the Summit Management Office (SMO), and the Integrated Security Unit (ISU), the decision was made to host the G20 in downtown Toronto immediately following the G8. Because the venue, the Metro Toronto Convention Centre (MTCC), was officially chosen on February 19, 2010, there was less than four months to plan for the summit's security and policing needs – a very short timeline for organizers. According to ISU officials, once the official announcement of the venue was made, all the general planning previously made for the G8 had to be revisited and re-synchronized to ensure that both locations would have the required

security coverage. Resources from the G8 could not be easily re-allocated to the G20 because the two summits were back to back and more than 200 kilometres apart.

While the decision on the location was being discussed, ISU officials met with some of the planners from the 2009 G20 meetings in Pittsburgh and London to gain insights into the issues involved. They found that security services faced a number of challenges, most notably in how to deal with the multi-issue protest groups.

Metro Toronto Convention Centre

The Toronto venues that were considered included the Direct Energy Centre, the Allstream Centre (both conference and exhibition centres on the Canadian National Exhibition grounds), and the Metro Toronto Convention Centre (MTCC). (Initially, the MTCC was also considered as a possible location for the international media centre.) Additional potential sites were toured by the RCMP and other security officials.

Some of the benefits in selecting the MTCC were that it is within walking distance of many of Toronto's major hotels, and, from the perspective of the ISU, it offered security and convenience. Because internationally protected persons (IPPs) could stay in hotels and meet within the same area, the MTCC allowed the ISU to concentrate the security perimeter in a small centralized area in downtown Toronto. If the summit were held in another location, it is likely that the ISU would have been required to secure and close off a larger section of Toronto.

As one senior official noted, the MTCC was the best choice because:

We would not have to put the leaders in motorcades and transport them distances through potentially vulnerable situations to get them to functions or meeting sites or official dinners.

We had their accommodations, their official dinners and functions within a secure fenced environment. They could hold the summit, bilateral meetings and dinners without leaving

the secure zones to travel to additional meeting sites. So from a security perspective, it was safer and more efficient to have the summit at the MTCC with the hotel accommodations nearby as opposed to travelling from the hotels to somewhere like the Direct Energy building. The additional distance would have required extending the secure zones to a much larger area which would have negatively impacted freedom of movement in the city, and was cost prohibitive and not possible from a human resource standpoint.

Our planning was much more focused. We had everyone in a close proximity which made planning much easier, not only for the RCMP but also for our partners.

Considerations and consequences

Although it is outside the scope and expertise of this review to determine whether the MTCC was the best location for the G20 summit, it is recognized that the timing of the site selection and its location created a number of challenges and inconveniences for both the police and the public. The G8 and the G20 summits were the largest domestic security operations in Canadian history. The short time span between the two summits and the location of the G20 created a distinct set of circumstances and challenges for Canadian security operations. The G20 summit surpassed many previous ones in scope, scale, and complexity.

Almost 21,000 security personnel were deployed in support of the G8 and G20 summits, including 5,000 personnel under RCMP deployment, 3,000 personnel from Canadian Forces, 6,200 personnel from the Toronto Police Service, 3,000 Ontario Provincial Police personnel, and 740 personnel from the Peel Regional Police Force. Many of the G8 officers were later deployed to Toronto. Additional officers were brought in from elsewhere in Ontario – Hamilton, York, Ottawa, Halton, London, Niagara Falls, Peterborough, Durham, London, Sudbury, Waterloo, and Barrie – as well as from Newfoundland and Labrador, Winnipeg, Montreal, Edmonton, and Calgary. The economic and social significance of

these summits also placed Toronto and Canada in the midst of public and media attention, both nationally and internationally.

The selection of the MTCC created a variety of concerns. Some citizens expressed the view that Toronto became a “police state” that resembled an “urban combat zone” with razor-wire fences lining the downtown streets, helicopters clattering overhead, and protesters confronting police officers in riot gear. Many business owners worried about potential loss of revenue, property damage, and other negative consequences of being located in the downtown core.

Analysis

The security team faced two specific challenges. First, the relatively short timeline for planning and the fact that the two summits were scheduled back to back, made the sharing of personnel and resources a concern. Second, although the summit location in downtown Toronto worked to secure the safety of the participants, it made protesters hard to control and caused disruption and inconvenience to the population of Canada’s largest city.

These difficulties made it necessary to bring in police forces from other jurisdictions, many with practices and procedures different from those of the Toronto Police Service. Training and practice time was limited by costs and the short timeline.

The Toronto G20 summit and its challenges

“Policing is all about prevention and we will never know all that was prevented.”

Alphonse MacNeil, RCMP Assistant Commissioner

The policing challenge: potential threats

The hosting of an international event requires extensive security planning. The complexity of policing the G20 summit cannot be underestimated. Given the concentration of world leaders in one place, demonstrations, rallies, and protests generally accompany the G8 and G20 summits. As a result,

the summit in Toronto presented a unique opportunity for people to demonstrate against government policies and provided an occasion for groups and individuals to communicate their messages to a large, world-wide audience.

Throughout the preparations, police carried out threat assessments. As RCMP Assistant Commissioner Alphonse MacNeil, who was heavily involved in the planning of both summits, told the IPRD, “The intelligence indicated this was going to happen. The Black Bloc were going to do certain things, from the information provided to us, groups showed up just as predicted.”

In a court case in which the Canadian Civil Liberties Association challenged and succeeded in limiting TPS’s use of the long-range acoustic device (LRAD), OPP Superintendent Charlebois, in an affidavit, summed up the challenges that police face in dealing with security and demonstrators. (The LRAD is a distance hailing device and crowd control weapon that sends out messages, warnings, and pain-inducing tones that, according to some experts, can cause hearing damage.)

“I am aware that past international summits have seen significant public disorder, lawlessness, personal injury and property damage,” Superintendent Charlebois stated. “Policing such events to prevent violence from causing damage of that nature is a significant challenge. Stringent security measures are required to keep the peace, ensure public safety and keep the participants of protests safe from harm.” He continued:

While I am not an expert on international terrorism, I am aware that events of this magnitude that involve so many world leaders and diplomats pose a tempting target for terrorists. Such events also provide an opportunity for violent groups or individuals to engage in illegal activities. The methods used by violent groups or individuals can result in significant risk of injury or property damage. Their methods can include the use of incendiary devices, hand-held batons or sticks, rock-throwing or mass movement towards or

charging police lines or fences. They may also seek to breach security perimeters by climbing fences or scaling buildings.

The OPP recognizes the constitutional rights of protesters to freedom of expression and freedom of association. The OPP recognizes that events of the magnitude of the G20 summit provide an opportunity for groups and individuals to communicate their messages to a larger audience. The great majority of those groups and individuals are peaceful and respect the law. Unfortunately, there are small numbers of individuals who use violence and engage in criminal behaviour. The OPP makes best efforts to try to focus its attention on those individuals, but the presence of those individuals may necessarily affect the manner of policing a larger crowd.

Police services are, therefore, required to consider, plan, and prepare for a broad spectrum of potential threats such as those to the city's infrastructure, transportation, communications, and information technology, as well as chemical and biological threats. Security planners could not discount that Canada has been identified as a potential target on several occasions, especially from both international and "homegrown" extremist groups.

Protester tactics

In most planned demonstrations, protesters' tactics are peaceful. Demonstrators march, chant, sing, picket, and hold sit-ins. There are, however, certain techniques that tend to lead to violent tactics against police, the public, and property. These techniques include forming human chains and human shields; using weapons and projectiles; and breaching fences, barricades, and secure zones. Such tactics create a situation where police are required to continually assess potential threats, rely on intelligence, and respond to any potential threat to public order while preserving the rights of citizens to protest peacefully. In recent years, the development of Black Bloc tactics and the use of social media have created special challenges for policing protests.

Black Bloc

Although Black Bloc is often mistaken for an organization, it is a tactic used by individuals, who typically describe themselves as anarchists, to infiltrate demonstrations and anonymously attack corporate targets. These individuals often wear black clothing, balaclavas, scarves, hoodies, ski masks, motorcycle helmets with padding, or other face-concealing items. People using Black Bloc tactics often carry backpacks for extra clothing, projectiles, weapons, gas masks and the like. The clothing is used to avoid being identified. The tactic was first used in the 1980s in Europe by protesters against issues such as nuclear power. It spread to North America in 1999 when demonstrators in Seattle protested against a meeting of the World Trade Organization.

Black Bloc tactics include creating tight, hard-to-break blocks that can break through police lines, misleading the authorities, administering first aid to people affected by tear gas in areas where protesters are barred from entering, building barricades, and attacking police. Black Bloc protesters have been known to throw projectiles such as paint bombs, rocks, flares, firecrackers, and Molotov cocktails.

Typically, participants in Black Bloc tactics take positions at the front, rear, or perimeters of a protest march in order to provide a strong defensive presence at vulnerable points. This way, officers are unable to disrupt the movement of a demonstration without first having to subdue a highly militant, dedicated, and prepared section of the protest. Participants often carry metal pipes, wooden clubs, and stones, and don protective padding and helmets.

Participants are also known to use large continuous banners, poles, or ropes to line their perimeters. The purpose of these tools is to make it more difficult for the police to single out individuals for arrest. To carry out arrests, police officers would have to pass through a collectively held barrier while simultaneously contending with potential blows from clubs. Another tactic is the use of the "outer perimeter group." The individuals in this group are dressed in unobtrusive clothes. The only thing they do is form a wall around participants, which allows

them to change their clothing intermittently. One of the rationales offered for the use of the “outer perimeter group” is to reinforce the notion that participants are supported by neutral protesters in the march. Another reason is to camouflage their intent by giving the perception that they are “regular” people with intentions to protest.

Another Black Bloc tactic is for participants to embed themselves within an otherwise peaceful group of protesters and inflame them to the extent that some of the peaceful protesters become their “soldiers” or provide cover for them by adopting Black Bloc tactics or actions. People who use Black Bloc tactics are adept at coopting peaceful members of protests to join in their deeds.

Participants are known for their ability to push protests in a more militant direction. This tactic is mostly achieved by them positioning themselves at the forefront of the demonstration and subsequently forcing an escalation between police and protesters. Examples include resisting arrest, refusing to remain on sanctioned parade routes, challenging police barricades, and actively directing anger at corporate targets.

Social media

Protesters, both militant and non-militant, are adept at using social media such as Twitter, Facebook, and MySpace to organize and circumvent police. Their ability to recruit and communicate with large groups of people has created another challenge for policing protests. For example, Twitter allows the simultaneous, immediate transmission of short text messages to an unlimited number of individuals, making it an invaluable tool for protesters. Twitter allows protesters to change plans at the last minute, providing them with the flexibility to adapt quickly. The continuing evolution of communications technology, from social networking sites to videos immediately posted to YouTube from cell phone cameras, to the global immediacy of information-sharing via Twitter, provides more (and simpler) tools that groups can use to their advantage. Consequently, law enforcement must keep up to

date – primarily in monitoring the information flow and the use of such tactical intelligence – and adapt to the fluidity of protest tools.

Operations and logistics

The planning and implementation of the G20 summit involved the coordination of thousands of security personnel, the identification and procurement of considerable resources, the development of an accreditation process, the preparation of integrated and detailed plans, and a highly complex command and control structure with various operational plans and protocols.

The movements of internationally protected persons are highly complex. Motorcade operations were an area of planning that required extensive inter-agency coordination. The successful movement and transportation of IPPs both on land and in the air was an important strategic objective. Marine, air operations, highways and roads, and major airports were areas that required planning and coordination. In addition, there are the practical daily security requirements of harmonizing movements and maintaining tight security for the IPPs and delegates – all of which also had to be coordinated with climate and weather changes.

The G20 summit occurred near Lake Ontario, so it was important for security planners to consider the possibility of a marine incursion. Protesters or other persons wishing to breach security on the waterways could pose a physical threat to the IPPs and cause a disruption to the summit meetings. Furthermore, a protest coming from the water could be dangerous to the protesters themselves, endanger the personal safety of both law enforcement personnel and members of the public, or result in damage to private or public properties.

Security planning at Toronto Lester B. Pearson International Airport required extensive planning for the arrival and departure of the IPPs. Similarly, railway line threats had to be considered.

The role of protesting in democratic societies

“One need look no further than the daily headlines... to recognize how vital political demonstrations are to the operation of a viable democracy... Indeed, rights of expression, peaceful assembly and association are enshrined as ‘fundamental freedoms’ under s. 2 of the Canadian Charter [of] Rights and Freedoms.”

R. v. Puddy (2011) ONCJ 399 (CanLII)

Peaceful protest has a long history in Canada. A public protest is taken to mean a collective public gathering to express criticism of – or support for – particular policies, governments, public officials, or social issues, using verbal or non-verbal forms.

The ability to publicly critique government is important in Canada and a key component of our political system. In addition to allowing us to express ourselves politically, freedom of expression also permits us to share our ideas, learn about the ideas of others, and develop as individuals in an open society. The free flow of ideas allows people to make informed decisions on issues of political importance.¹ The rights to peaceful assembly and to freedom of expression are enshrined in our Charter of Rights and Freedoms and reflect national values that promote freedom and social change. The right to protest and demonstrate, and the right to peaceful assembly, are widely considered fundamental to democratic practice and the epitome of collective political expression in a democracy.

Protests in Canada

Throughout Canadian history, political protest has taken many forms, including peaceful demonstrations, polite petitions, the creation of new political organizations and parties, violent strikes in the workplace, armed rebellion, and even acts of terrorism. Some protest movements in Canada were assimilated by the political process, becoming new

political parties such as the Co-operative Commonwealth Federation or the Bloc populaire canadien. Others have resulted in violence, such as the Upper and Lower Canadian rebellions of the 1830s, or the terrorist Front de libération du Québec that emerged in the 1960s. Historically, protest movements in Canada were concerned particularly with the economic grievances of farmers and workers, which erupted in the early part of the 20th century.

Recently, protests in Canada have occurred at public events, conferences, or international summits. In 2001, one thousand demonstrators rioted at the Summit of the Americas in Quebec City. That summit attracted an estimated 20,000 to 50,000 demonstrators, made up of trade unionists, anarchists, anti-globalists, and civil rights groups such as Greenpeace Canada and the Council of Canadians. On the first day of protests, a small group was able to breach the perimeter fence, resulting in the police use of tear gas and a broader confrontation that lasted for two hours. On the following day, between 30,000 and 60,000 protesters converged near the summit site, resulting in a massive confrontation. Rocks and glass bottles were thrown at police, and they reacted with tear gas.

During the 2002 G8 summit in Kananaskis, Alberta, protesters demonstrated in Calgary. A large group of demonstrators took part in a snake march in the commercial centre of the city, stopping traffic and jamming the streets. Many protesters targeted shops that sold goods made in developing countries. All major thoroughfares were closed, many shops in Calgary were boarded up, and police reportedly outnumbered protesters six to one.

Protests in Toronto

Although Toronto has its own history of violent disruptions beginning with the short-lived 1837 Upper Canada Rebellion led by William Lyon Mackenzie, the city’s first mayor, protests for more than a decade before the G20 summit have largely been peaceful. Indeed, peaceful protests, ranging from individuals standing in front of City Hall to marches along the downtown streets, have been a familiar sight in the city.

¹ Richard Moon, *The Constitutional Protection of Freedom of Expression* (Toronto: University of Toronto Press, 2000). See also Graham Darling, “Freedom of Expression Background,” Centre for Constitutional Studies, online : <http://www.law.ualberta.ca/centres/ccs/issues/freedomofexpressionbackground.php>.

Aside from the G20 summit protests, perhaps the most notable Toronto protests in recent memory involved the city's Tamil community in the first part of 2009. The Tamil protesters wanted Canada and the international community to intervene in the armed conflict in Sri Lanka and gathered downtown in the thousands to protest, sometimes congregating in front of the U.S. consulate, sometimes marching through the streets of the city, and sometimes forming a massive human chain across the city's streets. Although disruptive, especially on the one occasion when the protesters marched onto the Gardiner Expressway, the demonstrators were generally peaceful and few arrests were made during the months of protests.

Large, violent protests in Toronto have not occurred for some time. In 2000, a large anti-poverty demonstration in front of Queen's Park led to a violent altercation between demonstrators and the police. Thirty-two people were arrested, and dozens of protesters and police officers were injured.

In 1996, a labour protest at Queen's Park impeded members of the provincial parliament from entering the legislature and also led to a violent confrontation between protesters and the police. A subsequent public inquiry made a number of recommendations, chiefly about the security arrangements around Queen's Park but also on the need for the police to wear personal identifiers and the importance of ongoing police communications with peaceful protesters. In 1992, an anti-racism protest was followed by two consecutive nights of rioting along Yonge Street that saw extensive property damage, looting, and injuries to police officers. More than 50 people were arrested during those two nights. Similar behaviour was also prevalent around that time at the annual close of the Canadian National Exhibition.

Protests and policing

International meetings such as the G20 summit are important opportunities for political leaders from different nations to discuss matters of global significance. Such events also present opportunities for alternative ideas, counter ideologies, opposition, and protests – so that messages other than those the

political leaders seek to convey may be expressed as well. Our Charter of Rights and Freedoms is designed to ensure that everyone in Canada enjoys the same freedoms of assembly and expression.

The security measures and the police officers involved in implementing them may become viewed as symbols of the issues about which the protesters are protesting. Some people may simply use the opportunity of a police presence to protest against the police themselves.

Policing in such an environment requires the balancing of competing rights and must be recognized as a considerable challenge. In *Demonstrating respect for rights? A human rights approach to policing protest*, the UK House of Lords and House of Commons Joint Committee on Human Rights² cited the following from *Blackstone's General Police Duties* (2008):

Public order law and the policing of it “involves balancing opposing rights of individuals with one another against wider entitlements and requirements of society – a task that, in practical terms, can seem like trying to satisfy the insatiable.”

Although there is no doubt that the policing challenge is significant, a considerable wealth of material aimed at guiding the police in meeting such a challenge exists in reports prepared by legislative, government, and policing bodies. This information, and the recommendations included, should be considered required reading but, where necessary, should be incorporated into future planning for similar types of events and acted on as lessons learned.

Police services have a responsibility to protect and facilitate the opportunity for people to protest peacefully. To fail to do so would be counter to Canadian democratic principles and jeopardize several Charter rights, including the right to freedom of peaceful assembly and the right to freedom of expression.

² U.K., House of Lords and House of Commons Joint Committee on Human Rights, *Demonstrating respect for rights? A human rights approach to policing protest*, (HL Paper 47-1, HC 320-1, London, 23 March 2009), 22.

In preparation for future summits, similar events, or protests, police and government officials should avail themselves of the wealth of information and recommendations on protest and policing.

Framework for public protests: police powers and individual rights

Legal authorities

The legal framework around public order and protesting is complex. Police officers have an array of duties found in the *Police Services Act* and under the common law. These duties include preserving the peace, preventing crime, and apprehending offenders. A necessary corollary to these duties, of course, involves the granting of certain powers to police officers so they may effectively carry out their duties. These powers are found in the common law and in legislation such as the Criminal Code.

The common law

The common law's ancillary police powers doctrine recognizes that the police must generally engage in some form of action to maintain the public peace, prevent crime, and protect life. In determining whether police conduct comes within the common law ancillary powers doctrine, the nature of the police duty giving rise to that conduct is important.³ Where the police rely on ancillary police power to justify police conduct that interferes with individual liberties, a two-pronged case-specific inquiry must be made. First, it must be demonstrated that the police were acting within their duties and responsibilities; and second, the actions taken must be justifiable relative to that duty.⁴

³ *R. v. Godoy* (1997), 115 CCC (3d) 272 at 278 (Ont. CA), aff'd, SCC, December 2, 1998.

⁴ *R. v. Clayton*, [2007] S.C.J. No. 32, 2007 SCC 32 (S.C.C.). See also *R. v. Waterfield*, [1963] 3 All E.R. 659 (C.C.A.); *Knowlton v. The Queen*, [1973] S.C.J. No. 87, 10 C.C.C. (2d) 377 (S.C.C.); *Dedman v. The Queen*, [1985] S.C.J. No. 45, 20 C.C.C. (3d) 97 (S.C.C.); *R. v. Godoy*, [1998] S.C.J. No. 85, 131 C.C.C. (3d) 129 (S.C.C.).

Criminal Code provisions

Several sections of the Criminal Code are specifically relevant to the policing of international events such as the G20 summit. They include the sections on preventing breach of the peace (s. 30); use of force to suppress riot (s. 32); unlawful assembly; riot; causing a disturbance; and threat to commit offence against internationally protected persons.

The concept of "breach of the peace" tends to involve some disturbance or threat or tumultuous and riotous activity. The common law also provides a police officer, if he or she honestly and reasonably believes there is a risk of imminent harm, with the power to arrest a person in order to prevent an apprehended breach of the peace.⁵

Although breaching the peace is not itself an offence, those who commit acts amounting to a breach of the peace or are at the cusp of doing so may be arrested and temporarily restrained under the Criminal Code or, in the latter case, the common law. This is a form of proactive or preventive police power designed to preserve the peace and inhibit criminal conduct. Pursuant to the ancillary powers doctrine, the police may arrest for apprehended breaches of the peace at common law. The justification for and limits of this power are thoroughly developed in *Brown v. Durham (Regional Municipality) Police Force*, [1998] OJ No. 5274 (CA). The police power to arrest and detain for actual breaches of the peace has a statutory foundation in section 31 of the Criminal Code.⁶

Detentions for breach of the peace must be necessary for the maintenance of the public peace. A lengthy detention is not permitted. The police will generally be required to release a detainee sooner if the risk of a breach of the peace has passed.⁷ A person arrested for breach of the peace should not be held for more than 24 hours without being charged.⁸ A person arrested for breaching the peace can be released without any further consequences.⁹ Criminal charges do not automatically flow from the arrest.

⁵ *Hayes v. Thompson* (1985), 18 CCC (3d) 254 (BCCA), and *Knowlton v. The Queen* (1973), 10 CCC (2d) 377.

⁶ *R. v. Puddy* 2011 ONCJ 399 (CanLII).

⁷ See *R. v. Grosso*, [1995] BCJ No. 1802 at para. 55 (BC Prov. Ct.).

⁸ *R. v. Lefebvre* (1982), 1 CCC (3d) 241 at 244 (BC Co. Ct.), aff'd (1984), 15 CCC (3d) 503 (BCCA).

⁹ *Re Januska and the Queen* (1996), 106 CCC (3d) 183 (Ont. Ct. Gen. Div.).

A riot can occur when three or more persons assemble together with a purpose and with the intent to use force that would be a cause of concern to a reasonable person. Under the Criminal Code, the use of force is permitted in the suppression of a riot when necessary. Every peace officer is justified in using or in ordering the use of as much force as the peace officer believes, in good faith and on reasonable grounds, is necessary to suppress a riot; and is not excessive, having regard to the danger to be apprehended from the continuance of the riot.

Similarly, an unlawful assembly is a gathering of three or more persons who disturb the peace or cause others to disturb the peace or assemble in such a manner to cause fear in persons nearby.¹⁰ It is also an offence to cause a disturbance in a public place. The purpose of this section is to prevent the disruption of the public's normal activity and use of a public place.¹¹

Officers may arrest a person for obstruction under section 129 of the Criminal Code, if the person resists or wilfully obstructs the police officer in the execution of his or her duties. The person's conduct does not need to completely frustrate the officer, but only affect the officer in relation to the duty being executed. "Wilfully" also implies that the accused knew what they were doing and intended to do what they did. An officer must be engaged in some form of police work or be more than simply "at work." However, the officer does not have to be involved in the investigation of a specific crime.¹²

Use of force

The Criminal Code provides police officers with powers to execute their duties. It also authorizes the use of force for lawful purposes. Under section 25 of the Criminal Code, an officer who is acting on reasonable grounds and authorized by law to do anything in the administration or enforcement of law is able to use as much force as reasonably necessary for that purpose. A police officer is also

justified in using as much force as is reasonably necessary to prevent the commission of an offence. Officers are also criminally responsible for any excessive use of force.

The Charter

In Canada, everyone enjoys significant rights and freedoms, which include the freedoms of expression, peaceful assembly, and association. These freedoms are guaranteed by the Canadian Charter of Rights and Freedoms. Our Charter also grants us rights to life, liberty, and security of the person and the right not to be deprived of those rights except in accordance with the principles of fundamental justice. In addition, we have the right to equality, which prohibits discrimination based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability.

In any democracy, especially a democracy such as Canada with our Charter of Rights and Freedoms and an absolute right to peaceful protest, there is an understanding and acceptance that the right to peaceful protest must be balanced against the duty of police to ensure protection and safety of all citizens – both the public and the police – by their ability to impose lawful restrictions on protesters.

Although it is acknowledged that the balancing of these two rights is a challenge, actions used by police during the G20 summit appear to have wavered at times in ensuring and protecting the right of peaceful protest. An example would be the events that occurred at Queen's Park on the evening of June 26, 2010.

It can be said that most police officers deployed during the summit had a good understanding of the right to peaceful protest, but there was confusion over how that right was to evolve.

¹⁰ *R. v. Patterson*, [1931] 3 DLR 267.

¹¹ *R. v. Lohnes*, [1992] SCJ No. 6, 69 CCC (3d) 289 (SCC).

¹² *R. v. Noel*, [1995] BCJ No. 1852, 101 CCC (3d) 183 (BCCA); *R. v. Tortolano*, [1975] OJ No. 1055, 28 CCC (2d) 562 (Ont. CA).

Recommendations

- Police services had only four months to plan security for the G20 summit, a length of time acknowledged as wholly inadequate and one that may in fact have been irresponsible. In future, wherever possible, governments and police services should ensure that joint security events be given adequate planning and preparation time. In particular:
 - a) Policies and procedures should be developed by policing entities for future events so that they can be modified as required to suit specific events and implemented quickly.
 - b) The development of policies and procedures for future events should allow sufficient time for input from the public and police.
 - c) Police should also incorporate contingency plans into their overall policing plans. For example, there should be plans for deploying officers in response to unexpected and urgent situations.
- The Toronto Police Service, other Ontario police services and the RCMP must develop procedures for better, more seamless, and earlier disclosure of documents with agencies responsible for oversight or reviews.
- The *Police Services Act* should be amended to specify the time limits for investigating complaints of police conduct arising from mass protests. The current section 83(17) requires a notice of hearing to be served within six months of beginning an investigation. Although the Act allows a police services board to extend this time, the Act does not recognize the reality of investigating large-scale events such as the G20. The Office of the Independent Police Review Director received 356 complaints in relation to the events of the G20 and retained the investigation of 207 of them. The last disclosure package from the Toronto Police Service arrived more than 13 months after G20 summit. In order to provide a consistent approach to the investigation of complaints arising from large-scale events, the legislation must recognize the workload involved.

Chapter 2: The G20 Security Structure



This chapter draws on disclosure provided by the Royal Canadian Mounted Police, Toronto Police Service, the Ontario Provincial Police, and the Peel Regional Police, as well as interviews conducted throughout the systemic review.

The planning and organization of the G20 summit rested with two federal government offices. The Summits Management Office (SMO) within the Department of Foreign Affairs and International Trade Canada (FAIT) was responsible for hosting the summit. Security planning was the responsibility of the Office of the Coordinator for the 2010 Olympics and G8 Security, part of the Privy Council Office.

The RCMP is the sole agency with federal policing jurisdiction and the legislative mandate to provide security for international events. This authority is derived from the *Royal Canadian Mounted Police Act* and from the direction taken from the Minister of Public Safety. The Covenant of the Government of Canada and the *Foreign Mission and International Organizations Act* (FMIOA) provide the legal authority for the RCMP's lead role in security for intergovernmental conferences and protection of internationally protected persons (IPPs). The RCMP retained overall responsibility for security during the G20 summit event.

The Steering Committee

The G20 summit had a Steering Committee to provide high level senior executive oversight of security during the summit. The Steering Committee was included in the security structure to act as a

higher level of coordination as well as to ensure that any significant or contentious issues were reviewed in an appropriate forum. The committee was made up of senior officers from the RCMP, the Ontario Provincial Police (OPP), Toronto Police Service (TPS), the Peel Regional Police, and the Canadian Forces. The decision was made early on in the planning process to create a separate fully functional facility for the Executive Steering Committee in close proximity to the ISU that ensured that the committee was available for immediate consultation as required. The Steering Committee was briefed by the Unified Command Centre (UCC) regularly on developments to maintain situational awareness and to make sure that decisions related to the summit were made in accordance with a decision matrix that had been developed.

The Steering Committee assessed and directed all strategic decisions involving the security of the summits that were outside the parameters of authority of the Unified Command Incident Commander. It was expected to make decisions that would support, manage, and assess the impact of decisions among police agencies, departments, and services and ensure that strategic decisions were consistent with the individual forces' mandates and roles of the partners.

The Integrated Security Unit (ISU)

Security planning, operations, and demobilization for both the G8 and G20 summits were coordinated by the Integrated Security Unit (ISU). The ISU was led by the RCMP in partnership with the Toronto Police Service, the Ontario Provincial Police, the Peel Regional Police, and the Canadian Forces.

The overall strategic goals of the ISU were to ensure the safety and security of the general public and heads of state attending the G8 and G20 summits in Canada. Everything that the ISU did from a planning perspective related to nine key objectives:

- Determine all summit safety and security requirements.
- Develop the concept of operations, business plan, and operational plans for the summit safety and security.
- Incorporate summit safety and security partners in an Integrated Security Unit.
- Coordinate and focus intelligence to support summit safety and security.
- Develop a network to facilitate liaison between local, provincial, and federal agencies.
- Develop the information technology systems and communications process required for an integrated planning / operations group.
- Provide situational awareness and training for all summit security personnel.
- Ensure the safety of employees.
- Develop and implement a comprehensive “transfer of knowledge” strategy for future major events.

The ISU publicized, in messages to the community, that it recognized and supported the guaranteed rights and freedoms as stated in the Canadian Charter of Rights and Freedoms including the freedoms of opinion, expression, and peaceful assembly. The ISU noted that most groups would want to express themselves in a peaceful and

responsible manner; however, it was preparing for any eventuality. “Any interaction police have with demonstrators would be measured, balanced and appropriate to the circumstances at hand. Demonstrations that result in criminal behaviour will not be tolerated and specific charges will be applicable to anyone committing criminal offences.”

The decision making matrix

As a part of the planning, the ISU developed a Command and Control document that included a decision matrix. The matrix set out the responsible authority for specific incidents clearly and succinctly and defined the levels of authority: public order units, Site Commander, Jurisdictional Commander, Area Commander, Unified Command Commander, and Steering Committee. As well, it identified the distinction between authorized and informed status for a decision on each potential type of incident. The command that issued a decision or received information was to ensure that the commands above and below it were notified. The matrix identified that the communication link between the Major Incident Command Centre’s Jurisdictional Commander and the RCMP’s Site Commander would be through the Area Command, whose responsibility was to ensure that both areas were informed.

Generally, operational or safety issues at sites were to be addressed by the police force of jurisdiction. Site commanders were not precluded from taking initial action on the discovery of situations not affecting IPPs; however, they were to contact the Area Commander for further direction. Police resources assigned to Sites / Jurisdiction came under the command of their respective commanders. The Unified Command Commander was responsible for directing the movement of police resources between areas. The Steering Committee was to be briefed regularly by the Unified Command Centre (UCC) to maintain situational awareness.

The Joint Intelligence Group

ISU planning and implementation depended greatly on the intelligence gathered on potential security threats to the G20 summit. The intelligence function was managed by a Joint Intelligence Group (JIG).

The JIG was a joint effort of the RCMP, the Ontario Provincial Police, Toronto Police Service, and the Peel Regional Police and had critical liaison roles for the Canadian Security Intelligence Service, the Canadian Forces, Communications Security Establishment Canada, and the Canadian Border Services Agency.

The mandate of the JIG was to collect, collate, analyze, and disseminate accurate information and intelligence in a timely manner to facilitate the decision-making process in both the planning and execution phases of securing the summits. The JIG fulfilled this mandate by conducting intelligence investigations of possible threats and suspicious activity associated with the summits. Credible threats and criminal offences were reported to the appropriate authorities for the required action.

The JIG produced a variety of analytical reports including, among others, Threat Reports, Situation Reports, and Trend Analyses.

Information management

Each ISU partner operated independently of one another. Each had unique information technology, managed information differently, and communicated on separate radio systems.

The process of information and intelligence exchange was facilitated through the Event Management System (EMS) at each command centre and through a Situational Board, referred to as the EMS Sit Board. The EMS Sit Board was a web-based national system that provided the command centres with updated communication and incident-related data throughout the weekend.

Command and Control

Police Command and Control was delivered through a series of interconnected operations centres performing at strategic, operational, and tactical levels. Key command and control centres relevant to the G20 included:

- The Unified Command Centre
- The Toronto Area Command Centre
- The Toronto Police Service Major Incident Command Centre.

Unified Command Centre

The Unified Command Centre (UCC) was the highest level of command and control for both the G8 and G20 summits and the operational decision-making authority in the Unified Command structure. It was made up of commanders from all participating agencies, departments, services, and forces. The RCMP Incident Commander assumed the role of overall Commander.

All participants contributed to the command process by determining overall goals, planning jointly for operational activities, conducting integrated operations, and using all assigned resources with maximum efficiency. The structure of the UCC was aimed at easing information flow to the RCMP Incident Commander. Under the UCC command structure, all services had geographic or functional authority over an incident in their respective jurisdiction.

Toronto Area Command Centre

The Toronto Area Command Centre (TACC) operated under a Unified Command structure and served as a link to the Unified Command Centre. All activities, movements of internationally protected persons, and requests for specialized resources and support were required to flow through the Area Command Centre.

Although there was discussion early in the planning stage about whether the TACC should have been the sole command centre in the Greater Toronto Area, TPS decided it would have a Major Incident Command Centre to handle the G20 and the other policing duties that would be taking place in the city at the same time.

RCMP Assistant Commissioner Alphonse MacNeil told the IPRD:

Early on in the planning for the G20 it was decided Toronto Police Service were going to employ a Major Incident Command Centre in their headquarters building. They felt this command centre was necessary to give them the capability to run operations in the city around the G20 site and at the same time respond to the normal day to day policing in the rest of the city. The remainder of the security operation for the G20 in Toronto was run from the Toronto Area Command Centre at Pearson Airport.

Liaison Officers would be present at both sites to facilitate information sharing. I do not believe having two command centres in Toronto was the best approach; however, planning and set up time as well as availability of facilities were factors that influenced the decision. In future this aspect of the operation should be closely reviewed to determine the best approach. I do believe, however, that even with the two command centre system, roles and responsibilities were understood but operations could have been more streamlined under one command centre.

Peel Regional Police – Peel Incident Command Centre

The Peel Incident Command Centre (PICC) was located in the TACC. Peel Regional Police provided information to the PICC so that the PICC Incident Commander would have tactical control of all resources under its command, specifically to ensure the integrity of the Restricted Access Zone at the Lester B. Pearson International Airport.

Toronto Police Service – Major Incident Command Centre

The Toronto Police Service Major Incident Command Centre (MICC) was the central point of command, control, communication, and information for the TPS. The MICC also had site commanders who were in tactical control of foot, bicycle, and mobile officers in the Interdiction Zone, the PATH (pedestrian tunnel system), and the Outer Zone. The site commanders

were supported by public order units and were under the operational direction of the MICC.

The MICC Incident Commander was in charge of all resources under the command of the TPS and had tactical control of those resources to ensure the integrity of the Interdiction Zones. The MICC was also responsible for the continuity of policing services throughout the City of Toronto and for maintaining communications and shared operational awareness with the Toronto Area Command Centre and the Unified Command Centre.

The security zones and the fence

The security established for the G20 summit was relatively complex and covered a large part of downtown Toronto, with security responsibilities divided between the RCMP and TPS.

The *Foreign Mission and International Organizations Act* gave authority to the RCMP to secure the perimeter of the security zone with fencing and restrict access to this zone through the use of checkpoints and other measures.

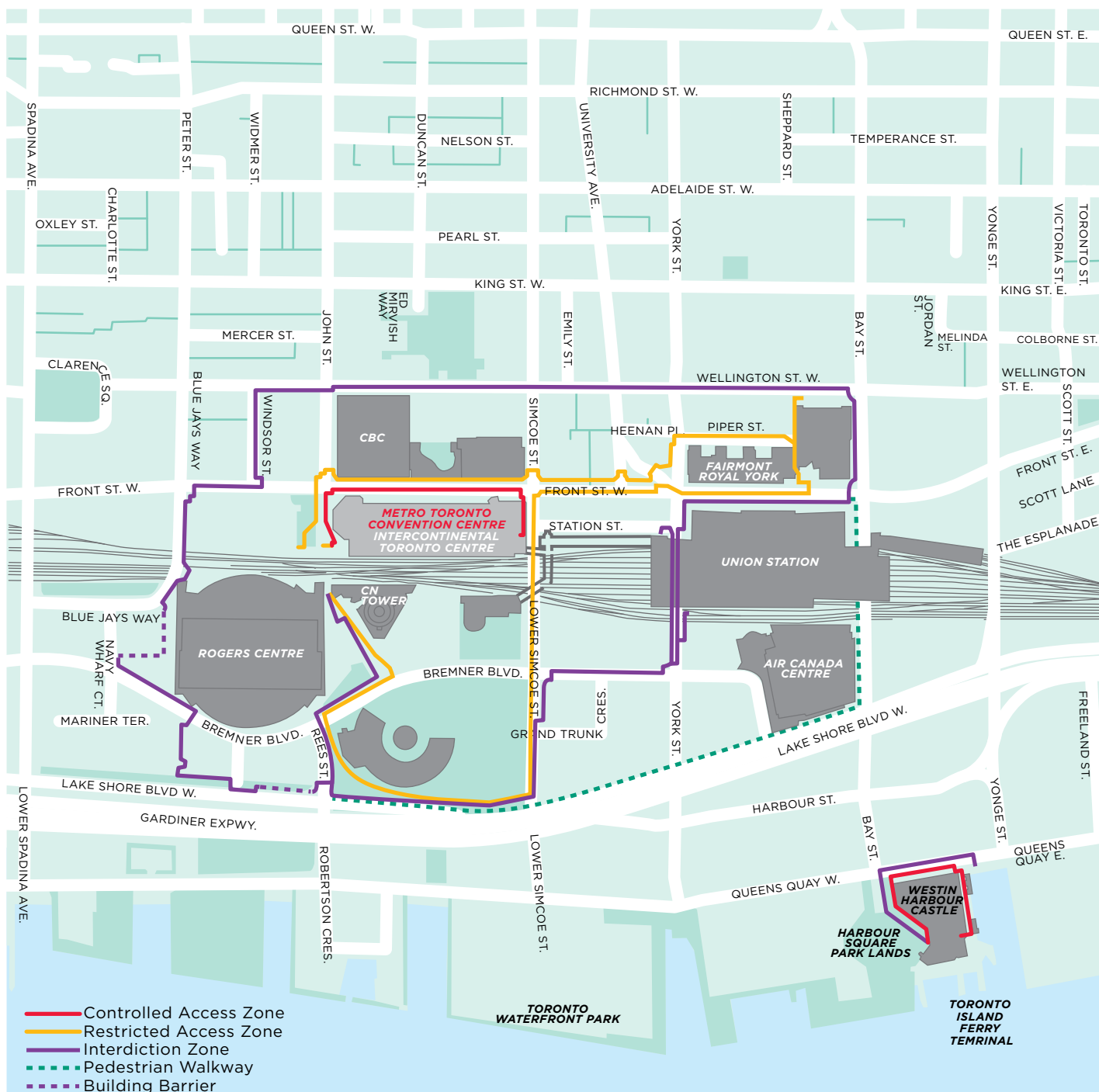
These legal authorities allowed the RCMP to establish security zones, including the Controlled Access Zone (CAZ), Restricted Access Zone (RAZ), and Interdiction Zone (IZ), as well as security perimeters around these zones, for purposes of fulfilling their legal duties. Those duties included protecting IPPs and ensuring security for the proper functioning of the intergovernmental conference.

Areas were secured by a combination of fences and barriers, and access was granted only to accredited and cleared individuals, vehicles, and required items.

The Integrated Security Unit Perimeter Operations Plan outlined the various security zones. Controlled Access Zones were established for the immediate areas surrounding the Metro Toronto Convention Centre and the InterContinental and Westin Harbour Castle hotels in which the IPPs and dignitaries were staying. This zone was policed by the RCMP and was the zone with the highest security with a 10-foot-high anti-scale fence to protect the area. Valid credentials

were required for entering and passing through these zones. Beyond and surrounding the Metro Toronto Convention Centre Controlled Access Zone was the Restricted Access Zone, also policed by the RCMP. If any arrests were made in the Restricted Access Zone they would be turned over to the Toronto Police Service or the Ontario Provincial Police.

The Restricted Access Zone was also a fenced-in area. Two types of fences were used depending on the roadway or physical structure of the area. A nine-foot six-inch-high anti-scale fence supported by barriers was used, and in other areas a seven-foot-high anti-scale fence on a two-and-a-half-foot-high barrier was placed in locations that required wider fencing. Numerous gates were placed



throughout the fenced area to provide access to accredited vehicles and accredited pedestrians.

Beyond the Restricted Access Zone was an Interdiction Zone extending, in some places, to several city blocks beyond the perimeter of the Restricted Access Zone. The Interdiction Zone was policed by TPS and was also fenced in. The Interdiction Zone was secured through the use of a 9-foot 10-inch-high chain-link fence. Access to this area was restricted to accredited and credentialed individuals who lived, worked, or had a lawful purpose to be within the zone. A much smaller Interdiction Zone was established around the Westin Harbour Castle hotel.

Beyond the Interdiction Zone was a large Outer Zone, also policed by Toronto Police Service. The Outer Zone, an area where increased police vigilance was considered necessary during the G20, extended north to Bloor Street, south to Lake Ontario, west to Dufferin Street, and east to Jarvis Street, and was divided into north and south sectors.

TPS site commanders were in tactical control of foot, bicycle, and mobile officers in the Interdiction Zone, the PATH, and the Outer Zone. They were also supported by public order units and were under the operational direction of the MICC.

Each zone had a Perimeter Site Commander to maintain and oversee all operations within the zone. Police officers were responsible for securing both pedestrian and access gates to verify the identity of people entering the secured zones. According to ISU operational plans, the process generally involved a visual check of the badge or pass worn by the person requesting entrance into the zone. The officer could also perform a non-intrusive visual check of the person and any bags being carried into the zone. If an officer questioned someone's identity, the officer could request another officer to provide a secondary check. Once accredited at the gate, the individuals would enter into the restricted zones, where another screening check could be made at the other zone perimeters.

Jurisdiction in the zones

Legal authorities

International conventions

Canada is a signatory to several international declarations regarding internationally protected persons. It is committed to upholding and maintaining the values of the related conventions. The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973, contains articles that protect IPPs and other individuals entitled to special protection under international law. In that regard, Canada has specifically adopted laws requiring peace officers to protect IPPs, as defined in section 2 of the Criminal Code. It provides for cooperation among states in the prevention of the crimes, and for the communication of information. States are also required to ensure that alleged offenders in their territory are available for prosecution or extradition.

Federal authorities

The Covenant of the Government of Canada is the legal authority for the RCMP to assume lead agency responsibility for the security of internationally protected persons. Similarly, under section 10.1(1) of the *Foreign Mission and International Organizations Act* (FMIOA), the RCMP has the primary responsibility to ensure security for the proper functioning of any intergovernmental conference in which two or more states participate and that is attended by persons granted privilege and immunities under the Act. As the lead security agency, the RCMP was mandated to provide protection to the visiting IPPs and security of the sites. This meant that the RCMP was responsible for overseeing security planning and operations within their jurisdictional authority as well as the coordination of operational security requirements with provincial, and municipal law enforcement agencies.

Under section 5 of the FMIOA, the Governor in Council may make an order granting privileges and immunities to individuals attending an intergovernmental

conference. Upon such an order being made, the RCMP, in cooperation and collaboration with other police forces, becomes “impressed” with the primary responsibility of ensuring the protection of the IPPs as well as “security for the proper functioning” of the intergovernmental conference. To that end, the FMIOA provides that the “appropriate measures, including controlling, limiting or prohibiting access to any area to the extent and in a manner that is reasonable in the circumstances” may be taken.

Under section 6 of the *Security Offences Act*, the RCMP has the primary responsibility for investigating threats to the security of Canada as defined in section 2 of the *Canadian Security Intelligence Act*, and threats or criminal acts against IPPs.

Common law

The RCMP and provincial and municipal police forces have general common law police powers to take all reasonable and necessary measures ancillary to their duties. In short, police members are authorized to take specific measures if they fall within a duty either imposed by law or recognized at common law and are reasonably necessary, without involving an unjustifiable exercise of the powers.

Provincial authorities

The *Public Works Protection Act* (PWWA) establishes the statutory authority for police, peace officers, and appointed guards to exercise powers under the Act to protect public works. It was enacted in 1939 following the outbreak of the Second World War and still applies to all public works areas listed in the Act. The Act empowers police to protect public facilities and municipal public works. The definition of “public works” in section 1 of the Act is very broad. It includes “any railway, canal, highway, bridge, power works,” and “any provincial and any municipal public building.” It also includes “other building, place or work designated a public work.” The Act also allows any other place to be designated a “public work” by the Lieutenant Governor in Council. The PWWA is used daily to protect courthouses and government buildings in Ontario.

The key provision of the PWWA is section 3, which states that a guard appointed under the Act or a peace officer can:

- Require any person entering or attempting to enter any public work to furnish his or her name and address, to identify himself or herself and to state the purpose for which he or she desires to enter the public work
- Search “any person entering or attempting to enter a public work or a vehicle in the charge or under the control of any such person”
- Refuse to allow a person to enter into the designated area.

Peace officers can arrest anyone refusing to obey these requirements. There is no requirement to prove reasonable and probable grounds to believe an offence has been committed. Every person who neglects or refuses to comply with a request or direction made under this Act by a guard or peace officer, and every person found in a public work without lawful authority, is guilty of an offence and on conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than two months, or to both.

Areas of responsibility

The RCMP had the lead role for the security of the G20.

On the ground, the RCMP was responsible for policing the Controlled Access Zones and the Restricted Access Zones.

Toronto Police Service is the police force of jurisdiction in Toronto and was responsible for policing the Interdiction Zone and the Outer Zone. TPS was also expected to assist in protecting IPPs and dignitaries.

Peel Regional Police assisted in protecting IPPs and VIPs and ensured the integrity of the Restricted Access Zone at Pearson International Airport. The RCMP was in command of the Restricted Access Zone at the airport.

Analysis of jurisdictional legal authorities and areas of responsibility

Throughout the planning and implementation of the summit, the scope and application of legislative authorities, as well as the appropriate jurisdiction and powers of participating police forces, became an important issue. Specifically, Toronto Police Service questioned whether it had the legal authority to set up the security perimeter in the Interdiction Zone. During the planning process, it appeared as if there were differing opinions on the matter.

RCMP Assistant Commissioner Alphonse MacNeil told the IPRD that common law provisions and general police practices would have supported TPS in the delivery of their security operation in Toronto.

The OPP had assessed this same issue and determined that common law provisions would be satisfactory for them to deliver the security operations in their jurisdiction for the G8 in Huntsville. The OPP also had an Interdiction Zone there.

He said the RCMP did not consider designating TPS personnel as special constables under the *RCMP Act* because TPS have jurisdiction in the City of Toronto. This could be seen as similar to policing the Molson Indy car race when it is necessary to restrict the movement of the public with fences and barricades to keep the public and the participants safe. “You have to be able to tell people they can’t go on the racetrack or in other restricted areas,” MacNeil said.

But TPS Deputy Chief Warr, who was on the G8-G20 Executive Steering Committee and was the designated Command Lead for TPS, felt that such authority was needed. He said in an interview with the IPRD, “We could not get the authority delegated from the RCMP...I still don’t understand why.”

In any case, lawyers working with the City of Toronto and the Toronto Police Service decided to ask the Ontario government to pass a regulation that would extend the PWPA to the perimeter fence for the duration of the G20 summit.

Such a request had to come from the Chief of Police. A lawyer with the City of Toronto together with lawyers acting for the TPS drafted a letter for Chief Blair that requested that the Lieutenant Governor in Council designate the area of, or highways within, the intended security perimeter as a public work. Chief Blair told the IPRD that although he felt, “Our common law authorities were adequate to the task,” he decided to go along with the request. He felt, “It’s not necessary, but it can’t hurt. My impression was that it was a strongly held belief by that legal team that they really needed this.” As a result, TPS requested the development of the regulation under the existing provincial statute of the *Public Works Protection Act*. The Act was updated by the provincial government, but the changes were not made public.

Public Works Protection Act, Ontario Regulation 233/10

Ontario Regulation 233/10, which designated the G20 security perimeter as a “public work,” came into force on June 21, 2010, and was revoked on June 28, 2010. The regulation had two schedules:

Schedule 1 designated a large segment of the downtown core as a public works area. The public works area generally ranged from Blue Jays Way and Wellington Street West to Bay Street, and south to Lake Shore Boulevard West to Navy Wharf Court (near the west end of the Rogers Centre).

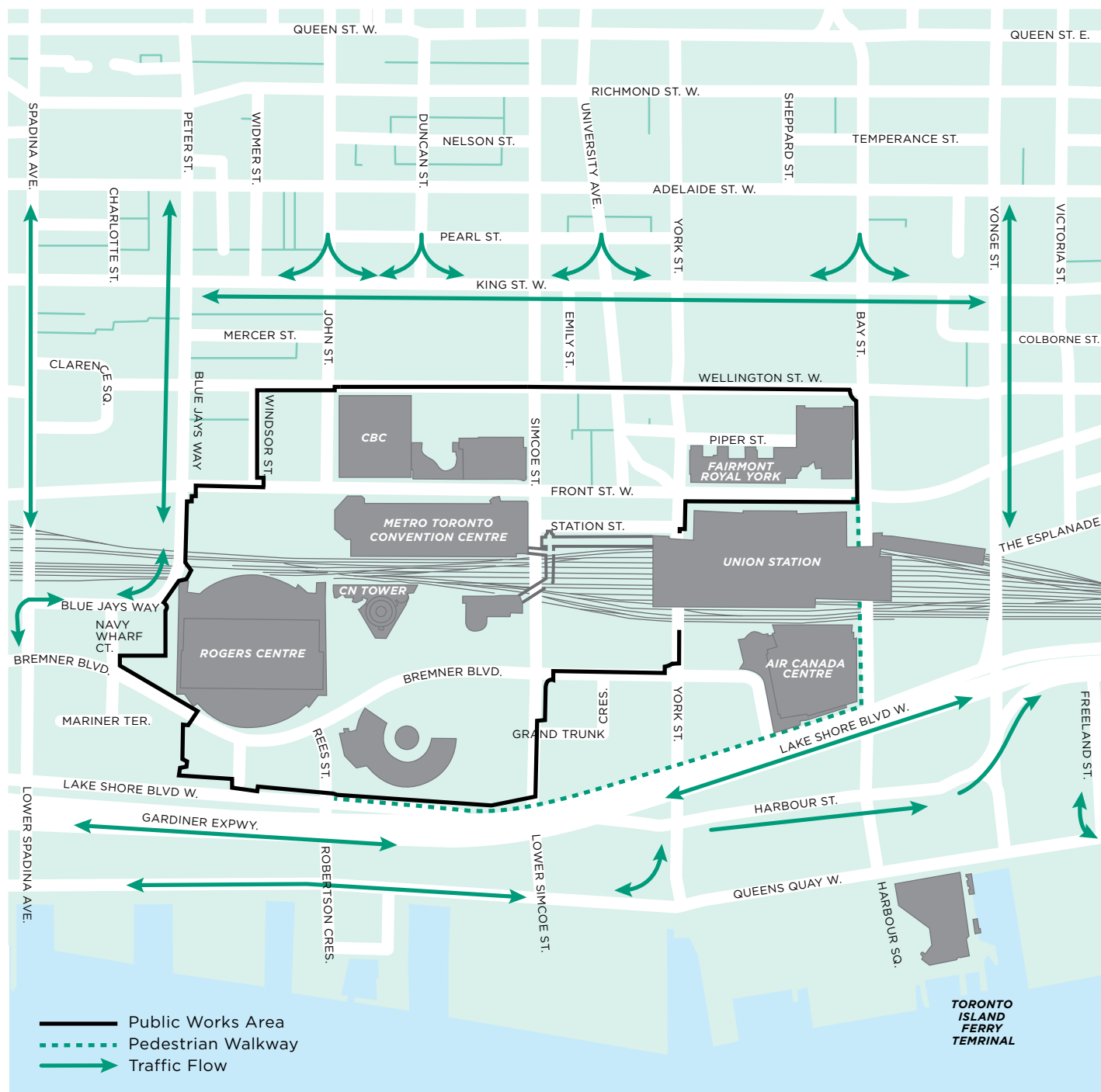
Schedule 2 identified three specific areas that were to be public works for the purposes of the PWPA:

- 1 The area within five metres of the John Street Pumping Station and the bus parking lot of the Rogers Centre to Bremner Boulevard
- 2 The area within five metres of 73 Navy Wharf Court to the curb of Blue Jays Way
- 3 The below-grade driveway located between Union Station and Front Street West and Bay Street and York Street.

The five-metre rule

The area designated by the regulation as public works did not extend outside the boundary of the fence. Therefore, neither did police authority and relevant PWPAs. There was no reference to designating a public works area within five metres of the large area outlined in Schedule 1. Under the regulation, the area was designated within “a line.” It is incorrect to interpret the regulation as providing

authority under the *Public Works Protection Act* to search any person within five metres (16 feet) of the security fence. It should be noted that the PWPAs restricts any person from entering or attempting to enter any public work or any approach thereto. Therefore, it may be possible for peace officers to be required to guard the public works area just outside the designated zone. For example, it may be practical and appropriate for officers to be located



on the outside of the designated public works area. Therefore, officers could be reasonably situated just outside the security fence and invoke their PWPA powers.

The five-metre designation, which was referred to in Schedule 2, identified three areas within Schedule 1 and five metres within each area that were designated as public works. The phrase “within” can be interpreted to mean five metres out from the boundary outlined in the regulation. This would be a reasonable or practical application of the regulation. Only the legislature can provide reasons for the five-metre designation for these three areas. It is worth noting that the five-metre “grace” area relates to lands that are walkways or parking venues; they are neither sidewalks nor streets. For example, it pertained to land near a parking lot, land behind the Rogers Centre, and a driveway below ground level in front of Union Station. Therefore, there may be practical reasons for requiring the five-metre designation in these three areas.¹³

According to the RCMP, the exchange of information among the command centres was facilitated through the following: the Event Management System (EMS) Situational Board (which ran twenty-four hours per day during the summits), command briefings at all command centres (two per shift), Steering Committee briefings (two per shift), Command Centre Incident Commander teleconferences (two per shift and as required), and through the use of liaison officers. While in the command centres, personnel also kept in touch with their respective agency through telephone and other means.

During the G20 summit, there were various incidents where there was confusion as to the appropriate area of jurisdiction. However, RCMP Assistant Commissioner Alphonse MacNeil said,

Based on RCMP (UCC and Area Command Centres) knowledge and experience, including

the G8 and G20 summits Concept of Operations and the Command and Control document, each ISU partner knew their jurisdictional responsibilities. From an RCMP perspective, there were no jurisdictional issues that surfaced during the G20 summit.

The RCMP After Action Report acknowledged that although the C2 decision matrix was developed in detail and signed off by the senior managers of all security agencies and although a clear, succinct document, the manner in which it would function was not clearly communicated to everyone at the different levels of command, particularly at the tactical levels. It was also found that there was a lack of common communication structure – although this concern was mitigated by the use of liaison officers and at the tactical level, the exchange of radio equipment – and sometimes divergent departmental goals.

Although not in the After Action Report, at the tactical level, RCMP POU teams that were deployed and under the direction of TPS had a TPS communications liaison with them. Further, an RCMP POU liaison was deployed to the TPS MICC on Sunday, June 27, to further assist with communications between the RCMP and TPS.

The Joint Intelligence Group (JIG) used a “top secret” electronic case management system, which forced additional information-processing steps and triggered logistical and communications problems. The vast majority of intelligence documents generated throughout the G20 were not “top secret” rated and would have better been dealt with in a “protected system,” which would have allowed the information to be processed more quickly and communicated more broadly.

RCMP Assistant Commissioner Alphonse MacNeil noted that on occasions the Unified Command Centre in Barrie had difficulty getting any information from the MICC.

¹³ Ontario launched an independent review of the *Public Works Protection Act* (PWPA) by the Honourable R. Roy McMurtry, which recommended that the Act be repealed. R.R. McMurtry, *Report of the Review of the Public Works Protection Act* (Toronto: Ministry of Community Safety and Correctional Services, 2011).

In an interview with the IPRD, RCMP Assistant Commissioner Alphonse MacNeil said,

One of the issues was in the relay of information. The Toronto Area Command Centre for the G20 communicated directly with the UCC. The MICC communicated the status of their operations to the TACC who then informed the UCC. This resulted in a potential delay in the relay of information to the Unified Command Centre. If the MICC was asking for assistance, the process was to communicate with the TACC who would then relay the message to the UCC Commander. The UCC Commander was not in direct communication with the commander in the MICC to ask if there was anything else he could do. Now those discussions took place through teleconference briefings on a regular basis with the UCC, the MICC, the TACC, the MACC (Muskoka Area Command Centre), but in a moment of crisis, you don't have the same connection and that's where I think there was some difficulty.

Incident Command System

The ISU Command and Control document defined the Incident Command System as a standardized on-scene emergency management concept specifically designed to allow its users to adopt an integrated organizational structure without being hindered by jurisdictional boundaries. Command and control for the G8 and G20 summits were to function in line with accepted national and provincial Incident Command System / Incident Management System principles.

The Incident Command System originated in the United States, where it was first used to deal with the California wildfires of the 1970s. In Canada, the ICS was first implemented in the mid-1990s in British Columbia for use in emergency situations and disasters. The system organizes the functions, tasks, and staff within an event or incident response situation. The basic structure is made up of five functional sections: command, operations, planning, logistics, and finance. The ICS is capable of

expanding to meet the needs of the event. Staffing within an Incident Command System is based on competencies and specialties not rank.

Superintendent Russell, who was the Planning Chief in the MICC and represented Toronto Police Service on the ISU, explained:

From a planning perspective, I thought it was a great system. It gave us a standardized structure that most organizations, police, fire and EMS are using right across North America and it allowed us [a way] to organize ourselves that made sense. It's completely scalable, it allows you to organize yourself of logistics, your planning group, your operations group and of course we use an investigative branch that's not necessarily in that system, but it worked well that way and I believe it put us in good stead to be able to transition from planning to operations.

TPS was relatively new to the Incident Command System and had just started to think about it during the Tamil protests in 2009. Before that time, TPS used the Gold-Silver-Bronze command structure, which it picked up from the U.K. Metropolitan Police, which still uses it. The Gold-Silver-Bronze structure establishes a hierarchical framework for the command and control of incidents, with the chain of command in order of rank. Under this system, the Gold commander is in overall control of the organization's resources at the incident and formulates the strategy for dealing with the incident. The Silver commander, the tactical leader, manages the strategic direction from Gold and sets it out into actions carried out by Bronze. A Bronze commander directly controls the organization's resources at the scene of the incident.

One of the main differences between the systems is that positions within the Gold-Silver-Bronze structure are filled with initial consideration for rank, while the Incident Command System fills positions according to expertise in the specific area. To work well, the Incident Command System, in particular, requires people to give direction and act within the parameters of their own roles. There have to be clear chains of command.

One could argue that, in paramilitary environments such as policing, role assignments as opposed to rank assignments don't work well if some individuals haven't "bought into" the system. In a role-based system, a staff sergeant, for example, could be in a position of authority over a superintendent because the staff sergeant has special training in the skills needed for that role. This type of situation could cause problems if the staff sergeant defers to the superintendent because of rank, or if the superintendent doesn't take orders from the staff sergeant willingly. If the two work together on a day-to-day basis, there could be a question of consequences following the event.

Superintendent Russell, the TPS Incident Command Planning Chief, explained that in "a perfect world, when you know the individual that you're dealing with, if they happen to be of a subordinate rank but have the expertise to be able to be in charge, we should be able to accept that, but I think it might be difficult for some people to do that."

For the ICS to work, all the people in all the roles must understand the system and their roles in it. This kind of understanding can be gained only through training, experience, and a commitment to teamwork.

The Major Incident Command Centre

Planning

In the months leading up to the G20 summit, senior members of Toronto Police Service held numerous, regular meetings to plan for the fulfillment of its policing responsibilities associated with the summit. The groups responsible for various aspects of policing the G20 reported to the G8 / G20 Summit Planning Team, which met bi-weekly. A Steering Committee, composed of the most senior officers in TPS, but not including the Chief of Police, was given monthly updates on the status of the planning and asked to provide guidance and support on key issues.

The TPS mission statement in relation to the G20 summit was expressed as a commitment

to providing a safe environment for the community at large, and to:

- Ensure effective and efficient crowd management during the G20 summit
- Ensure safety and security of summit delegations
- Ensure safety and security of public and police
- Provide security equal to the threat level of the event
- Facilitate conditions for peaceful protest
- Minimize disruption for residents and businesses
- Maintain core services.

TPS prepared numerous operational plans for policing the summit. These plans covered such areas as policing of the Toronto underground PATH network, traffic management, and the role of the public order unit and the Prisoner Processing Centre. As the MICC Planning Chief, explained:

The team that I had at the end of the day would have been a team of about 70 plus officers and another, say, dozen civilians. That team wasn't given to me from the outset. That team grew as I realized through conversation with the RCMP what our responsibilities were going to be. And, every time I learned that we had a new responsibility or we had a vulnerability and we needed expertise, I had to go out and recruit that and bring it into the team. I was bringing in new people, continually, to match the demand, to match the requirement.

Once we had our concept of operations in terms of the whole plan, we developed a position assignment system. We had positioned assignments for every single officer that was going to be deployed.

According to Superintendent Russell, TPS determined it could field 3,000 police officers from within its own ranks, but were going to need about 2,000 more officers to reach the goal of 5,000 officers and 800 to 1,000 civilian members required for its plan to police the G20; so at the height of the

summit, TPS could potentially have 6,000 people engaged. TPS went first to the OPP and got officers to assist them, then reached out to other Ontario police services and eventually to police services across Canada for officers trained in public order.

The RCMP's After Action Report listed the number of security personnel deployed in direct support of the G8 and G20 summits. There were 5,000 RCMP as well as 650 other municipal, regional, and provincial police, and 2,400 contracted security personnel. In addition, there were 3,000 Canadian Forces troops, 3,000 OPP officers, 740 Peel Regional Police officers, and 6,200 Toronto Police officers.

One thing that TPS should have provided was a TPS liaison member to work with and support the out-of-town teams. A number of services reported that the teams arrived in Toronto and were not given a mission statement or clear objectives on their deployment. In addition, concerns were expressed because TPS did not provide a clear understanding of the command and control structure. For example, there was no TPS public order unit (POU) liaison to support deployment, nor were officers given directions or maps of relevant areas. This situation likely led to a great deal of confusion and frustration among POU officers deployed to public order incidents throughout the G20 weekend. At least one out-of-town unit reported that it had to resort to getting a street map from a subway station in order to find its way around.

In an interview with the IPRD, Superintendent Russell, the Planning Chief, said:

The planning group literally poured their hearts into trying to get everything ready for operations. Then when they viewed the images of the event itself and all the chaos that happened within an hour's worth of time or whatever it was, that was very, very, very disheartening for probably everybody that watched that. Emotionally, that was very hard on people. We had to step back and say just a minute, let's look at what we did here, what were we trying to accomplish? And, you know what, we did prevent that summit from being interrupted, the world leaders had their

day, they had their event that was safe and the perimeters were never breached either above ground or below ground. Nobody died and there have been deaths in previous events. Nobody was critically injured in this event. Some people were hurt, there's no question, but nobody was critically injured. So, from that perspective, we accomplished that.

Implementation

The Major Incident Command Centre was made up of the five functional sections of an Incident Command System: command, operations, planning, logistics, and finance. It also included an investigative function. For policing the G20, the key positions in the MICC were the Incident Commander and the Operations Chief. There were five positions, each with its own subgroups, under the Operations function: Outer Zone Branch Director, Interdiction Zone Director, Traffic Branch Director, Marine Branch Director, and Special Operations Branch Director. The Special Operations Branch Director supervised the public order units.

An organizational chart appears on pages 35–36. The following excerpts from Toronto Police Service's Major Incident Command Centre roles and/or responsibilities document for the G20 summit summarize the roles and responsibilities of the Incident Commander (IC), the Operations Chief, Branch Directors, and the Special Operations Director.

Incident Commander

The following is excerpted from the TPS's Major Incident Command Centre roles and/or responsibilities document:

The IC is responsible for the overall management of the event, and shall have operational command and tactical control of all units assigned to the TPS for the duration of the G20 summit. For the G20 summit, the IC will have a Deputy IC assigned to assist with Operations.

During the G20 summit there shall only be one IC. The title of IC shall belong to the position occupied

in the MICC of the TPS. This position shall have total command over all resources assigned to the G20 Summit.

Responsibilities:

- Obtain briefings from the prior IC before taking command
- Ensure objectives and strategies are passed on to Command Staff, Branch Chiefs and Directors once command has been handed over
- Ensure immediate priorities are assigned
- Approve and authorize the implementation of new incidents in the Emergency Management System (EMS)
- Coordinate with other agencies and their Commanders via the Deputy IC
- Ensure TPS Command is informed on the status of the G20 summit
- Liaise with the Joint Intelligence Group (JIG)
- Liaise with TPS Intelligence
- Maintain a log via the scribe assigned
- Participate in meetings.

Operations Chief

The following is excerpted from the TPS's Major Incident Command Centre roles and/or responsibilities document:

The Operations Chief will be responsible for managing all tactical operations during the G20 summit. In addition they shall be responsible for coordinating multi-jurisdictional responses to ensure the objectives of the G20 summit are accomplished. The Operational Chief's responsibilities shall include, but are not limited to, the following:

Responsibilities:

- Report to and maintain close communication with the IC

- Manage tactical operations
- Maintain operational control over all tactical resources
- Supervise the execution of the Incident Action Plan
- Coordinate and communicate operations with the Operational Branch Directors
- Request resources needed to implement tactical operations in order to complete the overall objectives of the G20 summit
- Make or approve changes to the planned objectives as required during the operational period as necessary
- Maintain close communications with the Deputy Incident Commander and Incident Commander
- Coordinate and communicate with Operational Branch Directors
- Ensure branch / section logs are maintained and Command Log is updated
- Participate in meetings.

Branch Directors

The following is excerpted from the TPS's Major Incident Command Centre roles and / or responsibilities document:

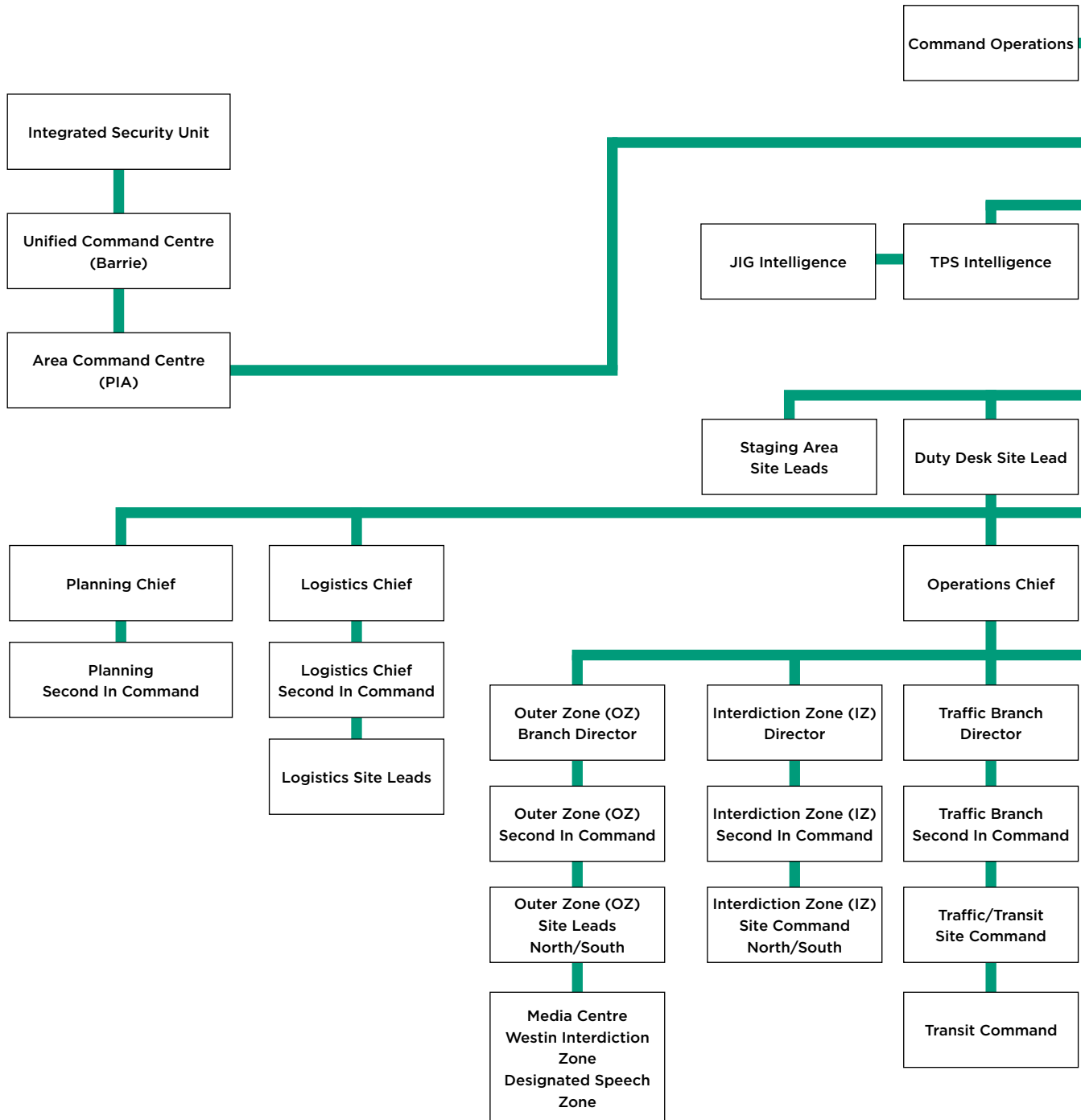
Branch Directors will report to the Operations Chief. Branch Directors will include the following:

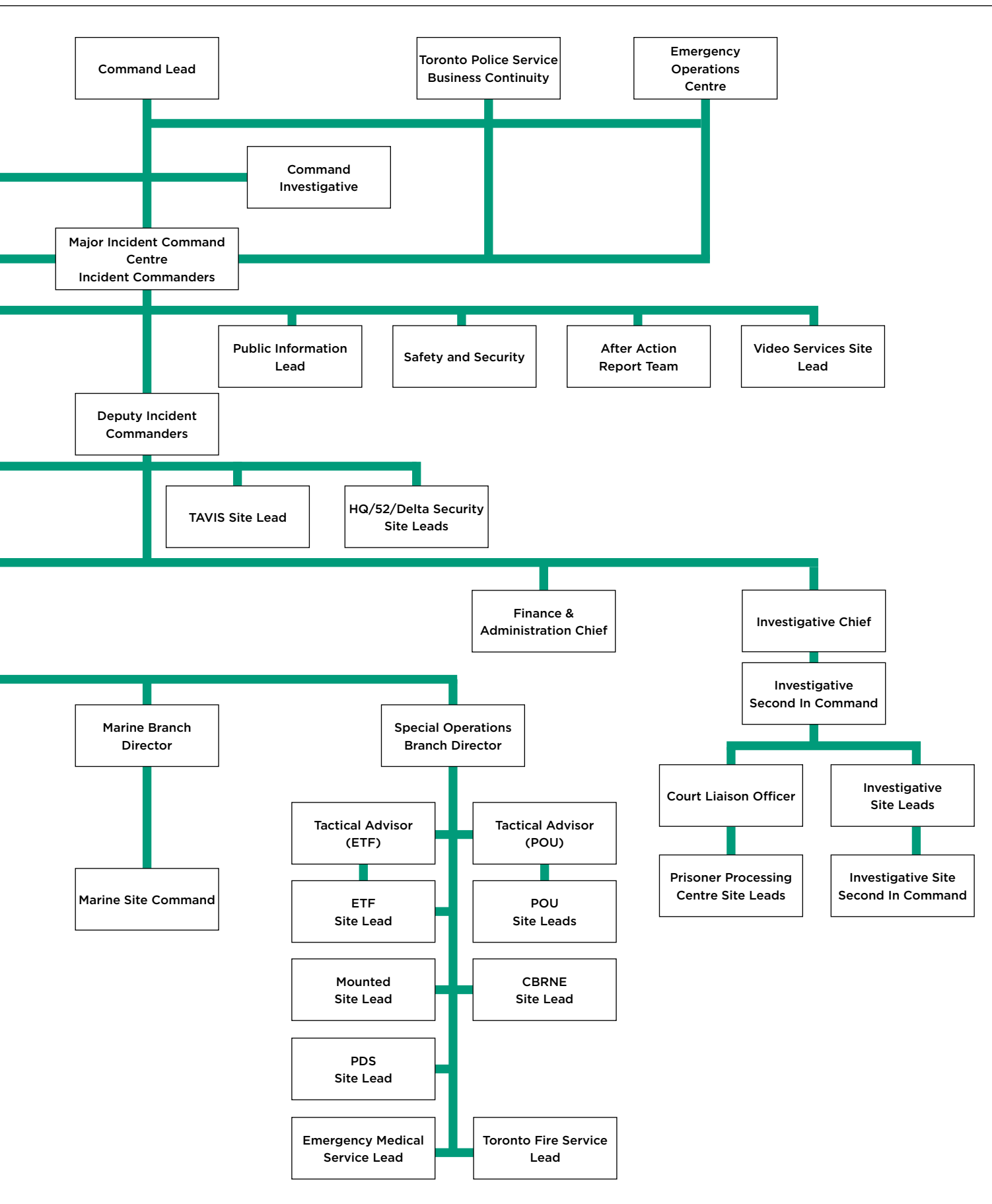
- Special Operations Branch Director
- Marine Branch Director
- Traffic Branch Director
- IZ Director
- OZ Director

Command and Control

Toronto Police Service Command Model

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Special Operations Branch Director

The following is excerpted from the TPS's Major Incident Command Centre roles and / or responsibilities document:

The Special Operations Branch Director is responsible for supporting the management of the tactical operations of the POU, Mounted and Police Dog Services, Chemical, Biological, Radiological-Nuclear and Explosives (CBRNE) Unit, and Emergency Task Force resources. The Special Operations Branch Director has a representative from the Emergency Medical Service and TFS working within the Branch. Additionally, support is provided by a Tactical Advisor (ETF) and Tactical Advisor (POU).

The MICC structure included a TPS Intelligence Chief who reported directly to the Incident Commander. The Intelligence Chief was responsible for monitoring incoming intelligence from intelligence gathering activities / sources and dealing with members of the Joint Intelligence Group (JIG) from the Integrated Security Unit (ISU) by phone. The JIG was controlled by the RCMP.

Intelligence Chief

The Intelligence Chief received police intelligence and “open source information” from sources such as the media, Twitter, and the Internet as well as intelligence information from the JIG.

Additionally, the Intelligence Chief received information about other police assets, such as surveillance units and undercover officers in the field. Once she received information from the various sources, she passed it along to the Incident Commander to make decisions.

Information about recent and ongoing events relating to the G20 was provided to the Incident Commander in four formats:

- 1 *Intelligence documents.* These documents, sent by email multiple times each day, spoke in detail to events that had occurred in the recent past and events that would occur in the near future. Future events were assessed by intelligence

officers and the documents outlined whether an event raised concerns about public order and criminal activity.

- 2 *Business cycle meetings.* Information was passed along verbally and in written form during these meetings, which took place at eight set times in the days leading up to the G20. However, events taking place on the street had an impact on these meetings. On June 26 there were only four meetings, none after 11:30 am; on the 27th there were six meetings.
- 3 *Personal briefings.* Information was passed along by personal briefings at the time it became available – if, in the opinion of the intelligence officer, there was an immediate need for the Incident Commander to be aware of the information.
- 4 *Unscheduled briefings.* These meetings, which were infrequent, were driven by the events themselves.

Before the summit, the TPS Intelligence Division received information from the OPP that certain individuals or groups were indicating extreme violence toward police. This information was deemed credible.

MICC command and control issues

The turning point of the Toronto Police Service response to public disorder happened in the early evening of June 26, 2010, just before the night shift Incident Commander took command of the Major Incident Command Centre. It occurred at a meeting that was attended by both day and night shift Incident Commanders, the Chief of Police, Deputy Chief Warr, and other TPS senior officers. Deputy Chief Warr instructed the night shift Incident Commander to “take back the streets” because the City of Toronto had experienced extraordinary public disorder and damage earlier that day.

As a result of the actions that the night shift Incident Commander took from that point on, the operation of the MICC during the night shifts on Saturday and Sunday became dysfunctional. The MICC essentially

became an autocratic structure where the Incident Commander accepted little or no input from the Operations Chief and the field experts who were placed in the MICC to provide him with support and advice. The Incident Commander performed multiple functions within the MICC and basically used his staff as dispatchers. In effect, the MICC took all independence and decision-making responsibilities away from the commanders who were placed in tactical command on the ground.

The Special Operations Director explained that the plan for the MICC command structure was for the Incident Commander to be responsible for giving direction. The Special Operations Director would then give the order to the public order unit Section Commanders on the ground, and they in turn would determine the tactics to be used. The Special Operations Director said, “Unfortunately, especially on Saturday, because of everything that was going on, it was a very autocratic process between the Incident Commander and myself and the people that were on the ground.”

The night shift Operations Chief echoed the comments made by the Special Operations Director, advising that in his view the Major Incident Command structure did not work as effectively as it should have. He said:

My job as the Operations Chief is to communicate the mission and direction of the Incident Commander to the operational commanders on the ground. The reality is, in my view, that didn’t work as effectively as the Incident Command structure would suggest that it does because I didn’t have a lot of independence. When we got bunted to the Saturday and Sunday night I felt myself responding to the direction of the Incident Commander and there wasn’t a lot of consultation there. In many ways, I felt my role became somewhat redundant because I was just sort of passing information to the subject specialist. I really wasn’t formulating any strategy in any way because I was just a conduit for information.

The Operations Chief said that the operational commanders on the ground needed to have greater independence to make decisions as events developed. He said that the people in the MICC were to deal more with the “big picture” when in fact they started performing the functions of the operational commanders on the ground, and explained:

When we came in on the Saturday, very quickly [Incident Commander Superintendent Fenton] identified and he told me, “Well, you control these guys and I’m controlling these ones.” Again, that’s counter to the Incident Command model. The Operations Chief controls all of this. The reality was, the POU had such a primary role with those events, and I had absolutely no contact with them. I’m controlling the bike people and the resources. So, that’s the way it unfolded for us on the Saturday and then again for the few hours on the Sunday. I had no input with the POU or any discussions with [the Special Operations Director].

RCMP Assistant Commissioner Alphonse MacNeil said:

On occasion there were challenges with communication between the MICC and the UCC, on the Saturday afternoon and evening. Even with these challenges, we were able to safely operate the motorcades and provide security to the world leaders. It was more of an issue trying to get information from the MICC on the issues surrounding public order.

There was a period of time and I can’t tell you how long it was, whether it was an hour or whether it was two hours, but there was a period of time where I know the UCC commanders were concerned with the fact that they couldn’t get a briefing from the MICC on what their next steps would be to deal with the public order issues.

Communication within the MICC and between the MICC and field officers broke down often.

Public order unit tactics were also being issued by the Incident Commander. The MICC should have been monitoring the events, and the tactics

should have been decided by the on-ground POU commander and discussed and reviewed with the MICC and not the other way around.

On the ground, POU commanders were confused about what teams they were responsible for, since the MICC would pull and move teams without advising the on-ground POU commander. This in turn caused confusion between teams, because they would be supporting each other and then be moved by the MICC.

During the evening of June 26, an OPP public order unit commander was on Queen Street West, east of Spadina Avenue, where his team was protecting a police cruiser that had been burned out and another that had been substantially damaged. He said it was conveyed to him that the area of the police vehicles was a crime scene. He said that his team cleared everyone out of the area and they held one end of the block while another public order team held the crowd at Queen Street West and Peter Street.

The commander told the OIPRD that “all of a sudden” a crowd of people were coming toward his team from the rear. When he looked to the east, the public order unit that was holding the people at Queen and Peter was gone. He explained that you never want to be a public order unit where you’re facing in one direction and have a crowd coming toward your back, because there is no protection. The commander said that, as a result of this development, they split up their team and eight to 10 of them “peeled off to face the oncoming crowd.” He said the crowd obeyed their directions to move back, and they were able to clear the street again. He said another public order team arrived and kept the crowd to the east of the damaged police cruisers.

The OPP public order commander said that as they proceeded back to their unit, the same thing occurred, with the public order unit to their east leaving the area without any communication that they were leaving. He stated he was “dumbfounded” and upset that this happened a second time. He said the crowd approached them again, but they were more “unruly.” He reported that the damaged police cruiser that was not already burned was set on fire.

A decision was made that they could not hold the scene any longer, and they were directed to retreat southbound to the area of Richmond Street.

During the Saturday evening, there appeared to be confusion in the MICC about when and where the long-range acoustic device (LRAD) was actually deployed. The night shift Incident Commander seemed to believe it was at Queen’s Park at about 7:00 pm. In fact, it was used at 5:48 pm, under the authorization of the day shift Incident Commander.

The OPP’s public order unit Group 7 commander said that when he arrived at Queen Street West and Spadina Avenue on June 27, the MICC placed him in charge of the scene – but in reality, he “had no command of the situation.” He stated that he believed command and control was in the hands of the MICC. He explained that he did not overhear any conversations on the police radio about what the other public order units were doing, and that the next thing he knew the crowd was being pushed toward his location by the other POUs. He said that these POUs, which came west on Queen Street, cut across his formation and created another box within a box. He estimated that three boxes appeared at one time, and said it was very confusing.

He emphasized that it was “abundantly clear” to him throughout the event that he did not have command and control of the scene. He explained that the tactical options he requested at the scene were denied. He said the normal procedure would be that the MICC would provide directions on what needed to be done, and that the person in command on the ground would decide on how to get it done.

The night shift Operations Chief reported that there were times when intelligence information was given directly to the Incident Commander and he was not made aware of this information. He said that the intelligence information needed to be given to the whole command team to ensure correct assessment of it and allow for better consultation. The night shift Operations Chief stated that he believed if “we had a better process of consultation and discussion, we might have been able to avoid Queen and Spadina.”

The night shift Incident Commander's tactic for "taking back the streets" was to order the boxing-in and, in some cases, the mass arrests of people without taking into consideration that there might be legitimate protesters or people innocently caught up in the containment. During his shifts on Saturday and Sunday, Incident Commander Superintendent Fenton ordered protesters to be "blocked in" or "boxed in", asked about, or had Operations request it be done on at least 10 separate occasions: on Saturday at Adelaide and Bay, at Queen's Park, in the Queen Street West area, in the financial district, on The Esplanade, and at River and Queen; on Sunday just after midnight at Queen and Spadina, and outside the Prisoner Processing Centre on Eastern Avenue, in the late afternoon at Queen and Spadina, and in the evening at Queen and Peter.

During his interview and in his statement to the OIPRD, the night shift Incident Commander continually referred to people he was directing to be detained as "protesters / terrorists," which is disconcerting. When he referred to those who caused damage on Yonge Street and elsewhere in Toronto, he called them "terrorists."

Police resources at the G20

Prior to the G20, the TPS contracted a private service provider to develop an electronic software application to manage and track officers from the TPS and other police services working with them. This software was to track each officer as they went on and off shift, their assignment and the equipment assigned to them, so the MICC would know what resources they had on the ground at any given time. However, there were problems with the system that could not be worked out by the time the G20 started, and planners had to resort to a more manual system for keeping track of police resources.

Community response unit and mobile units

The community response unit (CRU) bicycle officers and the mobile units, in vehicles, were deployed to proactively patrol streets, monitor planned protest

demonstrations, escort planned marches, and gather intelligence. They were also to assist with crowd control, traffic control, and security of identified sites. CRU bicycle officers worked closely with public order units to provide rapid response to any unplanned protests, building takeovers, and snake marches.

Foot patrol

Foot patrol officers worked in teams, were responsible for security of identified sites, and provided a police presence to deter illegal activity. They had the flexibility to be redeployed by the Incident Commander to assist with crowd management.

Rapid response teams

The rapid response team (RRT) were teams of plainclothes police officers who worked to identify, isolate, and extract individuals committing criminal acts within peaceful demonstrations.

TAVIS (Toronto anti-violence intervention strategy) rapid response teams

These officers, in their marked cars, were deployed throughout the downtown core to provide highly visible, proactive patrols and assistance with crowd control.

Emergency Task Force

Emergency Task Force (ETF) officers were responsible for providing an immediate response to all incidents where there was a potential for violence and lethal confrontation outside the Controlled Access and Restricted Zones, and for responding to all possible incidents where there was a possibility of explosives or an explosive device.

Hand-off teams

The hand-off team (HOT) was tasked with prisoner control and management of arrested parties by members of the POU. This team received prisoners outside the "hot zone" in a safe location. The arresting officer would hand off the prisoner and all required information relating to the arrest to the HOT

team. The HOT team was responsible for removing and transporting arrested people to the Prisoner Processing Centre.

All terrain vehicle patrol team

The all terrain vehicle (ATV) team patrolled off-road areas in downtown Toronto.

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Chemical, Biological, Radiological, Nuclear, and Explosives (CBRNE) Team

These officers were responsible for responding to potential chemical, biological, radiological, nuclear, or explosives events.

Public order units

Public order units (POUs) are primarily deployed in situations involving large public gatherings and involve offences against the public order, rather than offences against persons or property. The POUs were responsible for providing, securing, and maintaining the public peace during the summit and lending extra support to police services. During the G20, the public order response was made up of public order unit officers from Toronto, York Region, Durham Region, Barrie, Hamilton, London, Sudbury, Waterloo, Calgary, Edmonton, Montreal, New Brunswick, Nova Scotia, and Newfoundland and Labrador police services, as well as the OPP. The RCMP public order units were available and present throughout the weekend. TPS also had a mounted unit in support of the POU to help deal with crowd management issues.

The decision to deploy POU rested with the Incident Commander. However, once the POU was deployed, all subsequent commands and orders came from the Specialized Operations Director and tactics rested with the Public Order Section Lead.

Public order working environment

The public order officers who were policing the G20 summit worked extended shifts to meet the policing needs, and extreme demands were placed on them during the G20 summit. A York Regional Police public order unit Section Commander said that, on

June 26, 2010, his team worked a 22-hour day and many of the officers had problems with dehydration. He reported that at least three or four officers went to the hospital to be treated for dehydration.

The London Police Service public order Commander said that his public order unit worked 15- to 18-hour days on June 25, 26, and 27. He stated that they wore their “hard tac” equipment from Friday evening through to Sunday evening. He said it was a very warm and humid weekend and reported that a number of his officers went down with dehydration.

The London Police Service public order unit Section Commander described “hard tac” as looking almost like a combination of hockey equipment and football equipment. He explained that the officer’s entire body is covered in a fire-retardant layer and body armour that is very hot and bulky, and weighs approximately 100 pounds.

One issue for the public order units was the mobility of the crowd and individuals who were causing the damage around the city. The London public order unit Commander explained that his team would be directed to an intersection for crowd control and, once they arrived and set up, the group of people at the intersection would run. His team would then be dispatched to another intersection “five blocks away.” He said they were constantly chasing the crowd; he was not sure exactly where he was going, and the members of his team were continually getting on and off a coach bus.

Some of the public order commanders from outside Toronto told the OIPRD that they did not have a TPS liaison officer to assist them in getting around the city. One OPP public order unit Section Commander said when his team arrived at the G20 on June 26, it was dispatched to Queen’s Park. He said he asked for a liaison officer and a briefing on what was occurring. He was not provided with a liaison officer or any further information and was simply directed to Queen’s Park. After his team completed its assignment at Queen’s Park, it was immediately dispatched to another location in downtown Toronto. The OPP public order unit Commander again asked

for a liaison officer, but he did not receive one and relied on directions that were given to him on where to go.

Another OPP public order unit Section Commander had a similar experience. He said that his team was part of a larger public order unit, and it had only one liaison officer. He said he asked a number of times for his own dedicated liaison officer, but the request went unanswered for the entire G20 summit. He said that one of his team members picked up a rudimentary map from a “subway box” to assist them with getting around the city.

Recommendations

- The Toronto Police Service (TPS) should develop policies and procedures regarding any agreements entered into with other police services for any future integrated project, regardless of its size. These policies and procedures should be developed early in the planning process. The focus must be on the authority, structure, roles, strategic, operational, and tactical processes, and implementation.
- For any future integrated security projects, police services must contemplate that later disclosure of documents, records, and protocols will be required. Disclosure should be incorporated into the planning process.
- Because of the nature of civilian protests, officers' movements must be fluid. The Toronto Police Service and all police services should develop a more robust, coordinated, and effective means to track officer movements. This ability is crucial for officer safety and for the investigation of criminal activity, as well as questions about police conduct.
- To ensure that officers on the ground can communicate with each other and with the command centre effectively, police services should review the failures of communication encountered during the G20 summit. Police services should work through the Ontario Association of Chiefs of Police to ensure that a consistent and workable communication system is in place for all future large-scale events and joint projects.
- If, in future, the Toronto Police Service polices a large event using the Incident Command Management System, it should ensure that officers in charge of the command system are well trained in managing large-scale protests and it should train all those working in the command system, especially regarding their roles and responsibilities.
- Ontario police services should work through the Ontario Association of Chiefs of Police to review the use of the Incident Command Management System and develop a coordinated approach and consistent policies and procedures throughout Ontario for all police services. These procedures should include ongoing training and implementation for integrated or joint projects.
- If multiple police services are to work together under the same Incident Command Management System structure, training should be a cooperative effort. Those who will be working together in the system should train together.
- Police services that have public order units should look into developing POU uniforms to permit the officers enough mobility to allow them to respond quickly. The existing hard tac gear does not permit officers to move with sufficient agility. It should be possible to develop a uniform that offers much of the protection of hard tac while providing the mobility of soft tac.

Part Two: Protest and Response

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Chapter 3: Saturday June 26 to Early Sunday June 27, 2010

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Saturday June 26 to Early Sunday June 27, 2010



Sources for this timeline include police closed-circuit television (CCTV) cameras, Major Incident Command Centre (MICC) scribe notes, police officer statements and interviews, police officer notes, statements and interviews from demonstrators and observers, media reports, and social media.

On Saturday, June 26, the Canadian Labour Congress, the Ontario Federation of Labour, Council of Canadians, Greenpeace, Oxfam, Canadian Peace Alliance, community groups, and various non-governmental organizations organized the “People First” demonstration. The planned route had been shared with police: south from Queen’s Park on University Avenue to Queen Street; west on Queen to Spadina Avenue; north on Spadina to College Street; and east on College to end at Queen’s Park.

Most people were marching for a diverse array of social causes. However, in interviews, police said they had information that the march would be infiltrated by potentially violent activists; a group using Black Bloc tactics was going to try to get to the fence via University Avenue and Queen Street, and failing that via one of the other southbound streets nearby.

The Southern Ontario Anarchist Resistance (SOAR) group coordinated a second demonstration, called “Get Off the Fence,” to take place during the Canadian Labour Congress march. SOAR

posted information about its “actions” on anarchist information websites beginning in May 2010. Its news release said that SOAR was calling for three actions between the afternoon of Saturday, June 26, and the evening of June 27. Regarding the “Get off the Fence” action, it said:

On Saturday, June 26th, we will form an anti-colonial, anti-capitalist presence to walk in solidarity with the big People First march, before continuing on towards the fence to confront the police state and Toronto’s corporate culture. This action will be militant and confrontational, seeking to humiliate the security apparatus and make Toronto’s elites regret letting the dang G20 in here. Meet by 1 pm at the Northeast corner of College and University.

Saturday Night Fever Later, from late on the 26th ‘till dawn on the 27th, come join us for a roaming street party! We will dance through the streets of Toronto to the music of guerrilla DJs and renegade bands, taking back space from the



corporate spectacle that this city has become. Autonomous Direct Action all day Sunday, we are calling for diverse and creative actions aimed to disrupt business-as-usual. As leaders of the G20 nations make their final deliberations, let's demonstrate the diversity of our discontent.

In interviews, police said they had information that anarchists would engage them in various ways to get them to pull out or divert officers so the anarchists could get to the fence. Police reported that they had information that anarchists would have Molotov cocktails and super-soaker water guns that were going to be used as flame launchers. Police had observed people in the downtown area with large backpacks, makeshift weapons, protective clothing, ropes, and grappling hooks.

For police, the focus was to stop demonstrators from reaching the fence. Day shift Incident Commander Superintendent Ferguson said in an interview, "The first step in our mission statement is to protect the summit."

RCMP officers were stationed south of King Street in the Interdiction Zone around the perimeter fence and at the U.S. consulate on University Avenue. Bicycle officers were deployed to stay with the march; and public order officers were ordered to the University

and Spadina area to form a line all along Richmond Street to stop protesters from going any farther south. Police had bicycle and foot patrol officers all along the march route. In addition, there were 10 horses at University and Richmond, and 10 on Spadina Avenue.

Part of the police plan for the day included motorcycle officers to escort public order officers around because, in their heavy equipment, they couldn't easily move distances. However, most of the motorcycles were sent to escort motorcades of dignitaries from the G8 summit to Toronto because the weather in Huntsville had closed in, and the helicopters that were originally scheduled to take dignitaries from Huntsville to Toronto couldn't fly. During the day the weather cleared and helicopters were used, but by that time the motorcycles had already left Toronto.

On Friday night, Toronto Police Service (TPS) requested public order units from the G8 in Huntsville to come to Toronto to support officers on the ground. The York Regional Police (YRP) public order unit along with one team from Sudbury and three teams from the OPP public order unit left Huntsville for Toronto at 5 am.

By the time the march started, the day shift Incident Commander in the Major Incident Command Centre (MICC) had officially requested the long-range acoustic device (LRAD) and the water cannon. He advised his superiors that the LRAD would be used to warn protesters if they crossed south at Queen Street; that requests to use tear gas could be expected if the police line failed at Richmond; and that, if protesters reached the fence, the water cannon would be deployed.

According to police documents, officers made a number of “targeted” arrests of known anarchists and their supporters at various addresses in central Toronto in the morning hours. Police also arrested several people with gas masks and weapons including chains and a knife, in and around Union Station.

At noon, a Somali community demonstration originating at Bloor and St. George street marched south to Queen’s Park, where about 50 members of the group continued south to University Avenue and Armoury Street, where closed-circuit television (CCTV) cameras showed that they joined with approximately 100 people from the Coalition to Stop the War and the Canadian Peace Alliance groups.

Saturday, June 26, 12 noon–2 pm

At 12:30 pm, people began gathering on the grounds of Queen’s Park for the “People First” demonstration.

At 1 pm, police reported two people were arrested with incendiary devices outside a Royal Bank branch at University Avenue and Dundas Street.

At 1:15 pm, a CCTV camera at University Avenue and Armoury Street showed the group from University and Armoury marching north on University Avenue to Queen’s Park.

At 1:19 pm, Toronto Police Chief Blair visited the Major Incident Command Centre and met briefly with the day shift Incident Commander Superintendent Ferguson on the floor.

Police intelligence reports coming into the MICC reported 200 to 300 people wearing black clothes and red bandanas heading toward Queen’s Park, and about 50 people changing into black clothes near the statue at the front of Queen’s Park. There were also police reports of people in the crowd having weapons.

At about 1:30 pm, the march, an estimated 7,000 to 9,000 strong, set out from Queen’s Park south on University Avenue. A line of police officers with bicycles walked in front of the march, and bicycle officers rode along one side of the marchers. It was raining lightly.

CCTV cameras showed people dressed in black in the middle and at the back of the crowd. Their numbers grew. Some put on gas masks, others began pulling bandanas and balaclavas over their faces, and some took the signs off their sticks.

Public order units were deployed to the U.S. consulate to reinforce police there and, as a result, the march bottlenecked as it passed the consulate.

At 1:43 pm, the Incident Commander ordered the Outer Zone Commander not to use vehicles as blocks.

At 1:57 pm, the demonstration reached University and Queen and turned westbound on Queen Street. The march was strung out along the route and was followed by police on foot, two police cruisers (766, 3251) then a school bus and a CP24 TV van followed by two wheel transit vans, and finally, another two police cruisers (6903, 6904). The protest was still peaceful. POU officers were ordered not to confront people in black.

2 pm–3 pm

By 2 pm, the rear of the march had left Queen’s Park. By that time, groups of people dressed in black had started breaking off from the march – at Dundas Street and at Armoury Street – running down the side streets and south toward the police line at Richmond. Police said they spotted what they called “Black Block medics” at King Street and University Avenue.

Just after 2 pm, the TTC closed the subway between St. Patrick Station and Dundas Station. Shortly after that, GO Transit suspended train operations for the day and Union Station was closed at the request of police. Days earlier, VIA Rail announced that it had moved its Union Station operation to suburban locations to avoid the downtown core during the G20 weekend.

At 2:08 pm, a CCTV camera at Queen and Duncan streets showed black-hooded protesters sprinting alongside the march, heading west, pursued by what appeared to be media camera operators. Another group of about 100 black-dressed protesters had bunched up and surrounded themselves with banners near the end of the main march.

Police reported demonstrators confronting black-clad protesters.

At Simcoe and Richmond streets protesters stood toe to toe with officers in full riot gear. The chants and shouts and the sound of vuvuzelas grew louder.

At 2:28 pm, the CCTV camera at Queen and John streets showed the group dressed in black that was at the rear of the march moving through the intersection and turning south on John. These protesters breached the police line on Queen and were stopped by POU officers at Richmond Street. A CCTV camera at Richmond and John showed protesters in black engaging with police; hitting out at them with sticks from banners; and throwing objects, including water bottles, at them. Police could be seen taking sticks and poles from protesters and pushing them back. Some police officers could be seen hitting out at protesters with batons.

Meanwhile, also at 2:28 pm, the MICC was advised that the Canadian Prime Minister and the German President were inbound for the summit meetings at Metro Toronto Convention Centre – their helicopters landing in 10 minutes.

By 2:36 pm, the CCTV camera at Queen and John showed the black-hooded protesters and their followers moving away from the police line and rejoining the main march on Queen toward Spadina.

At 2:37 pm, Incident Command noted that while the front of the march moved north on Spadina, a number of people dressed in black stopped and waited on the corner of Queen Street and Spadina Avenue.

At 2:39 pm, at Queen and Spadina, public order units were confronted by protesters. About 100 black-dressed protesters, some holding sticks, engaged police; almost 1,000 other protesters stood behind them, chanting and shouting. Police officers put on their helmets to shield themselves from the pieces of wood, batteries, stones, vegetables, golf balls, and open and unopened bottles of urine that were being thrown at them. The horses in the mounted unit that had moved in behind police to back up their line were hit with golf balls.

By 2:40 pm, the black-hooded group at the rear of the march had moved through the Queen and Peter intersection.

At 2:56 pm, an OPP public order unit at Richmond and Spadina radioed the MICC to request assistance, saying it was being overwhelmed.

3 pm–4 pm

By 3 pm, the main body of the march, accompanied by bicycle officers, had turned north on Spadina and was on its way back to Queen's Park without incident. At this same time, the end of the march and police cruisers 3251 and 766 had just passed the CCTV camera at Queen and Peter streets.

At 3:03 pm, a CCTV camera at Queen and Peter showed smoke in the crowd somewhere between Peter and Spadina. Someone in the middle of the crowd had lit a flare or other incendiary device that gave off a lot of smoke. Police on the line put on gas masks and stood shoulder to shoulder with their shields and sticks out. Some protesters started putting on gas masks. The Incident Commander ordered all bicycle officers and “flat hats” (officers without riot helmets) out of the Queen and Spadina area. He made a request for more OPP public order unit reinforcements to come to Toronto from Huntsville.

The end of the march became stalled on Queen Street, just past Peter. The CCTV camera lost sight of the two forward cruisers, while the CP24 van, school bus, wheel transit vans, and last two police cars waited at Peter Street.

At Queen and Spadina, about 100 black-dressed protesters bunched up and sprinted back east on Queen. Other protesters split off from the main group to follow the route of these protesters. Officers were ordered to ensure all units were in gas masks and not to engage the crowd.

One of the demonstrators told the OIPRD:

We joined the main protest at Queen and University. Once the entire march got to Queen and Spadina, everything stopped. Things changed a little bit. Some people went north on Spadina and east on Queen. We went east on Queen and then things started to get kind of bizarre.

At 3:11 pm, the CCTV camera at Queen and Peter showed a group of people in black running back east, weaving through the crowd. As the group approached the vehicles at the end of the march, the uniformed police officers, who were walking at the end of the march, appeared to form a line in front of one of the two backup cruisers and the CP24 van, which then backed up and turned north on Beverley Street. The other vehicles stayed where they were, with officers standing next to them.

At 3:12 pm, some of the black-dressed protesters who were part of the group running east on Queen Street attacked cruiser 766, which was following at the end of the march. Sticks and rocks shattered the windows and lights. There was an officer trapped inside.

Staff Sergeant Graham Queen was the officer trapped in cruiser 766. He described his experience to OIPRD investigators:

The parade had stopped for about 10 minutes and then started to reverse their field. At that time I was outside my vehicle talking to [the officer driving cruiser 3251]. At that time I decide to go to my car, I was going to reverse the car

to give the parade a bit more room because they were starting to come toward the car. As I sat in the car, black bloc members exited the parade and attacked me in my vehicle. One gentleman jumped on top of the windshield of my car, smashed the windshield in. Other people came up beside the car and started smashing the windows of the vehicle, while I was inside the vehicle. I tried to start the car – I did start the car and tried to move away but I wasn't able to see out of any of my mirrors. The mirrors were broken or hanging down, so I turned the car back off. At that time somebody on my left side, he had smashed the window, and then he smashed the back of my head with a pole. I was fairly disoriented for a while there. Eventually I was removed from the vehicle.

Once I got out of the car, we were completely surrounded by a large group of people who were part of the parade. They were chanting, "whose streets, our streets" – that was the main chant they were chanting, they were throwing rocks at us, throwing bottles, urine, threatening to harm us and smash our cars. [The officer driving cruiser 3251] had removed himself from the area. I was in the car but he never made it to his car. A smaller group of officers surrounded my car to get me out then we made a small circle of officers around the two cars. It took about 20 minutes before the public order unit was able to come in and rescue us from that situation.

Mine was attacked first and damaged, [the other officer's] was left – it was perfectly intact. Originally we were going to get both those cars taken out. At the last minute the Inspector from York Region public order unit was told to leave the cars. I don't know why. That decision was made at a higher level than myself. Once we pulled back from the cars then the crowd just swarmed the cars, they kicked and smashed it. I lost some very important property in the car.

A call to assist police officers at 415 Queen St. W. was put over the police radio.

At 3:13 pm, CCTV footage showed police cruisers and unmarked vans arriving on Queen from Beverley Street. The vehicles stopped at that intersection, and the officers got out of the vehicles. They were joined by more police vehicles and bicycle officers who arrived from the east of Queen. In all, there were at least 10 police vehicles in the intersection. Likely, they were responding to the officer assist call.

At the same time, the front-leading group of about 50 protesters in black slowed when it had passed the end of the march and waited for others to catch up. Members of this group then linked arms and continued east.

At 3:15 pm, the protesters led by people in black turned north on Soho Street, but within minutes reversed their course and ran back to Queen; there they were met by more protesters, who had also left the main body of the march to follow them. The crowd surged east. The CP24 van resumed following the crowd.

At about the same time, bicycle officers arrived at 415 Queen St. W. and set up a perimeter around the cruiser. The crowd booed and yelled at the officers, and some threw objects. The bicycle officers attempted to move the crowd back, shouting at them to “back off.” Police moved forward using their bicycles to push the protesters back. At this point they made a request for assistance from the public order unit.

At 3:19 pm, as this crowd approached, the officers at Queen and Beverley got back into their vehicles and left, going north on Beverley.

The crowd continued east. CCTV cameras showed protesters throwing rocks, overturning mailboxes, breaking windows, and attempting to smash storefronts and ATMs as they ran down Queen Street.

At 3:29 pm, Operations in the MICC noted that Command Lead Deputy Chief Warr advised he didn’t want protesters on Yonge Street. Operations advised that public order units couldn’t get there in time; they would stay on the buses. To move public order units around, police had to use vans driven by police

officers and charter buses driven by civilians that continually got caught in traffic that was gridlocked because of the demonstration. Civilian drivers were not authorized to drive through red lights or break traffic rules, and the motorcycle officers who would close intersections to escort the buses through had left Toronto to escort motorcades from the G8.

The Special Operations Director said in an interview:

The intelligence all weekend was that they were going to come and destroy Yonge Street at some point in time, it wasn’t supposed to be until Saturday night at 6 pm. So, they decided to go to plan B early in the game, which meant they went southbound on Bay Street and started that activity.

At 3:33 pm, Operations in Incident Command reported all radio channels down except for POU. One of the challenges Incident Command reported facing that day involved the radios. Officers talked at the same time, which incapacitated the radio system. In addition, new radio equipment, which the officers had not used before, was issued for the event. These radios were designed with extension microphones that sat on the shoulder. The mics had an emergency button that, when pushed, sounded a tone and locked the operator into the radio system – but locked everybody else out. When officers hit the button at the same time they would lock each other out and, in the MICC, the tones could be heard but no one could communicate with the officers.

At 3:35, Operations reported radio channels were back up. Operations also reported the public order units were “all done!” and put a call out for any public order unit that was not engaged at an intersection and could be freed up. The CCTV camera at Queen and Bay showed the crowd turning south on Bay and people in black breaking the Starbucks window. By this time, public order officers were engaged with the crowd at almost every intersection on Queen between Spadina and University.

At 3:35 pm, the OPP public order unit was ordered to assist officers trapped at 415 Queen St. W. At Queen and Peter, York Regional Police POU sent in

its section along with Sudbury and two of the three OPP units to push the crowd back in an attempt to get the cruisers and the officers out. A YRP staff sergeant said in an interview:

Trying to push cars on the road with all those protesters would have taken a long time. We had already been fully hard tac'ed in gas masks for an hour and 20 minutes. People were starting to go down. We had a full-time tactical medic assigned to us making sure people were okay. We had to make a choice for the welfare of our folks or a couple of police cruisers. We brought out our officers; we dragged back one officer who had just rag-dolled. Another was dragged back and the medics were trying to get an IV in his arm and there's blood squirting all over the place. Shotguns and keys were removed from the vehicles, and the Toronto officers just melded in behind the protection of the POU and were escorted out.

At 3:36 pm, Operations in the MICC made a call for any public order units that were not engaged to go to Front Street to be deployed at King and Bay. MICC operations scribe notes also indicated: "destroying police car – King / Bay, officer in car."

At 3:36 pm, as the crowd moved south on Bay Street, CCTV cameras at the King and Bay intersection showed police cruiser 768 approaching the Bay and King intersection eastbound. The cruiser pulled into the westbound traffic lane and made a wide right turn, stopping traffic. The lights on top of the car did not appear to be on. The cruiser stopped for a few seconds in the intersection southbound on Bay Street, while two officers on foot removed traffic cones that were set up to block traffic south and let the cruiser through. Cruiser 768 departed southbound on Bay Street, made a U-turn, and parked facing north on the west side of Bay, south of King. This cruiser was followed closely by two police cruisers (TAV 59 and TAV 56) with lights flashing and an unmarked van; all pulled into the intersection eastbound at King and Bay and stopped diagonally northwest to southeast across the intersection. They were followed by two other cruisers (TAV 58 and 730) and another unmarked van that stopped on the

west side of the intersection in the westbound lane. As soon as the police vehicles stopped, all 12 officers immediately got out of their vehicles, leaving the flashing lights on.

At 3:37:12, two police motorcycles that had joined the front of the march at Bay and Richmond staying half a block ahead of the southbound crowd, crossed King Street moving between the stopped police vehicles to go south on Bay, then turned west on Wellington.

By 3:37:28, the officers who had got out of the cruisers had put on helmets and were walking to the south side of the intersection. They appeared unhurried. They did not open the trunks of the vehicles.

The officer from cruiser 768 (on Bay south of King) got out of the car and appeared (on CCTV) to issue directions to the other officers. As the officers moved away from the vehicles, half a dozen black-dressed protesters went south through the intersection, passing between the vehicles and officers.

At 3:38:14, the main crowd reached the intersection.

At 3:38:30, protesters dressed in black hammered on the windows of the empty cruiser in the middle of the intersection (TAV 56). Some protesters got up on the car and jumped up and down on the roof. Protesters dressed in black and in regular clothes surrounded both empty TAVIS (Toronto anti-violence intervention strategy) cars (TAV 56 and TAV 59), while people with cameras snapped photos of the action. Most of the crowd stopped on the north side of the intersection, while some went through south on Bay.

At 3:39 pm, the officer from cruiser 768, which was parked facing north on Bay Street south of King, got back in the car and reversed back to Wellington.

In an interview with the OIPRD, Command Lead Deputy Chief Warr had this to say about the police cruisers at King and Bay:

Regarding the TAVIS officers that came down and ended up getting caught: they were responding to a general call out for assistance. And when that happens, normally the closest officers respond. So I think they were doing their normal thing, and they were driving into a situation they had no idea what was going on. They weren't part of the G20 deployment. They were the Rapid Response team for other things. They hadn't been directed down there by the Incident Commander, they responded to that general call, because a general call for assisting goes out across the system.

At 3:39 pm, CCTV cameras showed that two more cruisers arrived at King and Bay from the east and stopped side by side. Four uniformed officers got out of these cars and attempted to push protesters away from the trapped cruisers with their batons. They were, perhaps, responding to the officer assist call. When objects were thrown at them, they retreated to their cars to get helmets. A third cruiser arrived on the scene from the east, and together the six officers attempted to approach the cars but retreated as a group of eight POU officers in full riot gear arrived on foot from the east. Another small group of POU officers arrived on foot from the south. Three more cruisers arrived from the east. The officers from these cruisers, along with the POU officers, formed a line on the east side of the intersection. People in the crowd threw objects at them, but the officers did not engage the crowd.

Protesters continued to attack the two TAVIS cars in the intersection, jumping on them and breaking the windows with sticks and other objects. Other protesters carried on marching south on King for another half a block before turning around and heading back north to the intersection of King and Bay. The CCTV camera did not show any police on Bay Street south of King to Wellington, where the Interdiction Zone and the perimeter fence were. RCMP officers were inside the perimeter of the fence.

At 3:40 pm, Operations ordered horse-mounted officers across Wellington from Windsor Street to Bay. Also at 3:40 pm, CCTV cameras showed that

four police cruisers and unmarked vehicles arrived on King Street from the west and pulled up behind the parked police cars.

At 3:41 pm, the Incident Commander ordered Outer Zone command to get all TAVIS officers out of King and Bay.

At 3:42 pm, CCTV cameras showed that more than a dozen officers got out of the cars that arrived from the west. Some directed traffic to turn around and leave the scene westbound. Other officers lined up in front of their cruisers and unmarked vehicles and watched the crowd in the intersection.

The crowd regrouped on the north side of King and Bay. There appeared to be indecision about where to go from there. At 3:43 pm, a group carrying red flags marched south again through the intersection.

At 3:44 pm, at Adelaide and Bay, CCTV cameras showed that several people changed from black to plain clothes, surrounded and protected by people dressed in bright pink.

Also at 3:44 pm, another CCTV camera showed a group of protesters, some in black and some not, starting to rock TAV 56 and trying to turn it over. At 3:45, someone started a fire inside the car. One protester pulled a yellow police vest and two police caps from inside the car. Within seconds, the car was ablaze. People milled around it taking photos.

At 3:46 pm, the line of POU officers slowly moved back toward the east and the six cruisers retreated a block to the east. Operations reported that all TAVIS officers were accounted for. An RCMP public order unit marched from the fence at Wellington and Bay half a block north. The protesters who had marched south of the intersection turned back north to join the large group that stood on the north side of the intersection. As they went back through the intersection, protesters attacked the other two marked police cars on the west side of the intersection, kicking them, breaking the windows, and looting things from inside the cars (TAV 58 and 730).

At 3:47 pm, CCTV cameras showed that mounted police units arrived on the scene from the west. CRU (bicycle) officers arrived at 3:48 pm.

At 3:49 pm, there were explosions from the burning car. The crowd began to run eastbound on King toward Yonge Street. Others in the crowd at King and Bay turned back north and then went east on Adelaide toward Yonge Street. As the police cruiser burned, at least eight small explosions went off inside it.

One protester told the OIPRD:

Once the march got to Bay Street, we started going down Bay Street and that's when you have all the burning police cars and everything. And, at that point, we were pretty freaked out but, at the same time, we didn't want to leave the crowd because we saw the amount of police that were around elsewhere and we didn't really know what was going to happen if we left the crowd because we heard rumours while we were in the crowd of, "Oh, be careful." Police have been really aggressive in the last couple days – strangely aggressive in the last couple days.

At 3:49 pm, Incident Command issued an assist officer call to Adelaide and Yonge. A CCTV camera at Adelaide and Bay showed officers running to the south side of Adelaide near Yonge to deal with an incident. The shadows did not allow a clear view.

At 3:51 pm, Incident Command ordered all non-POU officers out of the King and Yonge area, and ordered POU Lima Section to go up Yonge Street.

Public order officers backed up King Street ahead of protesters moving east. At 3:52 pm, a CCTV camera at Yonge and King showed the crowd turning north on Yonge led by about 100 people dressed in black.

Protesters stopped at the intersection of Yonge and Adelaide as two traffic police attempted to turn traffic back north on Yonge. More protesters coming east on Adelaide joined the group. When the light turned green, protesters moved through the intersection, vehicles made U-turns, and the traffic

police moved back through traffic, waving vehicles off the road. The officers moved to the west side of the street and out of CCTV range.

At 3:52 pm, police estimated there were about 1,000 protesters going north on Yonge. People in black were in the lead, running and smashing windows as they went.

At 3:55 pm, the Incident Commander ordered all officers off Yonge Street. A minute later he ordered dispatchers to put over the police radio band "all police constables [non-public order units] off Yonge Street."

4 pm–5 pm

At 4 pm, cruiser 730 at King and Bay broke out in flames. Incident Command ordered fire trucks out. Two minutes later, fire crews arrived on the scene. The fires were put out by 4:20, and by 5 pm all vehicles had been removed from the intersection. At King and Bay, two TAVIS police cruisers were burned (TAV 56 and 730), and two cruisers (TAV 58 and TAV 59), along with two unmarked police vans, were damaged.

At 4:01 pm, CCTV cameras showed a black balaclava-clad protester putting an "It's right to rebel" protest sign through the window of the Bank of Montreal at Yonge and Queen. Another protester smashed a BMO ATM with a stick.

As the protesters approached Yonge and Dundas, crowds of shoppers and onlookers rushed to get out of their way. Black-dressed protesters zigzagged through the crowd, armed with sticks, poles, hammers, rocks, construction and traffic signs, and street debris. A man in the crowd grabbed a black-dressed protester who was making a third attempt to break a store window with a rock. The man held on to the protester for a minute, saying something into his ear before letting him go.

At 4:02 pm, officers at 415 Queen St. W. were surrounded by a crowd of protesters.

At 4:05 pm, Command Lead Deputy Chief Warr advised that he wanted “the crowd shut down now.” Operations reported they were working on getting resources.

At 4:08 pm, the Incident Commander ordered anyone not directly involved in command to leave the MICC floor.

At 4:08 pm, Incident Command advised that [U.S. first lady] Mrs. [Michelle] Obama was on the move, incoming to Toronto.

At 4:09 pm, the front of the protest march reached the northeast side of Yonge and Dundas, where black-dressed protesters broke windows in the Adidas and Rogers stores. They continued north on Yonge, breaking windows in storefronts as they went.

At 4:09 pm, officers reported being under attack at 415 Queen St. W. and asked for assistance. The Incident Commander ordered the Outer Zone Deputy Director to get the officers out.

At 4:09 pm, Operations in the MICC reported radios down and that officers were under attack and calling for assistance.

At 4:12 pm, officers in the field reported that the officer who called for assistance was okay.

At 4:15 pm, another crowd of protesters began to form on Queen Street West. Most in this group were dressed in ordinary clothes.

At 4:15 pm, Incident Command ordered the mounted unit to go curb-to-curb northbound on Yonge from Colborne Street. The Outer Zone Deputy Director informed the Incident Commander that the Outer Zone Site Lead’s team was staged at Queen’s Park.

At 4:16 pm, protesters smashed the windows of a jewellery store at Yonge and Gerrard streets. By this time, some people in the crowd could be seen changing out of their black clothing. Some left the clothes lying on the street.

At 4:17 pm, Operations ordered public order units to stop the crowd at Yonge and College Street.

At 4:19 pm, CCTV cameras showed that a public order unit on foot, which had come from King and Bay via Adelaide, followed by a horse-mounted unit, marched up the middle of Yonge Street and stopped next to two coaches and two unmarked vans that had pulled over on Yonge at Richmond, facing north. Police in the intersection stopped traffic to allow 22 unmarked police vans, an EMS vehicle and two more police coaches to turn north on Yonge from Richmond West. The horse-mounted unit then proceeded north on Yonge, and the POU officers got into the coach and unmarked vans and left, turning west on Queen Street.

At 4:20 pm, the crowd on Queen moved east past John Street and turned south on Bay Street.

At 4:21 pm, Operations reported that protesters were going westbound on College, breaking windows at the Winners store at Yonge and College, and ordered Toronto Police Service headquarters at 40 College Street locked down.

At 4:22 pm, the officers at 415 Queen St. W. were extracted.

At 4:23 pm, Operations reported that protesters had broken glass at police headquarters and public order units were being deployed back to police headquarters.

At 4:29 pm, the mounted unit reached Gerrard and Yonge, turned west on Gerrard to Bay, and then north on Bay. The Incident Commander ordered the Special Operations Director to pull units off Richmond to set up and box in the crowd at Queen’s Park.

By 4:32 pm, the crowd that had come from Queen Street had grown to several hundred, but was stopped by police officers on bicycles at Bay and Richmond.

At 4:32 pm, the Incident Commander ordered that those in the Interdiction Zone be alerted that public order units were pulled from Richmond. The Outer Zone Deputy Director told the Incident Commander that the units would be redeployed to Avenue Road and Bloor Street, just north of Queen’s Park.

The crowd turned south on Bay at College, trapping a woman in a small white car. CCTV showed that people in masks assisted in helping her to back up and leave the area. It also showed the crowd milling around for a couple of minutes before turning back and heading west on College.

At 4:36 pm, the police cruiser (766) that was abandoned on Queen Street was set on fire.

At 4:37 pm, the TPS Intelligence Chief informed the Incident Commander that groups westbound on College from Elm Street were smashing storefronts.

At 4:38 pm, Intelligence reported 200 Black Bloc were westbound on College to University. Operations reported people at College and University were smashing a van and there was possibly a driver inside. [No one was inside.]

At 4:39 pm, the mounted unit reached the southeast corner of Bay and College. Mounted officers reported hearing the crowd yelling, “Get those officers off those horses.”

At 4:40 pm, CCTV cameras showed that POU officers turned north on Yonge from King West and marched up Yonge. At 4:40 pm, the TPS Intelligence Chief reported to the MICC that Black Bloc at Adelaide and Bay were removing black tops and replacing them with pink.

At 4:41 pm, the Incident Commander ordered bicycle officers to University and College.

At 4:42 pm, POU officers deployed a muzzle blast of tear gas at University Avenue and College Street. Police reported that Black Bloc were running north on University to Queen’s Park.

At 4:47 pm, the TPS Intelligence Chief reported that protesters were on top of the bus shelter southwest of Queen’s Park and that he had intelligence that protesters were going to try to torch the damaged van on College Street.

At 4:53 pm, the Outer Zone Deputy Director reported to the Incident Commander that there were huge crowds southbound on Bay and southbound on Yonge, that some Black Bloc were wearing police jackets, and that the RCMP was there.

TPS public order unit Charlie Section Commander indicated in his scribe notes at 4:56 pm that the crowd [at Queen’s Park] was escalating and getting louder: “We are giving loud verbal commands ‘Get back, move back.’ The crowd is actively resistant, male in line provoking with ‘No we will not move.’”

At 4:59 police video log estimated at least 2,000 protesters on King between Bay and York.

5 pm–6 pm

At 5 pm, another line of POU moved in to form a semicircle facing south behind the officers who were lined up across the north side of King and Bay. In all, there were approximately 100 officers in the intersection.

At 5 pm, the Incident Commander authorized TPS public order unit Alpha Section Commander to set up and use the LRAD to disperse the crowd at Queen’s Park.

At 5:04 pm, Operations ordered officers at Queen’s Park to “use a muzzle blast, only one, no gas.”

At 5:05 pm, the Operations Chief took over as Incident Commander in the MICC while Incident Commander Superintendent Ferguson was off the floor.

At 5:06 pm, TPS public order unit Charlie Section Commander noted: “Crowd now north of University Ave., we continue to punch out¹⁴. Crowd moves back and halts next to TTC subway entrance; rocks being thrown; plastic bottles being thrown at us.”

At 5:10 pm, officers at University and Adelaide issued an “assist officer” call.

¹⁴ A “punch out” is a public order unit tactic where officers on a line suddenly push or dart out two or three metres to make a barrier around an arrest team to protect them while they are making an arrest. A punch out is also sometimes used to move a crowd or a line of people back.

At 5:13 pm, the TPS Intelligence Chief advised the MICC that protesters at the front of Queen's Park were going northbound wearing gas masks.

At 5:15 pm, another group of protesters filtered in from the east on King to line up on the south side of Bay. Now the POU officers in the intersection had protesters on both sides of them.

At 5:17 pm, the police video log indicated that video footage from air support showed arrests being made at Queen's Park.

At 5:18 pm, Incident Commander Superintendent Ferguson returned and took over as Incident Commander.

At 5:22 pm, Intelligence reported to Incident Command that Black Bloc members at University and College were changing back into black clothing.

At 5:24 pm, night shift Incident Commander Superintendent Fenton inquired about the location of the LRAD.

At 5:25 pm, Superintendent Fenton took over as night shift Incident Commander, and day shift Incident Commander Superintendent Ferguson reported off-duty.

At 5:26 pm, Operations noted that public order units were moving to 155 College, west of University.

At 5:27 pm, Incident Command was notified that 1,000 officers were mobilizing from Huntsville to Toronto. Incident Command ordered all TPS officers out of the Interdiction Zone once they had been replaced by the RCMP.

At 5:30 pm, day shift Operations Chief confirmed that night relief officers were deployed to Queen's Park. These units and their Outer Zone North Site Lead joined the day shift officers and were conducting a sweep of Queen's Park with a public order unit section. The night shift Outer Zone South officers with their Site Lead coordinated with the day shift and deployed in a line: "Spadina / Richmond to Church / Spadina." [as indicated in scribe note]

At 5:31 pm, the RCMP telephoned Incident Command to confirm that the MICC wanted them to take over the Interdiction Zone. The night shift Incident Commander confirmed and asked to be contacted when they took over the Interdiction Zone.

At 5:32 pm, the night shift Incident Commander ordered the Outer Zone Branch Director to have bicycle units in the north of the Outer Zone to make their way south to University and College. The Incident Commander also ordered Special Operations Branch Director to move his resources to University and College.

At 5:39 pm, the day shift Operations Chief advised that three RCMP troops were being used as public order units – one inside the Interdiction Zone.

At 5:40 pm, the scribe for TPS public order unit Alpha Section Commander Inspector Meissner indicated in his notes that Inspector Meissner, who was in charge of the LRAD, was setting up to use it:

Laser range to crowd from north side of College at University on right side 11 yards, left side is 8 yards, north curb to grass ridge in centre is 16 yards. Inspector Meissner with LRAD at north curb near centre of line.

At 5:41 pm, the Incident Commander advised the Deputy Incident Commander of his plan to move the RCMP out of the Controlled Access Zone to take over the Interdiction Zone.

At 5:43 pm, Incident Commander Superintendent Fenton ordered the LRAD deployment to be broadcast on all channels and requested the Outer Zone Branch Director to advise officers of impending arrests.

At 5:45 pm, the day shift Operations Chief updated the night shift Operations Chief about the ongoing situation.

At 5:45 pm, TPS public order unit Charlie Section Commander indicated in his scribe notes, "Crowd starting to sit; we stand fast; continue to give loud verbal commands, 'Move or you will be arrested.'"

At 5:46 pm, the Incident Commander ordered the Special Operations Director to push his public order units north from the intersection of University Avenue and College Street to restore order.

At the same time, TPS public order unit Charlie Section Commander indicated in his scribe notes that his unit gave shouted warnings to the crowd to move or be arrested for obstructing police, and the crowd did not comply and actively resisted.

Also at the same time, TPS public order unit Alpha Section Commander indicated in his scribe notes that he “used the LRAD at the top of a mound when the crowd was pushed back. Two warnings, one in English and one in French (warn #3); crowd encroached.”

At 5:52 pm, a person with a gun was reported at Yonge and Isabella streets. Incident Commander Superintendent Fenton requested Emergency Task Force units to be sent to that location and ordered a “person with a gun” alert to be broadcast on all channels. According to the Incident Commander’s statement to the OIPRD, at a later time he was advised that they were found to be police officers.

At 5:56 pm, Incident Command asked the Special Operations Director if the protesters at Adelaide and Bay were blocked in; he confirmed that they were.

At 5:57 pm, the day shift Operations Chief was relieved by the night shift Operations Chief.

At 5:58 pm, TPS public order unit Charlie Section Commander indicated in his scribe notes that his unit started moving forward giving loud commands, “Move or you will be arrested.” Projectiles were being thrown from the crowd, including wood blocks, sticks, and plastic bottles. His scribe advised that he observed a projectile hit the Section Commander.

A protester who was interviewed by the OIPRD said, “It seemed as though the riot police had boxed us in and there was no way out. We did not hear anything that resembled an alarm or audible warning telling us to leave or else we would be arrested.”

6 pm–7 pm

At 6 pm, the Incident Commander ordered the Operations Chief to get more resources so that the crowd did not scatter from Queen’s Park. The Incident Commander also ordered all units to go to Bloor Street because the crowd was running northbound. He then ordered public order units to go to the prisoner wagons at Elizabeth Street and College because the investigations branch advised that crowds were coming at the prisoner wagons. He also instructed all units to hold their lines.

At 6:04 pm, the Special Operations Director advised the Incident Commander that arrests were starting to be made at Adelaide and Bay.

At 6:05 pm, Operations reported information from EMS that tear gas had been deployed at College and University.

At 6:06 pm, the police video log noted a police car was on fire.

At 6:07 pm, Operations advised the Incident Commander that only 30 officers were available and they were going to try to get Outer Zone leads to move resources.

At 6:09 pm, the Outer Zone Deputy Director advised Operations that fire had started at Queen and Spadina and one arrest was made.

At 6:11 pm, the Incident Commander ordered Operations to move regular police north of the crowd at Queen’s Park to block them in. The Incident Commander also asked about public order units at Queen and Peter and was informed they were heading to where the vehicle was on fire. At the same time, the Intelligence Chief notified Incident Command that shotgun shells went off at Queen and Spadina – possibly in the car fire.

At 6:11 pm, the Deputy Operations Chief advised that three RCMP troops would be coming out of the Interdiction Zone (to assist).

At 6:15 pm, the Incident Commander ordered the Deputy Incident Commander to hold back all day shift units.

At 6:17 pm, the day shift Operations Chief advised Incident Command that the RCMP had called, asking whether air assets were needed; Incident Command advised yes.

At 6:17 pm, Operations was advised that a police foot unit at 415 Queen St. W. was surrounded.

At 6:20 pm, Operations advised that the Toronto Fire Department was needed to attend the burning car at Queen and Peter, and that public order units were also needed.

At 6:22 pm, Operations advised Incident Command that there were no public order units on site at Queen's Park.

At 6:25 pm, the Outer Zone Branch Director advised that he wanted horses to create a wedge and push the crowd down.

At 6:25 pm, the TPS Crisis Management Information System crashed. Incident Commander Superintendent Fenton instructed staff to go to hard copy records.

At 6:26 pm, the Special Operations Director advised the Incident Commander that 15 arrests had been made in total and no use of force had been required.

At 6:26 pm, TPS public order unit Alpha Section Commander indicated in his scribe notes: "Group 4 [Alpha Section] to Richmond and Peter; on site moved it to Queen; pushed crowd back; some bottles thrown at police; LRAD used again to warn crowd; naked male arrested." In an interview with the OIPRD, TPS public order unit Alpha Section Commander Inspector Meissner had this to say about the use of the LRAD on Queen Street:

I understand why they wanted us to ask the MICC for permission to use it. But, I didn't ask for it on Queen Street, because I was told to arrest everybody and to my way of thinking as a site commander, I needed to assure myself and I needed to prove to everybody else that this was a compliant crowd. And, as a consequence, I stepped out of the line and did not ask for permission to use the LRAD, but used it to prove a point. And the point was that if you are

involved in an engagement where, in fact, the crowd can hear the message clearly and is willing to comply, then all they want is direction.

At 6:27 pm, the police communications log indicated arrests were being made at College and University.

In a statement to the OIPRD, the night shift Incident Commander stated:

At 18:27 hours, I was advised that there were no POU north of the POU line at University and College Street. I indicated that we need police assets at this location to ensure we do not scatter this crowd and end up chasing groups of marauding terrorists across the city.

At 6:29 pm, Operations ordered Outer Zone Site Leads to get resources deployed to box in the crowd.

At 6:30 pm, the OPP public order unit's operational timeline indicated that it was deployed to Queen's Park in hard tac to support TPS public order unit Lima Section. The OPP was to provide relief on the line (for TPS public order unit Charlie Section) and perform punch outs to allow arrest teams to effect arrests.

At 6:32 pm, the Deputy Chief of Operations informed the Incident Commander that the Unified Command Centre was deploying 100 officers and asked where they were wanted. The Incident Commander advised to deploy them to the Interdiction Zone so TPS resources could be deployed outside the Interdiction Zone. At this same time, the Investigative Chief inquired if the LRAD was needed at Queen and Peter. The Special Operations Director advised that the LRAD was not needed at Queen and Peter.

At 6:35 pm, the Deputy Incident Commander advised the Incident Commander that 300 OPP and 500 RCMP officers were available for deployment if required. The Incident Commander advised that all officers available would be deployed.

At 6:37 pm, the Special Operations Director notified Incident Command of mass arrests at University and Queen's Park, Queen and Peter, and King and

Yonge. Incident Command requested the Incident Command Investigative Head to advise the Toronto Police Chief of the arrests.

At 6:38 pm, Operations was advised that Outer Zone North Site Lead's officers were behind public order units at University and College and the POU commander on the ground had asked them to remain static. Mounted units, in troops of six, pushed the crowd 75 feet north at Queen's Park. The mounted unit scribe noted "horses made contact with the crowd."

The officer involved described what happened when they were instructed to perform a centre break manoeuvre:

We commenced the manoeuvre and I was in the front row. As the mounted line moved northward virtually all the protesters scattered. A lone woman did not move and continued to stand her ground despite the advancing horses. She was directly in my path and would have been able to both see and hear the advancing horses. I had officers and horses on both sides of me and behind me with nowhere to go but straight ahead. My horse struck her upper body as we continued to move forward. I am not aware what happened to her after that. As we performed the recall and returned to our original position I looked for her but could not see her on the road or in the crowd.

A YouTube video taken of this incident shows a woman standing with her knees bent and arms raised slightly in front of her. It appears she is deliberately standing in the path of the mounted officers and, as the horses approach, she appears to brace herself but does not move away. As the horses move past they make contact with her, causing her to fall to the ground. She can be seen on the ground as several horses move past her; however, the horses do not appear to step on her.

At 6:40 pm, Toronto Police Service POU Charlie Section Commander's scribe notes stated the command was to stand fast. They gave loud commands – "move or you will be arrested" – to a crowd he described as "curious, passive."

At 6:45 pm, the Incident Commander advised that he needed a south and a north boundary defined to assist with the deployment of officers. Deputy Operations Chief advised the Incident Commander of updates on Black Bloc members along the fence gates.

At 6:46 pm, Operations called Outer Zone South Site Lead to advise him to work with the OZ North Site Lead to go north and south to start boxing people in.

At 6:47 pm, York Regional Police POU was still on Queen Street, holding back the crowd while the Toronto Fire Department put out the fire. The crowd was pushed back several hundred metres and began to disperse.

At 6:49 pm, Operations reported Black Bloc at Front and Bay streets.

At 6:52 pm, the Incident Commander advised the Special Operations Director that units were needed at 16 Bancroft Ave. because Black Bloc were on site.

At 6:54 pm, the Deputy Operations Chief advised that resources were needed at Bay and Front streets. The Operations Chief advised that they were waiting for RCMP to deploy – there had been miscommunication.

At 6:55 pm, the Incident Commander instructed the Interdiction Zone Director to send officers to 16 Bancroft to assess and make arrests of Black Bloc found at that location.

At 6:56 pm, Operations noted that RCMP advised that TPS was not on site.

At 6:57 pm, Operations noted that RCMP had advised that the switchover was being arranged.

7 pm–8 pm

At 7:09 pm, the Investigative Chief advised the Incident Commander that “Black Bloc” were at the University of Toronto pub – “parties that were there last night are back.” The Incident Commander ordered the Investigative Chief to keep plain clothes officers inside and to advise if they start to move.

At 7:14 pm, the Special Operations Director informed the Incident Commander that all were blocked in at Queen and Peter.

At 7:14 pm, Incident Command was advised that 200 “Black Bloc” were seen at University and College.

At 7:20 pm, Incident Command reported “Black Bloc” at University and Wellington and that officers were on site to start making arrests.

At 7:25 pm, the Special Operations Director advised the Incident Commander he was moving his units out from the Queen and Peter area. The Incident Commander instructed him to move them to the north end of Queen’s Park.

At 7:30 pm, a member of the York Regional Police POU was treated for heat exhaustion at Queen and Soho.

At 7:33 pm, Operations advised the Incident Commander that members of the Black Bloc were engaging police at Blue Jays Way and Wellington.

At 7:35 pm, the Incident Commander instructed Operations to broadcast that they were arresting people for breach of the peace and all parties out there participating in protests were now in breach of the peace.

At 7:35 pm, mounted units moved the crowd from the south end of Queen’s Park to the north end, then east. Other mounted units went to the west side of Queen’s Park.

At 7:38 pm, Operations had broadcast to police officers that anyone in the demonstration at Queen’s Park was to be arrested for breach of the peace.

At 7:45 pm, the Interdiction Zone Operations Director informed the Incident Commander that 16 Bancroft Ave. was quiet and the officers who were there had left. The Incident Commander instructed him to get the officers back to that location to monitor Black Bloc at that location.

At 7:50 pm, York Regional Police POU was redeployed to Richmond and Spadina to support an Ontario Provincial Police POU section stationed there. York POU, in conjunction with Sudbury, Peel, and OPP units, gained control of the intersection and forced the crowd west of the intersection.

At about the same time, the second abandoned police car was set on fire.

At 7:50 pm, the Incident Commander instructed the Special Operations Director that arrests needed to be made at Queen and Peter.

At 7:59 pm, the Special Operations Director requested all police vehicles be moved off the street. The Incident Commander instructed Operations to broadcast an order to remove police vehicles in all areas experiencing disorder issues.

In a statement to the OIPRD, Incident Commander Superintendent Fenton stated:

At 19:59 hours, I was approached by Deputy Warr, Command Lead, who began to speak about his instructions given to restore order. I got the sense that he was concerned about potential police overreaction. I told him that if he sees me do anything that he is not comfortable with to simply tell me and that I would stop that activity. He nodded and said “OK.” I updated him on the ongoing activity on the street.

8 pm–9 pm

At 8:02 pm, the Investigative Chief advised Incident Command that there were 33 people now under arrest. Command Lead Deputy Chief Warr advised that he would inform Chief Blair.

At 8:08 pm, the Incident Commander ordered more prisoner wagons to be requested because the public order units were asking for them.

At 8:10 pm, the Incident Commander advised the Special Operations Director that there were “tons of people to be arrested.” The Incident Commander also received information that protesters were “masking up” at Queen’s Park.

At 8:12 pm, the Interdiction Zone Director advised the Incident Commander that the Prisoner Processing Centre (PPC) was in lockdown and, as a result, PPC staff were behind schedule.

At 8:16 pm, the Incident Commander advised Operations that wagons needed to be emptied and sent back to Queen’s Park. The POU tactical advisor indicated there were not enough wagons if they started making arrests at Queen’s Park.

At 8:16 pm, the Incident Commander advised that the wagons needed to be recycled and put back in use quickly; Operations would work on this.

At 8:22 pm, the Incident Commander ordered police vehicles at Bloor Street and Avenue Road moved.

At 8:29 pm, the Incident Commander reminded the RCMP liaison in the MICC of his request to have the RCMP take charge of the Interdiction Zone to free TPS officers for duty in the Outer Zone.

At 8:31 pm, the mounted unit scribe noted that, along with POUs, the mounted units moved the crowd westbound from Queen’s Park on Hoskin Avenue toward Spadina.

At 8:38 pm, Operations advised that a large crowd was eastbound at Bloor and Bedford Road.

At 8:40 pm, the Incident Commander met with Command Lead Deputy Chief Warr and Command Operations Lead Staff Superintendent McGuire regarding an update on what was happening. They passed on information that Yorkville businesses might become a target.

At 8:44 pm, Operations reported that Intelligence advised that Black Bloc was going to Yorkville and would use Church Street as a distraction sometime that night – the time was unknown.

At 8:45 pm, York POU was relieved at Queen and Spadina by the RCMP public order unit.

At 8:46 pm, the Incident Commander instructed Operations to arrange for additional police officers for the Yorkville area.

9 pm–10 pm

At 9:03 pm, the Public Information Officer advised that six officers were on the way to Yorkville to conduct door knocks to advise businesses that they might be possible targets.

At 9:06 pm, a CCTV camera at Yonge and Gerrard showed a crowd of about a thousand people passing through the intersection going south on Yonge Street.

At 9:07 pm, the Special Operations Director advised the Incident Commander that they were starting to box in protesters in the Queen Street area.

At 9:13 pm, the Incident Commander advised the RCMP liaison in the MICC that a thousand protesters were on their way down Yonge Street. A few minutes later, the Incident Commander advised the Interdiction Zone and Outer Zone leads of the protesters on Yonge Street.

At 9:16 pm, the Incident Commander asked the Special Operations Director if he had begun making arrests on Queen Street. He responded that they had just started arresting people. The Incident Commander advised that he wanted officers at King Street to stop the crowd. He also asked the Investigative Chief where the prisoner buses and wagons were, because he wanted them at King and Yonge. The Investigative Chief advised that the wagons were at the Prisoner Processing Centre, which at that time was three-quarters full.

At 9:16 pm, the Yonge Street crowd had reached Queen Street.

At 9:20 pm, Incident Command noted that information had been received about protesters starting to burn stores at Yonge and Shuter streets. The OIPRD viewed CCTV footage on Yonge Street, which showed no sign of fire trucks. At 9:26 pm, about 25 police officers arrived in vans, conducted a sweep of the sidewalk and left at 9:30 pm. The MICC did not receive confirmation of any fire at that location.

At 9:22 pm, Intelligence advised that information from Twitter said protesters were “taking Dundas Square and then to the fence – ‘Finale.’”

At 9:23 pm, CCTV cameras showed that the crowd reached Yonge and Temperance Street, where it turned west, then continued south on Bay to King, west on King, south between the bank buildings between Bay and York to arrive at Wellington Street at 9:32 pm. A large number of police lined the fence along Wellington. The crowd stayed among the buildings for a few minutes before moving out on to Wellington. When the crowd did move to the fence, police officers moved aside. CCTV cameras showed protesters milling about the fence, touching it, and taking photos. A few protesters who were dressed in black kicked or hit the fence.

At 9:24 pm, the Investigations Director inquired whether the LRAD had been used to send a message out. At 9:25 pm, the Investigations Director was advised that an order at Queen’s Park regarding unlawful assembly with the LRAD was given.

At 9:25 pm, the Incident Commander instructed Operations and Special Operations that he wanted bicycle officers and public order units to go to Yonge and Richmond.

At 9:39 pm, the Outer Zone Director advised the Incident Commander that all bicycle teams were en route to Yonge and King to form a line at that intersection.

At 9:39 pm, CCTV cameras showed that the protesters, who were blocked in on two sides by police in hard tac, retreated between the buildings and went back to King Street. They crossed the street and attempted to go between buildings at

First Canadian Place, while lines of riot police blocked the way east and west. Some members of the crowd sat down on the street, some shouted at the officers, and some moved to either side of the street.

At 9:40 pm, information from Intelligence to the MICC indicated there was the possibility of a protest at the PPC at midnight.

At 9:46 pm, the assistant duty officer advised the Incident Commander that they could box in the crowd in the financial area – York to King to Bay to Wellington to York. The Incident Commander approved.

At 9:50 pm, CCTV cameras showed that the line of officers on the west side of the protesters filed away to the south, and the protesters marched west on King to Yonge.

At Yonge Street, a line of bicycle police blocked the road north, so at 9:55 pm, protesters continued eastbound on King.

10 pm–11 pm

At 10 pm, the Special Operations Director requested bicycle officers to assist with tracking the crowd because there were no CCTV cameras in the area the protesters had moved into, and the Incident Commander had advised that he did not want to lose that group.

At 10:01 pm, Intelligence advised that the crowd was moving south on Scott Street toward Front.

At 10:06 pm, the Incident Commander received information from Intelligence that people were putting on masks on The Esplanade south of Front Street between Yonge and Bay.

At 10:09 pm, the Incident Commander advised the POU tactical adviser that more protesters might be approaching from the east. The Outer Zone Branch Director advised that bicycle officers were at King and Yonge, Church and Yonge, and on The Esplanade.

At 10:15 pm, the Incident Commander ordered bicycle officers at Wellington and Simcoe to The Esplanade to assist public order units with the box.

At 10:18 pm, the Incident Commander ordered the prisoner wagons be brought in closer to Church and The Esplanade.

At 10:26 pm, the Special Operations Director advised Incident Command that the protesters were boxed in on The Esplanade, and requested that prisoner wagons and buses move in.

At 10:30 pm, York POU relieved the RCMP on the east side of the intersection at Queen and Spadina.

At 10:50 pm, they worked with the OPP and Sudbury POU to move and disperse the crowd west along Queen Street for several blocks before being relieved by the OPP.

At 10:30 pm, Operations reported all was quiet in Yorkville and at Queen's Park.

At 10:38 pm, Operations advised that the prisoner wagons were in front of the Novotel hotel.

At 10:40 pm, Operations advised Investigations to arrest whoever is there.

At 10:47 pm, the Incident Commander inquired why protesters were not yet in the prisoner wagons. The duty officer advised that they were going through the hand-off teams.

At 10:50 pm, the Incident Commander instructed the Special Operations Director that as soon as the activity on The Esplanade was done, he wanted officers watching Church Street and Yorkville. The Incident Commander then instructed that no traffic was to go past Yonge and King – Yonge to remain closed – and that he wanted southbound Yonge from Adelaide Street blocked so no vehicle or pedestrian traffic could get through.

At 10:56 pm, the Incident Commander inquired from the RCMP liaison in the MICC if there was a time when the RCMP would assume control of the Interdiction Zone.

11 pm–12 midnight

At 11 pm, the RCMP liaison in the MICC advised that RCMP troops would be in at midnight.

At 11:03 pm, the Incident Commander ordered that it be broadcast that the traffic plan was being implemented. No vehicles were to be allowed in, and officers were to limit pedestrian traffic as best they could.

At 11:07 pm, the Incident Commander was advised by the Investigative Chief that there was a delay in processing the arrested people. The Incident Commander also instructed the Special Operations Director to have Forensic Identification Services photograph the property left by the arrested parties on the ground at the Novotel, and seize it.

At 11:16 pm, Operations reported 100 people were southbound on Church from Carlton Street. The Outer Zone Director notified the Incident Commander that three bicycle units were on the way to that location. The Outer Zone Site Lead was given authority to make arrest by Incident Command.

At 11:21 pm, Special Operations informed Incident Command that they received a call from Edmonton POU, informing them that Edmonton POU had employed seven eXact iMpact rounds at Queen's Park during the day, with no injuries.

At 11:25 pm, the Outer Zone Director advised Operations that the group was peacefully singing.

At 11:26 pm, Operations advised the Outer Zone Director to keep monitoring the crowd and noted that protesters were eastbound on Dundas Street.

At 11:31 pm, Incident Command was advised that the group had a sign that said "629 Eastern."

At 11:36 pm, Special Operations advised that they would stop the group at River Street. The Incident Commander instructed them to stop the group in front of buildings, not in a clear area, because he wanted the group arrested only if they were boxed in.

At 11:42 pm, Special Operations advised the Incident Commander that the Emergency Tactical Force was on site in the intersection at River and Queen streets.

At 11:45 pm, the Incident Commander advised that bicycle units were needed at the rear of the crowd.

At 11:46 pm, the Emergency Tactical Force advised Incident Command that the crowd had started to splinter. The Incident Commander ordered them to let the group get to the PPC.

At 11:54 pm, Operations ordered Outer Zone officers to coordinate with the public order units to box the protesters in and then arrest them.

Sunday, June 27, 2010

At 12:03 am, Outer Zone officers reported that 12 people were left at River and Queen streets and were boxed in; the remainder had scattered. The Incident Commander ordered them arrested.

In an interview with the OIPRD, a bicycle unit police constable who attended at River and Queen described what she saw and experienced:

At 11:23 pm, we were requested to attend the area of Dundas and Mutual Street. There was a large crowd of people in the middle of the street that was gathering. They had musical instruments, they had megaphones. When we arrived on scene, the crowd was in the middle of the street and there was no vehicular traffic able to get through and the TTC was stuck at a standstill. We were directed to follow behind the crowd and make sure that it was a peaceful protest, and we were told that they were already told to disperse. We were then directed that they were going to the PPC and that they wanted us to try and stop them from continuing at River Street and Dundas. They advised us that POU

was already situated at River and Dundas and that they wanted us to move ahead of the crowd and assist POU.

As I was trying to move ahead of the crowd on the north side of Dundas, there were several parked cars. I was telling them, "I need to pass, you need to move aside," and right away when I said that, their arms went up and they did the human chain and I was pushed, elbowed, right into a car and I remember falling, hitting the car and falling in between the seat and the bar, and I remember feeling a guy grab me. I wasn't sure that anybody was behind me in my team because I remember being one of the last people in our group at the back of the protest. So, when I was being pulled, I kind of got overwhelmed and scared because I was being pulled and there was a large crowd and all of the sudden, my partner came up behind me, grabbed me, helped me get recomposed on my bike. We were able to get past the crowd, and as we proceeded past them, they, all of the sudden, dispersed.

A majority of them ran southbound through Regent Park. We were being told that they were heading towards PPC and that they wanted us to stop them wherever we could for breach of the peace because they were already told to disperse and that they hadn't. We made our way to Queen where there was a POU unit already blocking River Street at Queen. I observed a group of people – I heard a megaphone, I heard singing, I heard chanting. There were about 20 people in this group, and when we came from the west they were already blocked off at River Street by the POU. The crowd stopped in the middle of the street and said, "Okay, we give up." And then they went and sat against the north building of Queen Street. At one minute after 12, [the] Inspector was on scene and we were directed to start arresting the group for breach of the peace.

At 12:19 am, Incident Command advised that officers were needed at Queen and Spadina.

At 12:21 am, Incident Command advised that there were still 50 people to be arrested at the Novotel on The Esplanade.

At 12:22 am, the Special Operations Director advised the Incident Commander that they were arresting people who were throwing bottles at officers at Queen and Spadina.

At 12:24 am, the Incident Commander ordered Special Operations to box in the crowd.

At 12:31 am, Investigations informed Incident Command that there were about 20 people in front of the PPC.

At 12:37 am, Operations ordered bicycle officers to Queen and Spadina to assist with arrests.

At 12:40 am, Operations advised public order units to push the crowd northbound from Queen.

At 12:46 am, Operations advised the Incident Commander that bicycle units were on site at Vanauley Walk (north of Queen, west of Spadina).

At 12:57 am, Operations ordered 10 officers from the Interdiction Zone to Church and The Esplanade to help wrap up arrests.

At 1:02 am, Incident Command received a phone call informing them that the Chief might be on the way.

At 1:03 am, Investigations asked for police officers at the PPC.

At 1:13 am, Operations advised that a public order unit and a tactical team were on the way to the PPC.

At 1:29 am, Special Operations advised that two more POU sections were on the way to the PPC. They would give warnings to the crowd, using the speaker on the Emergency Tactical Force vehicle.

At 1:35 am, the Deputy Incident Commander advised that one of the prisoners had possible broken ribs and he would check to see if the special investigations unit should be notified. The Deputy Incident Commander advised that there were seven possible "SIU-able" cases.

At 1:38 am, Incident Command noted that the Chief was on the floor.

At 1:40 am, Investigations advised that people were crawling out of the sewers at Queen Street and Jones Avenue. The Outer Zone Director advised that mobile officers were on the way to that location.

At 1:52 am, Incident Command advised that a POU officer was reading the proclamation at the PPC.

At 2 am, Special Operations advised that the crowd at the PPC was told to move and that they were voluntarily leaving. Those who did not leave would be arrested.

At 2:04 am, the Incident Commander was advised that the crowd at 629 Eastern Ave. was not moving. The Incident Commander advised to "start arresting."

At 2:06 am, the Incident Commander was notified by the Planning Chief that the RCMP was unsure if it had control. The RCMP notified the Incident Commander that control authorization had to come from the Toronto Area Command Centre (TACC). The RCMP confirmed that it would speak with TACC over the phone regarding the process of taking control, and the RCMP would advise the Incident Commander when the conflict was resolved.

At 2:14 am, the RCMP informed Incident Command that it was not accepting command of the Interdiction Zone. The Incident Commander ordered Operations to get the Interdiction Zone Site Commander back to the Interdiction Zone.

At 2:23 am, the Incident Commander received a phone call from the Interdiction Zone Director, who reported he was in charge of the Interdiction Zone.

At 2:29 am, Special Operations advised that parties were still being arrested at the PPC.

At 5:31 am, the RCMP informed Incident Command that it had command of the Interdiction Zone.

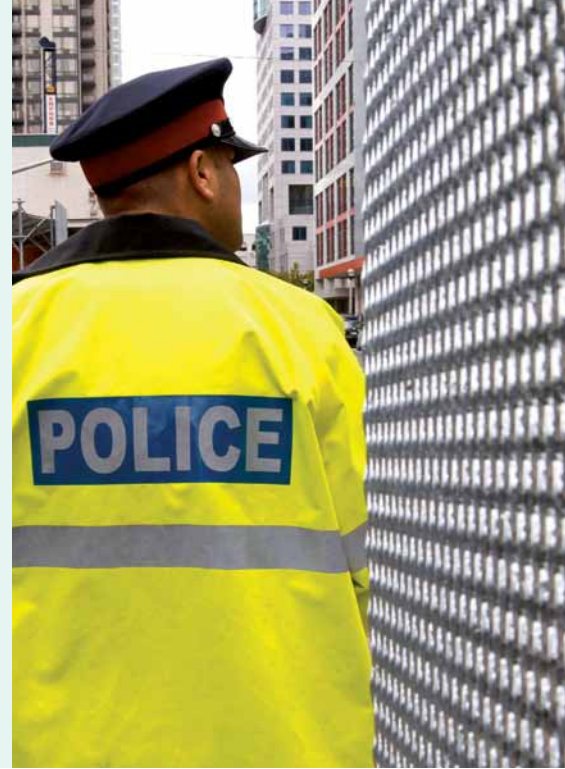
Chapter 4: Stop and Search

4

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Stop and Search



“This ain’t Canada right now”

In a video posted on YouTube that was viewed more than 100,000 times and subsequently covered by the media, a group of officers in downtown Toronto are shown searching people’s bags and explaining the “law” to them.

In the video, a woman’s voice from behind the camera points out that they are not within five metres of the fence. An officer asks one individual for his bag, saying he must allow his bag to be looked at or he may not proceed. That individual says he won’t consent to a search and would leave. The officer puts his arm around the man and says, “You don’t get a choice. Get moving.” The man objects and asks why he is being grabbed. The officer says, “The rule is either we look in the bag or you leave, get moving.” The officer and the man talk further: the man asks why he has to leave the area if he is going no further, and the officer responds that, if he wants to stay, he has to open his bag because it’s their area. A discussion follows among the man, the officer, and others off-camera about whose area it is. The officer approaches the man more closely, saying, “You haven’t opened up your bag so take off.” The man says, “In Canada, that’s something...,” whereupon he is cut off by the officer who responds, “This ain’t Canada right now.” A female officer adds, “You’re in G20-Land.”

Legal background

The Canadian Charter of Rights and Freedoms protects the individual interests of citizens against state power or interference. The sections of the Charter that are relevant to stopping and searching citizens include:

- Section 7 – Everyone has the right to life, liberty, and security of the person and the right not to be deprived of those rights except in accordance with the principles of fundamental justice.
- Section 8 – Everyone has the right to be secure against unreasonable search or seizure.
- Section 9 – Everyone has the right not to be arbitrarily detained or imprisoned.
- Section 10 – Everyone has the right on arrest or detention (a) to be informed promptly of the reasons thereof, and (b) to retain and instruct counsel without delay and to be informed of that right.



The Supreme Court of Canada has held that, “for a search to be reasonable, it must be (a) authorized by law; (b) the law itself must be reasonable; and (c) the manner in which the search was carried out must be reasonable.”¹⁵ For a search to be unconstitutional, it must be unreasonable and violate a person’s reasonable expectation of privacy. A reasonable expectation of privacy is determined on the basis of the totality of the circumstances.

Police powers

At the same time, police have a number of powers under which they can deny entry and stop and search civilians. These powers are outlined below.

The Criminal Code of Canada

The Criminal Code contains specific powers of arrest without a warrant for a peace officer if an individual is believed, on reasonable grounds, (a) to be contravening or about to contravene any summons, appearance notice, promise to appear, undertaking, or recognizance issued, or (b) to have committed an indictable offence.

¹⁵ *R. v. S.A.B.*, 2003 SCC 60.

The police can search you, your clothes, and anything you are carrying if they arrest you or if you give them “informed consent” to search you. The police can also search you if:

- They find you in a place where they are searching for drugs, and they have reason to believe that you have drugs.
- They find you in a vehicle where people are transporting or consuming alcohol illegally, and they have reason to believe that you have alcohol on you illegally.
- They have reason to believe that you have an illegal weapon or one that was used to commit an offence, and it might be removed or destroyed if they took the time to get a search warrant.

Common law and *Police Services Act*

In carrying out their duty to preserve the peace and prevent crime, the police have extensive common law powers. These powers include powers of investigative detention, warrantless entry, warrantless arrest, warrantless search, and search incident to detention and arrest.¹⁶

¹⁶ See Halsbury’s Laws of Canada, Criminal Procedure, for the legal standards that apply to these powers.

To ensure police conduct is lawful, if necessary a court will analyze the circumstances of specific police conduct to determine if a common law duty or power has been acted on. This assessment process is often referred to as based on the “ancillary powers doctrine” and is derived from the United Kingdom case *R. v. Waterfield*.¹⁷ It has been adopted by the Supreme Court of Canada¹⁸ and is cited frequently in Canadian jurisprudence. The ancillary powers doctrine is a test to assess whether the police conduct results from a lawful statutory or common law duty and, if so, whether the power used in fulfillment of the duty was justifiable.¹⁹ As the exercise of police powers can interfere with individual liberties, the conduct must be necessary and reasonable.²⁰ Each analysis is case-specific: the exercise of a power justified to fulfill one duty may not be justified to fulfill another.²¹

Search incident to detention

There are at least two ways in which search incident to investigative detention is different from and more limited than search incident to arrest (“incident to” means in relation to). Search incident to investigative detention is justified only on the basis of the safety of officers or the public; unlike search incident to arrest, trying to find evidence is not a permissible function of the search. More important, and a prior question to that of the purpose of the search, is the question of whether the search is permitted at all.

The power to search incident to arrest arises automatically with a valid arrest: that is what it means to say that the search is “incident to” the arrest, that no further justification beyond the arrest itself is needed. However, a search power following an investigative detention does not exist as a matter of course; rather, it exists only where the officer believes on reasonable grounds that his or her own safety, or the safety of others, is at risk.

In determining the boundaries of police powers, caution is required to ensure the proper balance between enabling the police to perform their duties and maintaining the accused’s liberty and privacy. Such a determination would consider the nature of the situation, including the seriousness of the offence, the information known to the police about the suspect or the crime, and the extent to which the detention was reasonable given the circumstances. Thus the seriousness of the risk to public or individual safety must be balanced against the right to liberty of members of the public to determine whether the police action is no more intrusive than a reasonable person would think necessary.

If a person is detained without legal grounds, that detention is arbitrary. In general, detention invokes the right to counsel and the right to be informed of the right to counsel.

Search incident to arrest

Ancillary to a valid and lawful arrest, police can, within limits, search the arrested person and the surrounding area accessible to him or her. The arrest must be lawful. The purpose of the search must be to protect the police, to protect the evidence, or to discover evidence. The search must be truly incidental to the arrest. It should not be automatic.

The police are required to bear in mind the permissible scope of the search and proceed only if there is a valid purpose for it. The common law power of search incident to arrest does not extend beyond protecting the arresting officer from armed or dangerous suspects, or preserving evidence that may otherwise be lost. The police must have, subjectively, some reason related to the arrest for conducting the search when it is carried out, and the reason must be objectively reasonable. A search incident to arrest must be carried out in a reasonable manner as well.

A search incident to a lawful arrest can occur immediately before, as well as after, the arrest itself, but can only extend to the “immediate surroundings” where the person was lawfully arrested.

17 *R. v. Waterfield*, [1963] 3 All ER 659, [1964] 1QB 164 (CCA).

18 *R. v. Dedman*, [1985] SCJ No. 45, [1985] 2 SCR 2 (SCC).

19 *R. v. Waterfield*, [1963] 3 All ER 659, [1964] 1 QB 164 (CCA).

20 *R. v. Dedman*, [1985] SCJ No. 45, [1985] 2 SCR 2 (SCC).

21 *Brown v. Durham (Regional Municipality) Police Force*, [1998] OJ No. 5274, 43 OR (3d) 223 (Ont. CA), leave to appeal granted, appeal discontinued [1999] SCCA No. 87 (SCC).

The case of *Simmons* (1988), 66 CR (3d) 297 (SCC), outlines three types of searches:

- A pat-down search or frisk of outer clothing
- A body search, which involves the removal of articles of clothing in order to examine the person's body, or parts of the body
- A body cavity search or probe, which may involve X-rays, emetics, or other highly intrusive measures or techniques requiring the assistance of medical doctors or specifically trained personnel.

The case of *Cloutier v. Langlois* (1990), 74 CR (3d) 316 (SCC), provides that the power to search is governed by three considerations:

- The power to search does not impose a duty. Police officers have some degree of discretion in conducting a search. Occasions may arise when the police do not see fit to conduct a search, while satisfying the law, and being conscious of public and officer safety.
- A search must be conducted for a valid objective in pursuit of the ends of criminal justice. The conduct of the search must not be unrelated to the objectives of the proper administration of justice. This would be the case if the search was conducted to intimidate, ridicule, or pressure the accused in order to obtain an admission.
- A search must not be conducted in an abusive manner. The use of physical and/or psychological constraint should be proportionate to the objectives sought and to the other circumstances of the case.

Foreign Missions and International Organizations Act

The RCMP had overall responsibility for the security of the G20 summit and was specifically responsible for the security and operations inside the Controlled Access and Restricted Access Zones. In addition to its duties to preserve the peace and prevent crime, the RCMP has duties under regulations that include protecting internationally protected persons

(IPPs). The *Foreign Missions and International Organizations Act* (FMIOA) provides the legislative basis for the RCMP's lead role in the security for intergovernmental conferences. The powers the RCMP has to carry out these duties are set out in section 10.2 of the FMIOA:

For the purpose of carrying out its responsibility under subsection (1), the Royal Canadian Mounted Police may take appropriate measures, including controlling, limiting or prohibiting access to any area to the extent and in a manner that is reasonable in the circumstances.

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Trespass to Property Act

Under section 2 of the *Trespass to Property Act*, every person who is not acting under a right or authority conferred by law and who,

- (a) without the express permission of the occupier, the proof of which rests on the defendant,
 - (i) enters on premises when entry is prohibited under this Act, or
 - (ii) engages in an activity on premises when the activity is prohibited under this Act; or
- (b) does not leave the premises immediately after he or she is directed to do so by the occupier of the premises or a person authorized by the occupier, is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.²²

In this Act,

"Occupier" includes, (a) a person who is in physical possession of premises, or (b) a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises, even if there is more than one occupier of the same premises; "premises" means lands and structures, or either of them.

²² *Trespass to Property Act*, RSO 1990, c. T.21, s. 2 (1).

Section 3 of this Act states that:

Entry on premises may be prohibited by notice to that effect and entry is prohibited without any notice on premises,

- (a) that is a garden, field or other land that is under cultivation, including a lawn, orchard, vineyard and premises on which trees have been planted and have not attained an average height of more than two metres and woodlots on land used primarily for agricultural purposes; or
- (b) that is enclosed in a manner that indicates the occupier's intention to keep persons off the premises or to keep animals on the premises [s. 3(1)].

Section 4 outlines limited permission and limited prohibition:

Where notice is given that one or more particular activities are permitted, all other activities and entry for the purpose are prohibited and any additional notice that entry is prohibited or a particular activity is prohibited on the same premises shall be construed to be for greater certainty only [s. 4(1)].

Where entry on premises is not prohibited under section 3 or by notice that one or more particular activities are permitted, and notice is given that a particular activity is prohibited, that activity and entry for the purpose is prohibited and all other activities and entry for the purpose are not prohibited [s. 4(2)].

A notice under this Act may be given orally or in writing.

A police officer "may arrest without warrant any person he or she believes on reasonable and probable grounds to be on the premises in contravention of section 2." [s. 9(1)]

Public Works Protection Act

The *Public Works Protection Act* (PWPA) gives statutory authority for police, peace officers, and appointed guards to exercise powers under the Act to protect public works.

A "public work" includes:

- (a) any railway, canal, highway, bridge, power works including all property used for the generation, transformation, transmission, distribution or supply of hydraulic or electrical power, gas works, water works, public utility or other work, owned, operated or carried on by the Government of Ontario or by any board or commission thereof, or by any municipal corporation, public utility commission or by private enterprises,
- (b) any provincial and any municipal public building, and
- (c) any other building, place or work designated a public work by the Lieutenant Governor in Council. ("ouvrage public") [RSO 1990, c. P.55, s. 1].

The PWPA gives police, peace officers, and appointed guards the power to require any person entering or attempting to enter any public work to provide identification and state their purpose for entry, to search them or their vehicle, and to refuse them entry to the designated area.

Peace officers can arrest anyone refusing to obey these requirements. They are not required to prove reasonable and probable grounds to believe an offence has been committed. Every person who neglects or refuses to comply with a request or direction made under this Act and every person found in a public work without lawful authority is guilty of an offence.

Public Works Protection Act – Ontario Regulation 233/10

A special regulation to the *Public Works Protection Act* that came into force on June 21 and was revoked on June 28, 2010, designated the G20 security

perimeter as a “public work.” Regulation 233/10 specified particular areas of the downtown core as public works areas, including:

- The area within five metres of the John Street Pumping Station and the bus parking lot of the Rogers Centre to Bremner Boulevard
- The area within five metres of 73 Navy Wharf Court to the curb of Blue Jays Way
- The below-grade driveway located between Union Station and Front Street West and Bay and York streets.

Timeline

Note: The stop and search incidents set out in this timeline are taken from complaints received by the Office of the Independent Police Review Director (OIPRD). They are but a fraction of the number of stops that actually took place on the streets of downtown Toronto during the G20 weekend and the days leading up to it.

May

Regulation 233/10 passed by the Ontario government extending the provisions of the *Public Works Protection Act* to the G20 security perimeter became a flashpoint for public controversy. The Act itself dates back to 1939 and was designed to protect public buildings and installations during the Second World War. The regulation was requested in a letter signed by Chief Blair of the Toronto Police Service (TPS) following discussions among lawyers for the City of Toronto and TPS lawyers. Chief Blair told the OIPRD that the letter was drafted for him and he sent it, although he believed that TPS had sufficient authority under existing laws to police the G20 perimeter.

The way it was explained to me, it was to bring clarity to the police officers at outer limits of their authority. It was, primarily, I think in response to concerns about potential civil liabilities. ...The letter had to go from the chief of police to the minister of community safety.

The regulation was not generally publicized and was published in e-Laws on June 16, 2010. It came into force on June 21, 2010. Officers were informed of the original Act during their training and, as discussed elsewhere in this Report, it, and the regulation, were not well understood. Initially, officers were told that the regulation applied five metres outside the perimeter fence. Later it was corrected to five metres inside the fence.

Stop and search began immediately. The public became aware of the new regulation when it was reported in the media on June 25.

June 21

At 12 noon, a stop and search occurred at College Street and University Avenue.

At 1:35 pm, a stop and search occurred at Allan Gardens.

At 2 pm, the Incident Commander’s scribe notes indicated that “key players” were converging in Allan Gardens. One police constable on the scene told the OIPRD that he and his team were deployed to the area by the botanical gardens [building], which had been “on lockdown” to prevent access to it. Intelligence had been received that one of the [protest] speakers had allegedly said that their intent was to take over and occupy a public or private building that day. The police officer’s assignment was to prevent the greenhouse building from being occupied. He reported that a group of approximately 60 to 70 protesters were gathering in anticipation of hearing the spokesperson. This police officer also added that he believed the authority to search bags came from several sources, including the *Public Works Protection Act*. He stated that he thought the park was a Public Works designated area.

At 7:30 pm, Incident Command requested the Operations Chief to advise Interdiction Zone / Outer Zone (IZ/OZ) that people would be allowed to set up tents at Queen’s Park North for the duration of the G20. This was approved by Command Lead, Deputy Chief Warr.

At 9:23 pm, the Intelligence Chief sought clarification from the Incident Commander about wording regarding the tent city; Incident Command advised they would NOT take down any tents that are put up, but were not encouraging people to put up tents.

At 11 pm, during a business cycle meeting, the Incident Commander noted that protesters have not been granted permission to set up tents. However, it was noted that TPS would not oppose people putting up tents at Allan Gardens and the park on the north side of Queen's Park.

June 24

On June 24, at 3:05 pm, a male was arrested at Union Station and Front Street and charged with "fail to identify - *Public Works Protection Act*."

At 3:52 pm, a male was arrested at Bremner Boulevard and York Street and charged with "ID, mischief inner perimeter / fail to identify."

At 5:45 pm, a stop and search occurred at Bathurst and Wolseley.

At 6:31 pm, the Deputy Incident Commander reported to the Incident Commander that an officer had located a barrel of hydrochloric acid and a ladder at Allan Gardens; CBRNE [chemical, biological, radiological, nuclear, explosives] unit was attending.

At 9:15 pm, a Public Information Officer advised the Incident Commander of a media line release regarding parties arrested under the *Public Works Protection Act*.

At 9:44 pm, the Deputy Incident Commander advised the Incident Commander that all was in order regarding the hazardous barrel at Allan Gardens. [Note: hydrochloric acid is used to clean masonry, concrete, and rocks and would be in common use at a botanical garden. OIPRD]

At 11 pm, a stop and search occurred at King Street West and Dufferin Street.

June 25

In an interview, Chief Blair told the OIPRD that his next recollection of being aware that the regulation had been passed was on the 25th, when it was in the newspaper:

I can't recall the precise headline, "Blair Demands Secret Law." My first question was, "What are they talking about?" I wasn't aware that it was a secret. Also, I don't recall that I had demanded anything. I googled it, and the first thing I got was the act itself, and the second thing I got was the regulation that the government had passed. And, that's when I found out that it had been published on e-Laws.

At 8:45 am, at a business cycle meeting, the Command Investigative Lead put an order out for communication to all officers that there would be no enforcement of the Act until legal direction was sought, and they would prepare an enforcement process by noon. A message coming from the Major Incident Command Centre (MICC) would be put out at noon. Officers could make arrests where appropriate to make arrests if they felt they were justified, but no charges would be laid in relation to the fence until it was cleared through the investigative leads. There had been two arrests at that point. At the end of the meeting, the decision was that [one gentleman] would be released unconditionally.

In an interview, Chief Blair said:

I asked in my office, what are the boundaries of this and where does it pertain to? And, I also looked at what are the authorities that are granted under the *Public Works Protection Act* so that I could answer the questions that the media would have. And, I was told, "It is five metres out." And, I hadn't seen anything, quite frankly, in the regulation that caused me to think that that wasn't true.

One of the officers deployed to Allan Gardens talked about the experience in an interview with the OIPRD:

We'd gained intelligence in regards to finding various weapons hidden in the park prior to demonstrations, so we were detailed to go there and be vigilant in searching. Information was something like bus-loads of Black Bloc members were attending. The information that we were given was to search for weapons and various objects that could cause injuries to the demonstrators and to the police – this all comes from all the prior training that we had and had been reinforced that morning to recognize those sorts of things. So, searching bags that came in, that's all part and parcel of the safety of everyone attending and the safety of the officers. We started off the day looking through the park and we had received information as the day unfolded, that officers were finding various things. We were constantly getting updates on the radio from other officers saying, "We've found weapons." So, as the day unfolded, we began to search people coming into the parks. We were told, "Search bags coming in, this is what's coming. Black Bloc is coming, we're expecting problems, be diligent. Search everyone."

At 9:55 am, a stop and search occurred at Pape and Eastern avenues.

In an interview Chief Blair said, "I went downstairs and began answering media's questions about it, "What are its boundaries?" And, I said, at the time, it's, essentially, the fence and five metres outside the fence. I had an absolute iron-clad honest belief that that's what it was. It's what I had been told it was and I went down and simply repeated as honestly as I could what I had been told." (10:30 am)

At 11 am, the Command Investigative Lead met with [the TPS counsel and day shift Investigative Chief] and they agreed to document the outlines and the utilization of the Act. The Investigative Commander on duty would make a decision if a charge was to be laid or not in relation to the fence – not an arrest, but a charge on an arrestee. It was to be based on a threat to the fence itself or something inside, not outside. Command Lead Deputy Chief Warr and the Chief approved.

At 11:59 am, Operations reported information was received that a "known Black Bloc member" was observed at Allan Gardens.

At 12 noon, a stop and search occurred at Allan Gardens.

At 12 noon, during a meeting, the Command Investigative Lead reported the following:

- PWPA had been explained to all officers at the "face to face" training [prior to the G20].
- Legislation was amended and is valid until June 28.
- Officers can arrest **if** there is a threat to the fence or IZ.
- **Must** be a perceived threat.
- If there is an arrest, the on-duty CIB Commander will decide if the charge goes ahead.
- This legislation does not apply to the PATH [pedestrian tunnel system].
- The addition to the existing PWPA is the Fence and the IZ.
- Information must be communicated to officers on the ground.

At 2 pm, Operations reported that they received information that 200-plus people were in Allan Gardens.

At 2 pm, a stop requesting identification (ID) occurred at Cherry Beach.

At 2:11 pm, Operations reported a male and female walking with stakes approaching Allan Gardens; police on scene; two minutes later the communications log noted that poles had been confiscated.

At 2:24 pm, Operations advised that four buses from Montreal were unloading about 200 people at Allan Gardens; crowd continues to grow.

At 2:30 pm, three stops and searches occurred at Allan Gardens; the *Trespass to Property Act* was cited in one.

At 2:31 pm, Operations noted that groups in Allan Gardens appeared to be scattering to the perimeter of the park. Groups that disembarked from the buses were going through backpacks and getting dressed in costumes and distributing items in white grocery bags.

At 2:50 pm, 18 police officers were observed blocking the entrance to Allan Gardens with bicycles, advising protesters they had to submit to bag search.

At 2:57 pm, a stop and search occurred at Allan Gardens.

At 3:18 pm, Operations reported that the Allan Gardens group was in the park and on the street with 30 Black Bloc in the middle of the crowd. Outer Zone Branch Director reported that there were 500 at Allan Gardens, the crowd was calm and that there were two foot police teams at the perimeter and 12 bicycle teams ready if the crowd started to move.

In an interview, the Command Investigative Lead said:

At 3:25 that afternoon, I met with [TPS counsel] who had got legal direction from [City of Toronto counsel] who, unbeknownst to me, was actually the one who negotiated the legislative amendment with the solicitor general, and the direction was that the PWPA, police authority, starts at the fence or the gate at the line. There is no five metre area outside the gate or the fence. So, essentially, the amendment was for fence itself.

At 3:40 pm, I instructed [day shift Investigative Chief] to release that update to all of the officers on the field ASAP. And, that was done. As far as I'm aware, there were no other arrests in relation to breach of those fences.

At 3:45 pm, Operations reported the groups at Allan Gardens were preparing to form a line on the road.

At 3:49 pm, Operations advised that a speaker from one of the protest groups was speaking from the back of a pickup truck at Allan Gardens.

At 4 pm, a person was stopped and questioned by police while taking photos of the detention centre on Eastern Avenue.

At 4:05 pm, Operations reported that about 1,000 people were beginning to walk westbound on Carlton from Allan Gardens.

An officer interviewed by the OIPRD about events at Allan Gardens said: "Later on that day, we were told that we were overwhelmed with people coming in the park and to no longer search people's bags. It came over the radio."

At 4:30 pm, a stop requesting ID occurred at Yonge and Front streets.

At 4:47 pm, Operations advised that a Black Bloc group within the crowd had surrounded themselves with banners.

This demonstration continued west on Carlton Street and College Street to University Avenue where it turned south to Elm Street, west to McCaul Street, and north to College Street, where it then turned east to return to Allan Gardens at about 7:15 pm.

At 5:41 pm, a stop and search occurred at University Avenue and Gerrard Street.

At 5:59 pm, the day shift Investigative Chief sent an email to the Incident Commander and Deputy Incident Commander containing the PWPA Scope of Authority that officers received in their training with amendments to indicate that the regulation as a public work did NOT extend outside the boundary of the fence. The Investigative Chief asked for an opinion on the text for distribution to officers.

At 6:25 pm, a person in a car was stopped and the car searched at Pape and Eastern Avenue.

At 8:59 pm, the Incident Commander requested that the revised PWPA document be distributed to officers.

At 9:02 pm, the revised document was emailed to all MICC sections for further distribution.

At 11:15 pm, a stop and search occurred at Bloor and Yonge streets; police told the individuals they were under “investigative detention.”

June 26

At 9:15 am, a stop and search occurred at Bloor Street and Avenue Road. Items confiscated included swim goggles, headphones, and a flag.

At 9:40 am, a car was stopped and searched at Allan Gardens. Items confiscated included a bullet-proof vest, gas masks, an axe, and a nail gun.

At 11:30 am, a stop and search occurred at King and John streets.

At 2:15 pm, a stop and search occurred at Church and Gerrard streets.

At 3:30 pm, a stop and search occurred at Spadina Avenue and Clarence Square, and another at Queen Street and Spadina.

At 4 pm, a stop and search occurred at University Avenue and Dundas Street. The individual was detained for 30 minutes.

At 5:15 pm, a stop and search occurred at 26 Wellington St. W. at York Street.

At 5:30 pm, a stop and search occurred at Wellington and Emily streets.

At 6 pm, a stop and search occurred at Wellington Street West and Bay Street; PWPA cited.

At 6:45 pm, a stop and search occurred at Blue Jays Way; PWPA cited.

At 7:30 pm, a stop and search occurred at TPS Headquarters; PWPA cited.

At 9:30 pm, a stop and search occurred at TPS Headquarters; PWPA cited. A stop and search also occurred at Bloor Street West and Devonshire Place.

At 9:40 pm, a stop and search occurred at Bedford Road and Bloor Street.

At 9:45 pm, a stop and search occurred at Bedford and Bloor.

At 9:50 pm, a stop and search occurred at Bloor Street West and Devonshire Place.

At 10:15 pm, a stop and search occurred at John and Front streets.

June 27

At 4:50 am, night shift Incident Commander Superintendent Fenton met with the Deputy Incident Commander, the day shift TPS Intelligence Lead, the day shift Special Operations Director, and day shift Incident Commander Superintendent Ferguson. Superintendent Ferguson asked Superintendent Fenton about direction from the chief. Superintendent Fenton answered, “Own the streets.” Superintendent Fenton went on to tell them that the streets were still dangerous and as soon as groups of people are seen, arrest them for breach of the peace.

At 6:46 am, Incident Commander Superintendent Ferguson’s scribe notes indicated that he was “meeting with Deputy.” [There were no notes of this meeting disclosed to the OIPRD.]

At 6:57 am, the Outer Zone North Site Lead’s scribe notes indicated that the MICC advised him to attend at headquarters regarding a meeting.

At a 7:10 am business cycle meeting, day shift Incident Commander Superintendent Ferguson noted that “Yesterday we were back-doored and spent a lot of time on catch-up; plan for today is not to chase them, but to spread out resources and grab them when you can get them.” Superintendent Ferguson detailed deployment for officer units and also pointed out that “anything that could be used as a weapon was to be removed; public order unit (POU) suggests when they mask up, there is reason to arrest; demo scheduled for 09:00 or 10:00 hours at Jimmie Simpson Park; affinity groups threatening to cause havoc across the city-suburbs; direction to

the north and south OZ Site Leads – keep on top of your guys; objectives: protection of the summit and keep our streets.”

At 7:36 am, Outer Zone North Site Lead's scribe notes indicated that he was on site at TPS headquarters to meet with all south and north command. The north and south OZ Site Leads advised of no more boundaries and redeployment for bikes, POU, mobile and foot officers. The notes indicated, “if any[one] encounters anyone carrying a backpack then investigate; anyone wearing disguise is arrestable re: impersonate; gas masks, balaclavas, bandanas; bottles – weapons dangerous; anything used yesterday as a weapon, seize and arrest (weapon).” [note: this notebook was scanned by police for OIPRD disclosure, the hour part of the time was partly cut off on all entries]

At 7:45 am, Operations scribe notes indicated that the north and south OZ Site Leads were briefed regarding the Operations plan for the day.

A community response unit (CRU) bicycle team lead, told the OIPRD in an interview that at about this time he was asked by his senior officer to go to TPS headquarters to be briefed by the north OZ Site Lead and his deputy, so the CRU bicycle team lead rode up and met them in the back on the street behind police headquarters at 40 College Street.

The CRU bicycle team lead said, “[The north OZ Site Lead] had informed me that he had been at the briefing with the MICC and his instructions were for me to go back to the Delta Chelsea [Hotel] to tell the rest of the bike teams and to brief my teams that people walking around the downtown core wearing balaclavas were to be investigated and arrested and the charges could be wearing a disguise with intent. Anybody who was walking around with a backpack on, officers were to use their discretion but to search the backpacks for weapons and anybody caught with weapons were to be charged with weapon related offences. I rode right back down and advised [senior CRU officers] what I had been briefed on and they asked me to brief the rest of the team, so I briefed everybody else.”

When the CRU bicycle team lead was asked who at the MICC advised the north OZ Site Lead, he said, “He just said the MICC. We didn't question the MICC. It wasn't an option for us to question the MICC.”

At 9:50 am, an individual was stopped, searched, and arrested at Yonge and Walton streets.

At 10:15 am, Operations reported a group of people were arrested by bicycle teams at Edward and Bay streets (Atrium) and property / evidence was seized.

At 10:40 am, a stop and search occurred at Allan Gardens.

At 11 am, a stop and search occurred at University Avenue and Queen's Park. A car was stopped and searched at a traffic light at College Street and Spadina Avenue, three arrested.

At 11:15 am, a stop and search occurred at Bloor and St. George streets.

At 12 pm, stops and searches occurred at College Street and University Avenue, Queen and Bay streets, Yonge and Queen streets, and Beverley and Dundas streets, where an individual was told to erase photographs.

At 12:27 pm, a stop and search occurred at Bloor and St. Thomas streets; the individual was arrested.

At 12:30 pm, two individuals were stopped, searched, and arrested at Bloor and St. Thomas streets.

At 12:40 pm, a stop and search occurred at 66 Wellington St. W. and Bay Street; PWPA cited.

At 12:55 pm, Operations reported arrests of Black Bloc (masks) in Yorkville.

At 1:02 pm, Operations reported that TAVIS “took down” a group of Black Bloc at Bloor and St. Thomas streets and seized backpacks.

At 1:18 pm, a stop and search occurred at Yonge and College streets, officer cited “special powers to stop anyone we think is going to commit a crime,” bandana confiscated.

At 1:30 pm, a stop and search occurred at Yonge and King streets and at Bay and Dundas bus terminal, where an individual was handcuffed but let go, camera memory card missing.

At 2 pm, a stop and search occurred at St. George and Harbord streets and at 151 Bloor St. W., where an individual was detained in police car.

At 2:04 pm, Operations reported that three people in a car from Quebec were arrested with Molotov cocktails.

At 2:15 pm, a stop and search occurred at Harbord and St. George streets.

At 2:30 pm, a stop and search occurred at Queen and McCaul streets.

At 2:50 pm, seven individuals were stopped, searched, and arrested at a restaurant at 429 Yonge St.

At 3 pm, stops and searches occurred at University Avenue and King Street, Queen and Noble and Dundas Street West and Elizabeth Street, Queen and McCaul streets, and Wellington Street West and York Street.

At 3:15 pm, a stop and request for ID occurred at Queen and Noble.

At 3:35 pm, a stop and search occurred at 1266 Queen St. W., Quebec bound bus, black clothing confiscated, one arrest.

At 4 pm, stops and searches occurred at Dundas and McCaul streets, Blue Jays Way and Front Street, Queen and Noble, and Lowther Avenue and Spadina Road, where individuals were detained for 30 minutes.

At 6:40 pm, a stop and search occurred at Spadina and Bloor Street.

At 7:32 pm, a stop and search occurred at Spadina Avenue and Queen Street.

At 7:30 pm, a stop and search occurred at Stephanie and John streets, where the individual reported a camera broken.

At 7:35 pm, a stop and search occurred at Dundas and McCaul streets.

June 29

Toronto Police Chief Blair held a news conference at which he displayed items confiscated during the G20. The items included gas masks, goggles, spray paint, saws, hatchets, bats, tire irons, pocket knives, a staple gun, a drill, a machete, a slingshot, golf balls, rope, and bandanas. Media later reported that several items displayed were unrelated to the demonstrations, including fake weapons used in a medieval-themed role-playing game, and a crossbow and chainsaw.

Chief Blair was asked by reporters if there actually was a five-metre rule in relation to the PWPA. According to media reports, "Chief Blair smiled and said, 'No, but I was trying to keep the criminals out.'"

Complaints

The OIPRD received complaints containing 76 allegations regarding arbitrary detention and unlawful searches that took place between June 21 and 28.

The vast majority of stops and searches were of young people carrying backpacks, most of whom said they were walking or cycling on city streets.

While members of the public reported that police mentioned the PWPA as grounds for searches in less than a dozen cases, a greater number reported that police alluded to special increased powers or said they were authorized to arrest people with telephone numbers on their arms or who were wearing particular items of clothing.

Allan Gardens was the main area where stops and searches occurred on the Friday. On Saturday most stops occurred in the area around the summit perimeter and in the Queen's Park area. On Sunday

STOP AND SEARCH TIMES

JUNE 21

1. noon
2. 1:35 pm

JUNE 24

1. 5:45 pm
2. 11 pm

JUNE 25

1. 9:55 am
2. noon
3. 2 pm
4. 2:30 pm
5. 2:30 pm
6. 2:30 pm
7. 2:50 pm
8. 2:57 pm
9. 4 pm
10. 4:30 pm
11. 5:41 pm
12. 6:25 pm
13. 11:15 pm

JUNE 26

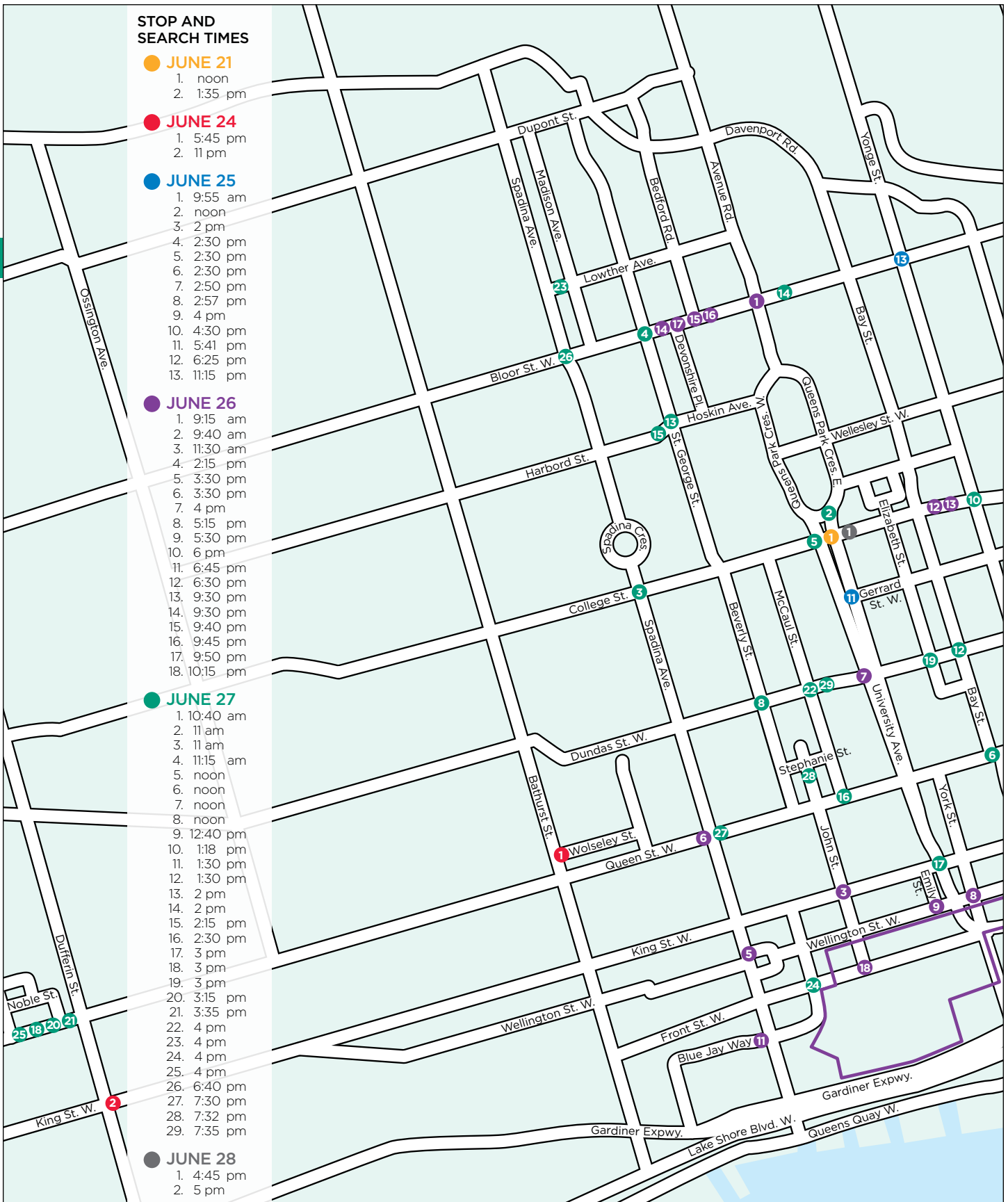
1. 9:15 am
2. 9:40 am
3. 11:30 am
4. 2:15 pm
5. 3:30 pm
6. 3:30 pm
7. 4 pm
8. 5:15 pm
9. 5:30 pm
10. 6 pm
11. 6:45 pm
12. 6:30 pm
13. 9:30 pm
14. 9:30 pm
15. 9:40 pm
16. 9:45 pm
17. 9:50 pm
18. 10:15 pm

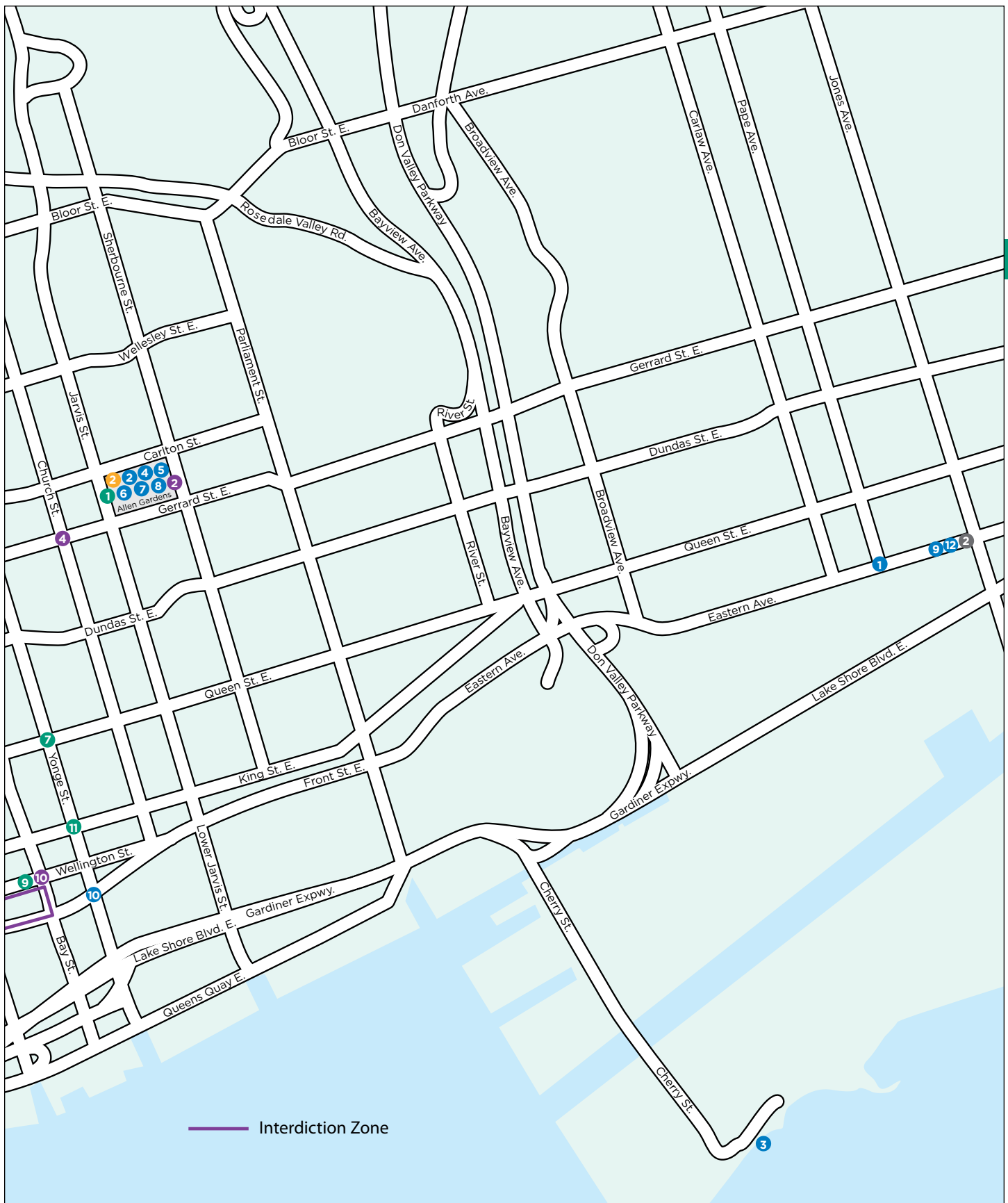
JUNE 27

1. 10:40 am
2. 11 am
3. 11 am
4. 11:15 am
5. noon
6. noon
7. noon
8. noon
9. 12:40 pm
10. 1:18 pm
11. 1:30 pm
12. 1:30 pm
13. 2 pm
14. 2 pm
15. 2:15 pm
16. 2:30 pm
17. 3 pm
18. 3 pm
19. 3 pm
20. 3:15 pm
21. 3:35 pm
22. 4 pm
23. 4 pm
24. 4 pm
25. 4 pm
26. 6:40 pm
27. 7:30 pm
28. 7:32 pm
29. 7:35 pm

JUNE 28

1. 4:45 pm
2. 5 pm





the stops and searches mostly occurred in an area of downtown bordered by Bloor Street on the north, Yonge Street on the east, the perimeter fence on the south, and Spadina Avenue on the west. There were also a number of searches at Queen and Noble streets.

Of those not arrested, 10 people made allegations that their property was damaged or confiscated. At least eight people claimed they were targeted for searches because they were French-speaking.

Issues and discussion

Police training on authority to stop and search

The Toronto Police College designed the G20 training curriculum for TPS G20 officers. Online and face-to-face training covered aspects of police powers and authority to stop and search. Online training was mandatory for members of all police services. The training was delivered through online presentations, videos, and interactive elements. It lasted approximately 2-1/2 hours. Officers were assessed through interactive exercises and an online test upon completion of each topic.

During the face-to-face training, one hour was dedicated to the examination of the articulation and the legal formation of reasonable grounds and the Charter. One hour was also dedicated to operational considerations, including prisoner management, access zones, memorandum books, and the PWPA.

The mandatory training for out-of-province services provided officers with instruction on Ontario statutes such as the: *Provincial Offences Act*, *Public Works Protection Act*, *Trespass to Property Act*, *Liquor Licence Act*, *Mental Health Act*, *Highway Traffic Act*, and the provincial Special Investigations Unit.

Analysis

The online training provided appeared to present an accurate analysis of the legal parameters of Criminal Code provisions, including riot and unlawful

assemblies. It also provided current Canadian jurisprudence related to investigative detentions and search and seizures.

The segment on investigative detention provided a high level overview of the legal parameters as well as a discussion of the limitations of police powers. It included a discussion of sections 7, 8, and 9 of the Charter and the lawfulness of investigative detentions. The training, however, did not provide practical examples or indicate how officers should apply the law in the general circumstances of the G20.

The training on search and seizure also accurately summarized the current status of the law. It highlighted the limitations on police powers. The training might have benefited from more examples of the appropriate scope of powers. There was no instruction on the practical application of these principles. This oversight may have caused uncertainty among officers on the streets during the G20. As a result, police may have used a wide degree of discretion in applying the law. With the exception of sections 7, 8, and 9, the online training did not discuss the Charter in depth. A more substantive discussion on Charter rights should have been required for G20 training.

The one-day, face-to-face training appears to have presented an accurate summary of the legal parameters surrounding police powers. The focus seems to have been on providing officers with the ability to justify police actions. Although a limited discussion of Charter rights was included, the training does not seem to have presented a balanced perspective of protesters or the important role of peaceful assembly in Canada. There was no training on how to facilitate peaceful protests. The focus was on suppressing the escalation of crowd activities and on controlling access. The presentation did not provide officers with sufficient training on public or citizen engagement. The training simply reminded officers to be polite, avoid arguments, and place safety of the public as a primary goal. Examples of ways to respond appropriately to the public were limited, and there did not appear to be a process which developed response skills or approaches.

The training on the PWPA was also limited. The training outlined the main concepts of the Act, but failed to explain how and when it should be applied at the G20. The training notes stated that the legislation was enacted to create an authority to control access to *designated places*. However, the training screenshots did not explain the proper application of the PWPA. As a result, it is possible that police may have taken a broad application of the PWPA. Since the training occurred before Regulation 233/10 was made public, it did not refer to the regulation or its parameters. Given that the PWPA regulation was not covered in the online or face-to-face training for officers, it would have been prudent for TPS to arrange a mandatory training segment once the regulation was filed. In this way any confusion about the application and use of the PWPA and the regulation might have been avoided.

The training on the duties of a guard in protecting public works instructed officers that legally it was an offence for them NOT to protect public works, and indicated that the situation was the same as in a riot after the proclamation was read. The trainers said, “Simply put, you have to act or you will be breaking the law.” This instruction may have motivated police officers to take broader action than they would otherwise have taken.

Overall, the training provided regarding police powers to stop and search people and the rights of citizens when they are stopped by police was insufficient. The relevant online training module was about two and a half hours, of which perhaps half was devoted to search and detention protocols.

The face-to-face training was primarily intended to instruct officers on the use of gas masks, defensive tactics, and crowd management techniques. One hour was given to legal aspects of reasonable grounds and Charter rights.

At most, police officers received a total of three hours of instruction on applicable laws, police powers, and citizens’ Charter rights in relation to stops and searches.

Officer interpretation of powers to stop and search

Police apparently relied on a number of different laws as authority to stop and search people during the G20. These laws included the *Foreign Missions and International Organizations Act*, the Criminal Code of Canada, the *Trespass to Property Act*, the *Public Works Protection Act*, as well as common law.

Analysis

Foreign Missions and International Organizations Act

Toronto Police Service and all other municipal police forces had no authority under the *Foreign Missions and International Organizations Act* to stop and search people. Only RCMP officers had authority under this Act. No non-RCMP officers used the FMIO as authority to stop and search people. The OIPRD does not have information regarding incidents of RCMP officers searching people under this Act.

Criminal Code of Canada

The Criminal Code of Canada allows officers to search people if they have arrested them. Section 117.02 (1) of the Code also allows search and seizure without a warrant:

- Where a peace officer believes on reasonable grounds
- (a) that a weapon, an imitation firearm, a prohibited device, any ammunition, any prohibited ammunition or an explosive substance was used in the commission of an offence, or
 - (b) that an offence is being committed, or has been committed, under any provision of this Act that involves, or the subject-matter of which is, a firearm, an imitation firearm, a cross-bow, a prohibited weapon, a restricted weapon, a prohibited device, ammunition, prohibited ammunition or an explosive substance,

And evidence of the offence is likely to be found on a person, in a vehicle or in any place or premises other than a dwelling-house, the peace officer may, where the conditions for obtaining a warrant exist but, by reason of exigent circumstances, it would not be practicable to obtain a warrant, search, without warrant, the person, vehicle, place or premises, and seize any thing by means of or in relation to which that peace officer believes on reasonable grounds the offence is being committed or has been committed.

The circumstances of most of the stops and searches did not meet the Criminal Code's criteria of a warrantless search. Police could not have reasonably believed that most of the people who were stopped were about to commit an indictable offence, nor were most of them under arrest. Illegal weapons as defined by the Criminal Code of Canada do not normally include bandanas, black clothing, goggles, and water bottles.

Trespass to Property Act

Police officers used the authority of the *Trespass to Property Act* to search people's bags as they entered Allan Gardens on Friday, June 25th. The *Trespass to Property Act* creates the offence of trespass for those who, without the express permission of the occupier, enter on private or public property or engage in an activity on the premises when it is prohibited under this Act [RSO 1990, c. T.21, s. 2 (1)].

A police officer may arrest with warrant any person he or she believes on reasonable and probable grounds to be on the premises in contravention of section 2 of the Act [s. 9 (1)].

Although city parks are open to the public, a number of prohibited activities could result in a person being asked to leave the park, fined, or arrested. Some of these activities include:

- Indulging in riotous, boisterous, violent, threatening, or illegal conduct or using profane or abusive language

- Creating a nuisance or interfering with the use and enjoyment of the park by other persons
- Unless authorized by permit, holding a picnic, organized gathering, or special event for more than 25 persons.²³

Provincial offences officers are authorized to inform a person of the provisions of this by-law and to request compliance with it. If their duties include enforcement of this by-law, they are authorized to order a person believed to be in contravention of these provisions to stop the activity and/or leave the park. Where a person contravenes these provisions, or fails to comply with any order, the permission and licence of the person to remain in that park is revoked.²⁴

However, there is case law that suggests denying an individual entry to city property may violate their Charter rights.

In *R. v. Semple*, the defendants were charged under the provisions of Ontario's *Trespass to Property Act* for entering the grounds of Toronto City Hall, from which they had been banned. At the time they were attending a memorial for a homeless man, which segued into a demonstration in support of the homeless. The issue was simply whether the City of Toronto's prerogative as a property owner was outweighed by constitutional protections contained in the Charter. Justice Knazan found peaceful entry into the square to be a form of expression and that the effect of the City of Toronto's notice under the *Trespass to Property Act* was to violate the defendants' Charter rights. In the circumstances, the ban could not be justified under the terms of section 1 of the Charter.

Toronto Police Service officers told the OIPRD that they have authority to enforce the *Trespass to Property Act* in parks owned by the City of Toronto. They said that CRU (bicycle) officers often police city parks and would be aware of this law and their authority to enforce it. They cited letters on file with the police service that give them that authority.

²³ Toronto City Parks Bylaws 608-3 and 608-11.

²⁴ Toronto City Parks Bylaw 608-53.

A number of officers, who had been deployed to Allan Gardens on June 25, told the OIPRD they had been given specific orders to search bags and it was their understanding that entry to the park was prohibited to people who refused to allow their bags to be searched. At least one officer acknowledged that, in his experience, the G20 had been the only occasion on which they were instructed to search people in parks like that.

There was likely no valid reason to prohibit entry to Allan Gardens and no valid prohibited activity at the park under the *Trespass to Property Act*. In addition, using this Act to justify searching or removing people from a public place may raise Charter issues.

Officers said that the orders to search backpacks at Allan Gardens on June 25 were given at the beginning of their shift when they were briefed and paraded by their senior officers. They believed that the orders had come from the MICC. Later in the day, before the demonstration march left Allan Gardens, officers reported that they received directions from MICC over their radios to stop searching bags.

The OIPRD could not find direct orders to search backpacks at Allan Gardens in any disclosed Incident Command scribe notes or minutes of meetings. MICC scribe notes contained no direct order to cease searching bags, but it is possible that, if an order actually went out between 3:30 pm and 4 pm regarding the PWPA authority being limited to the fence and authorization for arrests having to come from the Investigations unit, officers may have taken that as an order to stop searching people.

It is also possible that orders to search and to cease searching people at Allan Gardens could have originated from someone in the MICC without their being recorded in scribe notes. There may have been intelligence reports that spurred such an order from the Intelligence Unit or from the Unified Command Centre in Barrie. The OIPRD did not receive disclosure of intelligence notes, bulletins, or orders.

Public Works Protection Act

The *Public Works Protection Act* covers three main areas:

Public works

The PWPA designates as a “public work” a list of transportation and energy infrastructure, public utilities, and other “works” whether publicly or privately owned. Provincial and municipal buildings are also designated as “public works.” The PWPA also allows for “any other building, place or work” to be designated by regulation.

Peace officers and their powers

The PWPA provides for the appointment, by anyone having charge over a public work, of “guards” with the powers of a peace officer, including powers to require people entering or approaching a public work to identify themselves and to state the purpose for which they wish entry. In addition, the guard or peace officer may search, without warrant, any person or vehicle entering or attempting to enter a public work. The guard or peace officer can refuse to permit a person to enter a public work and can use as much force as necessary to prevent entry.

Enforcement

A guard or peace officer has the power to arrest, without warrant, any person who refuses to comply with a request or direction of a guard or peace officer and who enters or attempts to enter a public work without lawful authority. A person found guilty of an offence under the Act is liable to a fine of not more than \$500 and/or imprisonment of not more than two months.

The PWPA has been and still is used to provide the legislative authority for conducting searches at provincial courthouses. It is also used to secure power-generating stations. According to Toronto police, TPS headquarters is a municipal building that falls under the purview of the PWPA. In this case, officers deployed outside TPS headquarters probably acted within their authority in stopping and searching people approaching that building.

Two months before the G20, the province attempted to obtain support for its security measures through an agreement under the federal *Foreign Missions and International Organizations Act*, which would allow for an arrangement between the federal and provincial governments for additional police powers. However, the federal government did not agree that this arrangement was needed and, in its view, police officers' existing powers and authorities were sufficient for the G8 and G20 summits.²⁵

The impetus for requesting that a regulation be added to the existing PWPA came during the planning stage from lawyers for the City of Toronto who worked with the TPS legal team on options for authority to control access to the Interdiction Zone. A lawyer for the city sought legal opinions and held discussions with lawyers for the province, and eventually a letter of request was drafted. Chief Blair said he was of the opinion that the common law authorities were adequate, but the indication from the legal team was that they had discussed this earlier and were strongly of the opinion that this was necessary. Ironically, at the time Chief Blair remembers saying, "It's not necessary, but it can't hurt."

On June 2, cabinet's Legislation and Regulations Committee passed O. Regulation 233/10, which would be in effect from June 21 to 27, 2010. The regulation was signed by the Lieutenant Governor on June 3 and published on e-Laws on June 16.

Regulations to laws are often made in committees and passed without announcement. Regulations are routinely passed in this manner every year. It would not be correct to say the regulation to the PWPA was passed in secret – that would imply there was wilfulness on the part of the government to keep the regulation secret. The Independent Police Review Director does not believe this was the case.

The area designated by Ontario Regulation 233/10 of the PWPA did not extend outside the boundary of the G20 security fence. Therefore, police authority and relevant PWPA powers to stop and search also did not extend outside the boundaries of the designated area. Because the PWPA restricts entry or attempted entry to a public work or any approach to it, it was perhaps practical and appropriate for officers located just outside gates to the fence to invoke their PWPA power.

On the afternoon of June 24, two people were arrested under the *Public Works Protection Act*. One arrest occurred at Union Station and Front Street, the other at Bremner Boulevard and York Street. Both these locations were more than five metres from the G20 perimeter fence.

Later that evening Incident Command was advised of a media release regarding parties arrested under the PWPA.

Chief Blair said he was unaware that the regulation had been passed until he read reports in the media on the morning of the 25th about arrests made the previous day in which the PWPA was cited. Apparently he did not receive or read the letter from the Minister of Community Safety and Correctional Services advising him the regulation had been passed. The Chief then sought advice from his staff about the boundaries of the public work designation and was told it was five metres outside the fence. Later that morning, Chief Blair spoke to the media about the regulation and told them the designation extended five metres out from the fence.

At a 12 noon meeting of command unit leaders, the Incident Command Investigative Lead confirmed that the addition to the existing PWPA was the fence and the Interdiction Zone. He said that officers on the ground should be informed that officers could make an arrest if there was a threat to the fence or IZ. However, if there was an arrest, the Investigative Chief would decide if the charge would go ahead.

At about 3:30 that afternoon, legal direction was received that the boundary for PWPA authority was the fence itself – there was no five-metre rule.

²⁵ R.R. McMurtry, *Report of the Review of the Public Works Protection Act* (Toronto: Ministry of Community Safety and Correctional Services, 2011), online Ministry of Community Safety and Correctional Services <<http://www.mcscs.jus.gov.on.ca/stellent/groups/public/@mcscs/@www/@com/documents/webasset/ec088595.pdf>>

The Incident Command Investigative Lead immediately instructed the Investigative Chief to update all officers in the field as soon as possible.

Two-and-a-half hours later, the Investigative Chief sent an email to the Incident Commander asking for an opinion on the text of the PWPA scope of authority with the amendment indicating that the regulation did not extend outside the fence. Three hours after that, the Incident Commander requested that the revised PWPA document be distributed to officers. It was emailed to all MICC sections for further distribution moments later.

Although there appear to be only two arrests made under the PWPA, officers cited it as authority to stop and search people throughout the weekend. It is possible that many officers may not have received the notification indicating there was no five-metre rule, and continued to use the regulation as authority to search people.

Also, considering the broad range of facilities and buildings to which the PWPA applies, there exists the possibility that almost any site could be considered a public work for the purposes of the Act. Certainly, some of the officers interviewed by the OIPRD were not entirely clear about what constituted a “public work.” Some said it included “a public building”; some compared their authority to “walking into court or the Air Canada Centre – you have to show your bag.”

Neither the Incident Command public information unit nor the Chief of Police made any announcement to the public or the media that the interpretation of the PWPA regulation was not correct, nor did they inform the public about the correct boundaries.

The manner in which the existence of a *Public Works Protection Act* and its application during the G20 came to light, and the way in which the police handled communications around it, was a public relations disaster. The media learned about the PWPA and its new regulation as a result of arrests made after the regulation had come into force. The public had not been told of this regulation that would

affect them during the G20 weekend. It certainly appeared as though the regulation had been passed in secret – and that’s what the media reported.

According to the Minister of Community Safety and Correctional Services (MCSCS), it was up to police to announce the provision of the new regulation.

If Chief Blair himself didn’t learn the regulation had been passed until he read it in the news on the 25th, then someone in his office neglected to bring to his attention the letter from MCSCS advising him of its passage. Chief Blair’s defence of the new regulation was weak. When it turned out he had been given incorrect information about the boundaries, he chose not to make any public correction. It wasn’t until the G20 was over that he said anything about it.

In a news conference, the Chief displayed to the media items that had been confiscated during searches. Some of the items – axes, bats, and the nail gun – may have justified some searches. Other items – bandanas and swim goggles – did not.

That police placed more emphasis on seeking out Black Bloc than respecting the rights of citizen is clear in the Chief’s answer to the media when asked if there actually was a five-metre rule: “No, but I wanted to keep the criminals out.”

Common law and duties under the *Police Services Act*

Under common law, police duties include preserving the peace and preventing crime, and police officers have extensive common law powers to carry out these duties.

The Stop

The police can approach you and ask you questions, but they must let you go unless they arrest you or have grounds to detain you. The police have the right to detain you if they are investigating a crime and they have a “reasonable suspicion” that you are connected to the crime. They also have the right to detain you at a “roadblock.”

A determination of “detainment” is set out in the Supreme Court of Canada case *R. v. Grant*, 66 CR (6th) 1: Detention under sections 9 and 10 of the Charter refers to a suspension of the individual’s liberty interest by a significant physical or psychological restraint. Psychological detention is established either where the individual has a legal obligation to comply with the restrictive request or demand, or a reasonable person would conclude by reason of the state conduct that he or she had no choice but to comply.

In determining whether an individual was detained arbitrarily, the Supreme Court, in *R. v. Mann* (2004), 185 CCC (3d) 308, recognized that police have a common law power to detain for investigative purposes; however, this power has its limits. A decision to detain someone must be based on reasonable grounds; that is, the detention must be viewed as reasonably necessary on an objective view of all the circumstances informing the officer’s suspicion that there is a clear nexus between the individual to be detained and a recent or ongoing criminal offence.

Reasonable grounds figure at the beginning of such an assessment, underlying the officer’s reasonable suspicion that the particular individual is implicated in the criminal activity under investigation. The overall reasonableness of the decision to detain, however, must further be assessed against all the circumstances. Although the police have a common law duty to investigate crime, they are not empowered to undertake any and all action in the exercise of that duty. Individual liberty interests are fundamental to the Canadian constitutional order. Consequently, any intrusion on them must not be taken lightly and, as a result, police officers do not have carte blanche to detain. The power to detain cannot be exercised on the basis of a hunch, nor can it become a de facto arrest.

The Search

Powers with Arrest: There is a common law power to search incidental to arrest – that is, a routine “frisk” or “pat-down.”²⁶ Ancillary to a valid and lawful arrest, police can within limits search the person of the

arrestee and the surrounding area accessible to the arrestee. The arrest must be lawful. The purpose of the search must be to protect the police, to protect the evidence, or to discover evidence. A search incident to arrest must be carried out in a reasonable manner as well.²⁷

Powers with Detention: Police do not have an automatic right to search someone according to Canadian law. If the police have detained you because they have reasonable grounds to suspect that you are connected to a crime and they need to detain you to investigate, they have limited powers to search you. They can do a protective “pat-down” search for weapons if they believe that their safety or the safety of others is at risk.

As set out in *R. v. Mann* (2004), 185 CCC (3d) 308, any search incidental to the limited police power of investigative detention is a warrantless search and is presumed to be unreasonable unless the Crown can demonstrate on a balance of probabilities that the warrantless search was authorized by a reasonable law and carried out in a reasonable manner.

An officer may request to search any person’s property at any time; however, if the person refuses, an officer does not have the authority to compel that person to a search or take any other action such as restrict his or her activity.

Police relied on common law powers extensively throughout the G20 weekend. Many police officers stopped and searched and requested identification from individuals simply because of heavy backpacks, numbers on arms, bandanas, black clothing, and so forth. For common law authority to apply, officers have to witness the person committing an offence or believe an individual is about to commit an offence, and for this they need reasonable and probable grounds.

Some officers told the OIPRD that they had specific instructions from senior officers to stop and search people carrying backpacks and wearing bandanas, balaclavas, and black clothing.

²⁶ *Cloutier v. Langlois*, [1990] SCJ No. 10, [1990] 1 SCR 158.

²⁷ *R. v. Le*, [2001] BCJ No. 2341, 160 CCC (3d) 146 (BCCA); *R. v. Warford*, [2001] NJ No. 33, 161 CCC (3d) 309 (Nfld. CA).

Some officers told the OIPRD that, although they didn't receive specific instructions to stop and search people, they believed it was part of the policing function. Some said that their authority to compel an individual to submit to a search was based on a police officer's duty to prevent breach of the peace.

To determine whether an individual's Charter rights were violated during the stops and searches that took place during the G20, each incident would need to be examined on a case-by-case basis. However, people have a right not to be stopped and searched arbitrarily, and people are entitled to an expectation of privacy, including what is in their backpacks.

The Independent Police Review Director found that either there was carelessness in terms of police officers' understanding of whether they were entitled to search people's backpacks or there was a disregard for people's rights during the week of the G20.

The G20 – extraordinary circumstances

Officers had a job to do during the G20, and they were told that the security of the summit was paramount. They had also received intelligence that buildings and structures in the financial district could be targeted by anarchists during the G20. It was therefore not unreasonable for the officers to approach people near the fence and ask them what they were doing. In an area where security is a primary concern, one would expect the police to be vigilant and to question anyone they were curious about. Had the police not approached people, one might ask why not? There is a public expectation that the police must do what they have been hired to do, and that is to protect the public and property.

Police did have reason to be concerned about further violence and damage to property as the G20 weekend progressed. They had been highly criticized in the media for appearing to have "allowed" protesters using Black Bloc tactics to cause extensive damage to buildings on Yonge Street. Officers could hear on their radios, reports from senior officers

about anarchist activity and suspected activity throughout the downtown area, and they knew their job was to prevent it.

During training, police officers were shown videos of demonstrations at previous G20 and other similar meetings. These videos showed protester methods of defeating police tactics, violence, Black Bloc tactics, weapons being used, and injuries to police officers. Officers were led to believe they would face the same sort of violence.

As anarchist activity and visibility increased from Friday to Saturday, officers had a heightened sense of reasonable grounds to search, and they acted on that.

The day shift Outer Zone Site Lead told the OIPRD:

We did meet with the MICC in the morning, myself and the other inspectors, and at that point, we were briefed by [the Incident Commander] in regards to the events that occurred on Saturday; we now had a better idea of the tactics and a better idea of the members of this group and their Black Bloc tactics. We'd actually seen now what they can do and how dangerous... So, this was all information that we garnered from our briefing, and we were also to be made aware that we would have grounds now with what we've seen from Saturday, that if we are going to be stopping people on Sunday and they are in possession of these backpacks, and if they have goggles or black clothing and that type of stuff, we were going to investigate them.

One inspector said,

We were briefed in regards to the events that occurred on Saturday and we now had a better idea of the tactics and a better idea of the members of this group and their Black Bloc tactics. I think everybody had a wake-up call as to how dangerous it's going to be out there. We were more vigilant and more concerned about what might happen because we're getting near the end of the summit. We were prepared again

on Sunday to deal with the same sort of thing, but on a more heightened level because of what happened on Saturday.

Many police officers believed they were obeying orders in stopping and searching people arbitrarily. On Sunday morning, senior officers were called to the MICC for a briefing and given instructions for the day. These instructions were passed on to officers who briefed (paraded) officers going on shift for the day. Officers were told to investigate anyone carrying a backpack, and anyone wearing a disguise – gas masks, balaclavas, bandanas – was “arrestable for impersonate.”

Police officers made a number of statements to the OIPRD indicating that they had been given instructions regarding stopping and searching people – especially on Sunday, June 27:

“We were detailed to patrol [in an unmarked van] in and around the Yorkville area. We were informed that intelligence had received information that they were expecting trouble to occur in the area of Yorkville, possible vandalism and Black Bloc activity. We were conducting high visibility patrols and we were attempting to intercept anyone that might be carrying weapons or looking to go to the G20 protests for a negative purpose. Often they were wearing what was outlined in the intelligence bulletin – black t-shirts, black bandanas, heavy knapsacks, visible tattoos and any indication that they might have had multiple layers of clothing that they could remove to disguise their identity.

Anybody in the Queen and John area that is suspicious in nature, we (police officers) should go talk to them, identify them and see what they were up to, if they look suspicious.

One officer stated that, during their morning briefing, she and her team received intelligence that protesters were expected to attempt to use the PATH as a means of getting closer to the G20 summit and to the delegates who had gathered

there. They had been directed to remain diligent about people in that area and that the financial district might be a target for non-peaceful protesters.

Due to the damage and violence that erupted on the Saturday, officers were instructed on Sunday that the day was to be a “zero tolerance” day. Protesters wearing masks or balaclavas were arrestable, people carrying backpacks were to be challenged and their backpacks searched for weapons and suspicious liquids that could be used as weapons and any criminal acts were to be investigated and arrests made where possible for the peaceful protests to continue.

While protecting the summit meetings was the main goal of the police, the security of the summit was not a factor in areas outside the Interdiction Zone. Yet, police stopped and searched people randomly throughout the downtown area. Police asked people to open their backpacks so they could be searched or the person had to leave the area. Although this practice is used by security officers and police at many public events, usually to prevent the public from entering a private or a public event with alcohol or other items that may be misused or abused, this same practice does not apply to the streets of Toronto.

In the days and weeks leading up to the G20, mainstream media as well as alternative media and protester websites published or posted advice on what to expect at protests, what to take to a protest, and even what to wear. Almost every one of them urged people to take gas masks or swimming goggles and carry bandanas soaked in vinegar with them. Some suggested protesters write the phone number of a lawyer on their body with permanent marker. Many media articles and websites advised protesters to expect confrontations with police.

Gas masks, swimming goggles, and vinegar-soaked cloths were the very items police were told to search for and seize. Large backpacks, bandanas, black clothing, and telephone numbers written on people’s arms were all factors that officers were told to be vigilant of. They were things police looked for as a basis to stop people, search them, and arrest them.

Members of the public reported that, when police officers stopped them, they made comments such as:

“You could go to jail for that,” when finding a black long-sleeved hoodie style shirt. “You could be charged with a criminal conspiracy and an attempt toward terrorism,” when finding a legal aid phone number written on a protester’s arm.

In their attempts to prevent unlawful activity, many police officers ignored the basic rights citizens have under the Charter and overstepped their authority when they stopped and searched them arbitrarily and without reasonable grounds in law. Wearing bandanas and carrying swim goggles or backpacks are not reasonable grounds when police could see clearly that a large number of people were carrying these same items. Police could have used much more discretion in this regard.

In the case of Allan Gardens, officers should have known that they could not pick and choose whom to search and who could enter. The park was either closed or open to all.

Considering that the number of stops and searches increased almost exponentially from Friday to Sunday, it is quite likely that many of the officers on the ground believed they had “sweeping police powers” that applied throughout downtown Toronto. It also appeared that a number of police officers failed to properly understand – or they disregarded – the laws pertaining to stopping and searching people during the G20.

Recommendations

- Officers should be provided with refresher training in the legal parameters of their authorities to stop and search protesters, and the legal authorities to detain and arrest.

Chapter 5: Queen's Park

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Queen's Park



On Saturday, June 26, 2010, the “People First” demonstration began relatively peacefully at Queen's Park, Ontario's legislature. Demonstrators made their way along a preplanned route, which would take the march back to Queen's Park. However, at Queen Street and Spadina Avenue, protesters dressed in black broke off from the main demonstration and ran back along the route; other protesters followed.

For the next two-and-a-half hours police officers appeared to chase but never catch up with the protesters who had quickly moved away from the main march, heading south to Bay and King streets and then north on Yonge Street. Led by people employing Black Bloc tactics, protesters left a trail of graffiti, broken glass, and destruction all along Yonge Street, Toronto's main street.

There was clearly a rising level of frustration among officers on the ground, as well as commanding officers in the Major Incident Command Centre (MICC), about the lack of control that police appeared to have over the protest on the streets of downtown Toronto and their inability to “get” the Black Bloc vandals. According to the night shift Incident Commander, this frustration went right up to Toronto Police Chief Blair, who called both the day and night shift Incident Commanders into a meeting at around 5 pm and asked why police officers weren't visible on Yonge Street. The day shift Incident Commander put it down to the difficulty

in moving public order units (POUs) that had to be transported to the areas where they were to be deployed.

In a statement to the Office of the Independent Police Review Director (OIPRD), night shift Incident Commander Superintendent Fenton said Command Lead Deputy Police Chief Tony Warr, told him that he wanted him to take back the streets. Superintendent Fenton said, “I understood his instructions to mean that he wanted me to make the streets of Toronto safe again. He wanted the streets that had been made unsafe by the terrorists that were attacking our city to be made safe again by restoring order.”

At around 4:45 pm, protesters from the breakaway demonstration that marched via Yonge Street began arriving back at Queen's Park, where a number of demonstrators from the original march route had already gathered. The majority of protesters



from the original march were probably unaware of the property damage that had been done on Yonge Street.

Most protesters were under the impression that the entire Queen's Park area was the "designated speech area" for the G20 weekend. Many who spoke to the OIPRD said they got that impression from the media, politicians, and the police. They believed that it was an area where they could congregate freely and safely. Instead, they were met with a degree of police force they had not expected.

(See next page for march route map.)

Timeline

At 4:05 pm, Incident Command Lead Deputy Chief Warr advised Incident Command that he wanted "the crowd shut down now." Operations reported they were working on getting resources.

At 4:24 and 4:26 pm, Incident Command was advised that two Outer Zone (OZ) site leads had teams that had arrived at Queen's Park.

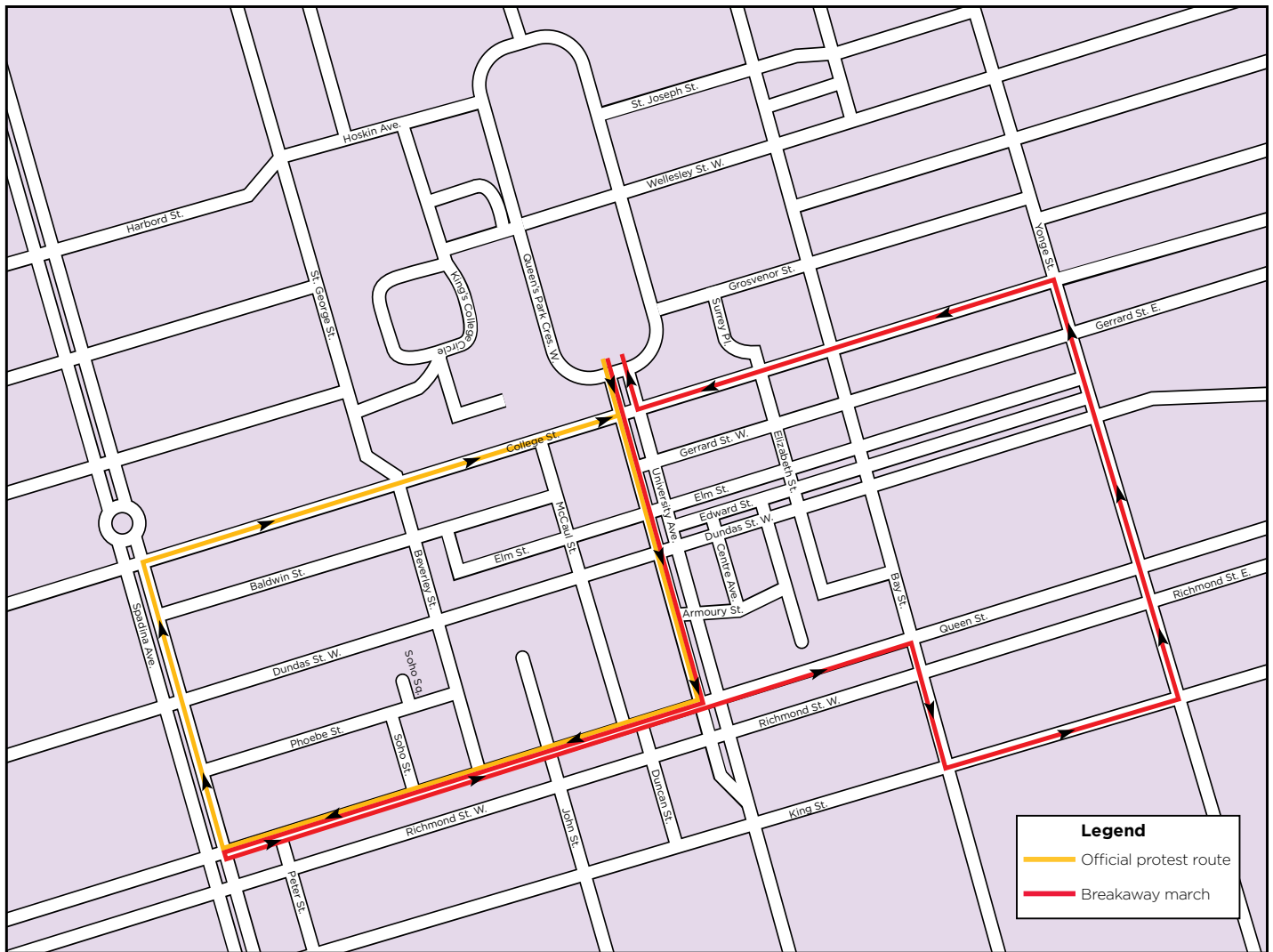
At 4:29 pm, Incident Commander Superintendent Ferguson ordered the Special Operations Director to pull units off Richmond Street to set up and box in the crowd at Queen's Park.

At 4:32 pm, Incident Commander Superintendent Ferguson was advised that the units would be redeployed to Avenue Road and Bloor Street, just north of Queen's Park.

At 4:42 pm, POU officers deployed a muzzle blast of tear gas at University Avenue and College Street. Police reported Black Bloc were running north on University to Queen's Park.

At 4:56 pm, TPS POU Charlie Section Commander indicated in his scribe notes that the crowd was escalating and getting louder, "We are giving loud verbal commands 'Get back, move back.' The crowd is actively resistant, male in line provoking with 'No, we will not move.'"

At 4:59 pm, the police video log indicated there was a sparse crowd at Queen's Park and Black Bloc members had changed into civilian clothes.



One protester told the OIPRD:

We get to Queen's Park at 5 pm. Once we all get to Queen's Park, everything dissipates and everyone that was from this march, the Black Bloc and the hundreds of others that were involved in it, everyone – it all dissipates and everyone kind of goes their own directions and some people are just kind of hanging around at Queen's Park thinking, like, "Well, that was a failure in terms of any kind of protest. What do we do now?" That's definitely what I was thinking. You can see the Black Bloc taking off their black clothes and ditching their black clothes and they have little like huddle and everything. Some kind of meeting and then they all scattered in every single direction and they were gone. You couldn't

recognize them. No one was wearing black anymore. They were all wearing different colours. So, they leave and we're like, "Well, so that's how it goes. They had us really well orchestrated."

At 5 pm, Incident Commander Superintendent Ferguson ordered the TPS public order unit Alpha Section Commander, Inspector Meissner, to set up and use the long-range acoustic device (LRAD) to disperse the crowd at Queen's Park.

One protester, who was arrested for breach of the peace at 5 pm, told the OIPRD:

Police started to push people sitting and standing on the grass close to College St. We turned to attempt escape but we were both

jumped on by police. Before they even had us on the ground they were yelling, “Stop resisting arrest! Stop resisting arrest!” We were dragged over to the pavement on the west side of road. They started beating my sides and buttock.

At 5:04 pm, Operations ordered officers at Queen’s Park to “use a muzzle blast, only one, no gas.”

At 5:05 pm, the Operations Chief took over as Incident Commander in the MICC while Superintendent Ferguson was off the floor.

At 5:06 pm, the TPS public order unit Charlie Section Commander noted, “Crowd now north of University Ave., we continue to punch out.²⁸ Crowd moves back and halts next to TTC subway entrance – rocks being thrown, plastic bottles being thrown at us.”

At 5:13 pm, the Intelligence Chief advised the MICC that protesters at the front of Queen’s Park were going northbound wearing gas masks.

At 5:17 pm, the police video log indicated that video footage from air support showed arrests being made at Queen’s Park.

At 5:18 pm, Superintendent Ferguson returned and took over as Incident Commander.

In a statement to the OIPRD, night shift Incident Commander Superintendent Fenton said:

I attended the conference room that was set up as an area for the Chief and Command to view some of the CCTV [closed-circuit television] video being generated. When I arrived the door was closed. I entered and Superintendent Ferguson was immediately to my left. The Chief was sitting at the head of the table. Beside the Chief was Deputy Warr. I was aware that the room had a number of others present. The Chief was asking why he could not see police officers

in the pictures that he was watching on his screens. Superintendent Ferguson addressed the questions. The Chief appeared to be angry and frustrated in his demeanour and the manner in which he was asking the questions. A conversation started about the difficulty in moving police resources and that moving them was proving to be difficult. At a point where there was silence I asked the question, “Why are we not arresting these people?” I was referring to the terrorists that were attacking police and property. The Chief responded by looking at me and saying, “That is a very good question Mark.”

Immediately Deputy Warr spoke and said, “Okay, this is what we are going to do; we are going to take back the streets.” Deputy Warr looked at me and said, “I want you to take back the streets.” I understood his instructions to mean that he wanted me to make the streets of Toronto safe again. He wanted the streets that had been made unsafe by the terrorists that were attacking our city to be made safe again by restoring order. I asked the Deputy the following question because I wanted to be sure that he was addressing this direction to me: “Just to clarify your direction, you want me to take back the streets?” Deputy Warr responded, “Yes.”

I then turned to exit the conference room, and Deputy Warr said to me, “Get the RCMP to take over the Interdiction Zone and get our officers out to assist on the streets.” I responded, “Yes, sir.”

Both Superintendent Ferguson and I left the conference room together and took the elevator to the MICC. I asked Superintendent Ferguson while in the elevator how this situation could have developed to the point that it had and why we had not been making arrests or words to that effect. Superintendent Ferguson responded by shaking his head and saying words to the effect of, “I tried, but I could not get the public order to move.” I inquired about what he meant by that and he responded, “I asked them to move and I was told that they couldn’t.” Superintendent

²⁸ A “punch out” is a public order unit tactic where officers on a line suddenly push or dart out two or three metres to make a barrier around an arrest team to protect them while they are making an arrest. A punch out is also sometimes used to move a crowd or a line of people back.

Ferguson was visibly frustrated and upset, he repeated that he had tried to move the public order units and he could not achieve that.

At 5:22 pm, Intelligence reported to Incident Command that Black Bloc members at University Avenue and College Street were changing back into black clothing.

At 5:24 pm, Superintendent Fenton inquired as to the location of the LRAD. In a statement to the OIPRD, he said, "I was seeking the whereabouts of this device as I wanted it ready for use at Queen's Park."

At 5:25 pm, Superintendent Fenton took over as night shift Incident Commander and day shift Incident Commander Superintendent Ferguson reported off duty.

In a statement to the OIPRD, Incident Commander Superintendent Fenton stated:

I informed my command staff upon arrival on the operational floor at 17:08 hours that we were going to take steps to restore order and that may involve mass arrests. I instructed all to prepare for that eventuality.

My command general staff were made up of the following members:

Deputy Incident Command Inspector Holt. I assigned Inspector Holt to monitor business continuity in the city, and assess incoming calls for service in the summit zone. I further instructed him to deal with all incoming calls from the Toronto Area Command Centre and the Unified Command Centre.

Operations Chief, Superintendent Ramer. I recognized that the police response was going to be complex and require considerable team work among the various police services in Toronto. As a result I assigned Superintendent Ramer to focus on operations desk two, specifically to coordinate police response via the branch directors both in the Interdiction Zone and the Outer Zone. This would involve the direction and control of the bike officers, foot officers, and

mobile officers. He was assigned to implement instructions given to him by me and report on the progress of the implementation of those instructions.

Deputy Operations Chief, Superintendent Stubbings. He was assigned to liaise with the RCMP and military liaison officers within the MICC. Further to ensure that the RCMP Event Management System was kept current and any events placed on the EMS board from other locations that required a Toronto area response would be brought to my attention by him.

Investigative Chief, Superintendent Martin. I assigned Superintendent Martin to coordinate the prisoner wagons and the movement of prisoners from the arrest site to the MICC. Supt. Martin was further responsible to insure any specific criminal event or crime scene was properly investigated.

Special Operations Branch Director, Staff Inspector Marks. I instructed Staff Inspector Marks that I would deal directly with him for the direction and control of all specialized police resources, including ETF [Emergency Task Force], Public Order Units, Mounted Unit, Police Dog Services, Chemical Biological Radiological Nuclear and Explosives Unit (CBRNE) assigned to him at operations desk one. Staff Inspector Marks also had representatives from Emergency Medical Services and the Toronto Fire Service working with him as liaison officers for their agencies.

At 5:26 pm, Operations noted that public order units were moving to 155 College St., west of University Avenue.

In a statement to the OIPRD, Incident Commander Superintendent Fenton stated, "At 17:28 hours the night shift Special Operations Director arrived. I instructed him to relieve the day shift Special Operations Director and familiarize himself with the deployment of his resources. I advised him that as

soon as he was ready we would be implementing steps to restore order, and those steps may include mass arrests.”

At 5:30 pm, the Operations Chief confirmed that night relief officers were deployed to Queen’s Park. These units joined the day shift and were conducting a sweep of Queen’s Park with a public order unit section.

At 5:32 pm, the Incident Commander ordered the Outer Zone Branch Director to have bicycle units in the north of the Outer Zone to make their way south to University and College. The Incident Commander also ordered the Special Operations Branch Director to move his officers to University and College.

At 5:40 pm, the scribe for TPS public order unit Alpha Section Commander, who was in charge of the LRAD, indicated in his notes that the Commander was setting up to use the LRAD, “Laser range to crowd from north side of College at University on right side 11 yards, left side is 8 yards, north curb to grass ridge in centre is 16 yards. Inspector Meissner with LRAD at north curb near centre of line.”

At 5:43 pm, the Incident Commander ordered the LRAD deployment to be broadcast on all channels and requested the OZ Director to advise officers of impending arrests.

At 5:45 pm, the public order unit Charlie Section Commander indicated in his scribe notes, “Crowd starting to sit; we stand fast; continue to give loud verbal commands, ‘Move or you will be arrested.’”

At 5:46 pm, the Incident Commander ordered the Special Operations Director to push his public order units north from the intersection of University Avenue and College Street to restore order.

At the same time, the public order unit Charlie Section Commander indicated in his scribe notes that his unit gave shouted warnings to the crowd to move or be arrested for obstructing police and the crowd did not comply and actively resisted.

At 5:46 pm, the public order unit Alpha Section Commander indicated in his scribe notes that he “used the LRAD at the top of a mound when the crowd was pushed back. Two warnings, one in English and one in French (warn #3); crowd encroached.”

The TPS public order unit Lima Section Commander, said in an interview with the OIPRD:

I saw it (LRAD) used at Queen’s Park to issue a warning, and it was well done. They employed it right, could they have employed more? Maybe, to communicate with the crowd, but they were handcuffed to a degree from using that tool. They had a script and they documented when it was going to be used. And it had little or no effect on the crowd; it didn’t change the crowd on the other side at all. They had a clear area in front of it where nobody was because it is loud if you stand right in front of it, but they made sure that nobody was in that zone. If you’re behind the LRAD very often you won’t hear it. It’s very focused. I can’t tell you whether it was a recording or not.

In an interview with the OIPRD, the night shift Special Operations Director said:

At 17:48, Inspector Meissner was making arrests at University and College. It was my understanding that the LRAD had been used at that location. Arrests were being made at 17:44 at University and College. I learned about the LRAD at 17:35 that it was being deployed. So, it was being deployed as I sat down.

At 5:58 pm, the public order unit Charlie Section Commander indicated in his scribe notes that they started moving forward giving loud commands, “Move or you will be arrested.” Projectiles were being thrown from the crowd, including wood blocks, sticks, and plastic bottles. His scribe advised that he observed a projectile hit the Section Commander.

The TPS public order unit Lima Section Commander said in an interview with the OIPRD:

When our unit got to Queen's Park, there was a unit on my left being bombarded with debris. [Charlie Section Commander] was knocked to the ground by an object that came out of the crowd. He got hit by a half full water bottle. He was running forward, it was coming his way and the impact literally took him off his feet and laid him flat on his back. That's when I really took notice that there were things being thrown, and not by the front of the crowd, by people two, three, four, ten deep. I can tell you at one point when we were trying to talk among commanders to understand how we were going to approach Queen's Park, I took my helmet off and (my colleague) took his helmet off and when an aluminum baseball bat sailed over our heads, we decided to put helmets back on.

A protester who was interviewed by the OIPRD said, "It seemed as though the riot police had boxed us in and there was no way out. We did not hear anything that resembled an alarm or audible warning telling us to leave or else we would be arrested."

At 6 pm, the Incident Commander ordered the Operations Chief to get more resources so that the crowd did not scatter from Queen's Park. The Incident Commander also ordered all units to go to Bloor Street because the crowd was running northbound. He then ordered public order units to the prisoner wagons at Elizabeth and College streets because the Investigations Branch advised that crowds were coming at the prisoner wagons. He also instructed all units to hold their lines.

At 6:05 pm, Operations reported information from Emergency Management Services that tear gas had been deployed at College and University.

At 6:11 pm, the Incident Commander ordered Operations to move regular police north of the crowd at Queen's Park to block them in.

At 6:22 pm, Operations advised Incident Command that there were no public order units on site at Queen's Park.

At 6:25 pm, the OZ Branch Director advised he wanted horses to create a wedge and push the crowd down.

At 6:27 pm, the police communications log indicated arrests were being made at College and University.

In a statement to the OIPRD, Incident Commander Superintendent Fenton stated:

At 18:27 hours, I was advised that there were no POU north of the POU line at University and College Street. I indicated that we need police assets at this location to ensure we do not scatter this crowd and end up chasing groups of marauding terrorists across the city.

At 6:29 pm, Operations ordered OZ site leads to get resources deployed to box in the crowd.

At 6:30 pm, the OPP POU Operational Timeline indicated that OPP POUs were deployed to Queen's Park in hard tac to support the POU Lima Section. OPP was to provide relief on the line (for POU Charlie unit) and perform punch outs²⁹ to allow arrest teams to effect arrests.

At 6:38 pm, Operations was advised that OZ North site lead's officers were behind public order units at University and College and the POU Commander on the ground had asked them to remain static. Mounted units, in troops of six, pushed the crowd 75 feet north at Queen's Park. The mounted unit scribe noted, "horses made contact with the crowd."

The officer involved described what happened when they were instructed to perform a centre break manoeuvre:

We commenced the manoeuvre and I was in the front row. As the mounted line moved northward virtually all the protesters scattered. A lone woman did not move and continued to stand her ground despite the advancing horses. She was directly in my path and would have been

²⁹ A "punch out" is a public order unit tactic where officers on a line suddenly push or dart out two or three metres to make a barrier around an arrest team to protect them while they are making an arrest. A punch out is also sometimes used to move a crowd or a line of people back.

able to both see and hear the advancing horses. I had officers and horses on both sides of me and behind me with nowhere to go but straight ahead. My horse struck her upper body as we continued to move forward. I am not aware what happened to her after that. As we performed the recall and returned to our original position I looked for her but could not see her on the road or in the crowd.

A YouTube video taken of this incident shows a woman standing with her knees bent and arms raised slightly in front of her. It appears she is deliberately standing in the path of the mounted officers and, as the horses approach, she appears to brace herself but does not move away. As the horses move past they make contact with her, causing her to fall to the ground. She can be seen on the ground as several horses move past her; however, the horses do not appear to step on her.

In a statement to the OIPRD, Incident Commander Superintendent Fenton stated:

At 19:01 hours I received information from [the Special Operations Director] that the LRAD was at Queen's Park, he advised that POU on scene will make the announcement, then start mass arrests at Queen's Park. [The Special Operations Director] advised that there were about 1,000 to 2,000 protesters at Queen's Park. He immediately included that they were already making the announcement on the LRAD. At 19:03 hours, I gave [the] Tactical Dispatcher my BlackBerry, I advised her that POU were using the LRAD at Queen's Park warning the protesters at that location that if they did not disperse they would be arrested for breach of the peace. I instructed her to email the Chief this information. At 19:04 hours, I was advised by [the Tactical Dispatcher] that the email had been sent to the Chief. At 19:04 hours, [the Special Operations Director] confirmed that arrests at Queen's Park would be for breach of the peace. At 19:05 hours, I was advised by [the Tactical Dispatcher] that the Chief approved. At 19:05 hours, [the Special

Operations Director] advised me that an estimated time for the LRAD announcements to end and arrests to start would be five minutes.

In an interview with the OIPRD, the TPS public order unit Alpha Section Commander said:

I returned to Queen's Park at approximately 7 p.m. Upon arriving on scene a majority of the crowd was on the west side of the legislative building. The public order units were moving up the front lawn. The crowd, for the most part, was being dispersed up the west side of Queen's Park Circle in a northerly direction. I was asked to come around the east side and to head off this crowd from taking over the designated speech area. As I came up to the designated speech area, there were very few people in that park. We came up the east side to establish a flank and we proceeded through the park. I didn't make any contact with any citizens in the park when I went through the park with my sections. [There was] a large crowd of people coming up the west side of Queen's Park Circle, with the police in pursuit.

I took over the dispersal once it reached Hoskin Avenue. I still had twelve to fifteen hundred people on Hoskin Avenue. They had been pursued by public order officers all the way from College Street. We [Alpha] took over because the rest of these officers, they had been there for two hours and would have been by that point in time in need of relief. At Hoskin and Devonshire Place I decided I needed to split the crowd. We were able to split the crowd in half, half went up Devonshire Place and the other half went westbound on Hoskin to St. George. They evaporated when they got to Bloor, and for some unknown reason, the larger group that was at St. George completely disappeared.

At 7:14 pm, Incident Command was advised that 200 Black Bloc were seen at University and College.

At 7:24 pm, media reported that hundreds of people at Queen's Park began clapping in unison and began to run about 50 feet when riot cops began moving forward at them quickly.

At 7:25 pm, the Special Operation Director advised Incident Command he was moving his units out from Queen and Peter streets area. Incident Commander Superintendent Fenton instructed him to move them to the north end of Queen's Park.

At 7:35 pm, the Incident Commander instructed Operations to broadcast that they were arresting people for breach of the peace, and all parties out there participating in protests were now in breach of the peace.

At 7:35 pm, mounted units moved the crowd from the south end of Queen's Park to the north end, then east. Other mounted units went to the west side of Queen's Park.

At 7:38 pm, Operations had broadcast to police officers that anyone in the demonstration at Queen's Park was to be arrested for breach of the peace.

In a statement to the OIPRD, Incident Commander Superintendent Fenton stated:

At 19:59 hours, I was approached by Deputy Warr, Command Lead, who began to speak about his instructions given to restore order. I got the sense that he was concerned about potential police overreaction. I told him that if he sees me do anything that he is not comfortable with to simply tell me and that I would stop that activity. He nodded and said "OK." I updated him on the ongoing activity on the street.

At 8:10 pm, the Incident Commander advised the Special Operations Director that there were "tons of people to be arrested." The Incident Commander's scribe notes also stated that he received information that protesters were "masking up" at Queen's Park and their location was needed.

At 8:16 pm, the Incident Commander advised Operations that wagons needed to be emptied and sent back to Queen's Park. The public order unit tactical adviser indicated there were not enough wagons if they started making arrests at Queen's Park.

At 8:31 pm, the mounted unit scribe noted that along with POUs the mounted units moved the crowd westbound from Queen's Park on Hoskin Avenue toward Spadina.

At 8:38 pm, Operations advised that a large crowd was eastbound at Bloor and Bedford Road.

At 9:24 pm, the Investigations Chief inquired whether LRAD sent message out.

At 9:25 pm, the Investigations Chief was advised that an order at Queen's Park regarding unlawful assembly with the LRAD was given.

At 10:30 pm, Operations reported all was quiet at Queen's Park.

Complaints

There were approximately 50 arrests made at Queen's Park. Most of those were for unlawful assembly, followed by breach of the peace and obstructing police. The G20 arrest records contain incomplete or conflicting information, so it is impossible to be absolutely certain of arrest details.

The OIPRD received 54 complaints regarding events at Queen's Park. There were allegations of use of force in approximately 75 per cent of the complaints. The OIPRD retained just over half of the complaints, while TPS investigated the others.

A large number of complaints regarding use of force at Queen's Park could not be substantiated, in part because of the inability of complainants and investigating police to identify officers involved in the allegations. News coverage video, YouTube video, and video from other sources, along with anecdotal and documented evidence, showed that a great many police officers removed their name badges during the G20 weekend.

For the Toronto Police Service, this action was against its rules. On November 3, 2010, TPS Police Chief Blair told the House of Commons Standing Committee on Public Safety and National Security:

I have a rule at the Toronto Police Service; it's my rule; it's in accordance with the policy of my Police Services Board, that our officers will wear their names displayed on their uniforms. You'll notice I wear mine. All of our officers have this affixed with Velcro. It has first initial and last name. It is a rule that they wear it. If an individual officer chose not to wear it, he's breaking a rule. What I have stated is, if they have made a choice to engage in misconduct by disobeying a rule of the service, they will be held accountable and disciplined.

TPS conducted an investigation and identified approximately 90 officers who were not wearing their name badges as required by the rules; disciplinary processes were initiated, and those who were found to have violated the rule were docked a day's pay. The Police Services Board also took the unprecedented step of refusing to promote nine officers who were disciplined for removing their name tags during the G20.

Following Chief Blair's testimony at the House of Commons Standing Committee on Public Safety and National Security, the Independent Police Review Director sent a letter to the Chief dated November 23, 2010, asking him to assist with the OIPRD investigation in identifying officers by providing a list of all officers identified to the Standing Committee as not wearing name tags.

There are a number of complaints about officers shouting, "Stop resisting arrest," before the complainant was physically arrested, or while the officer was allegedly striking the person being arrested.

Six cases have been investigated by the Special Investigations Unit (SIU) for excessive use of force. Four of the incidents occurred at Queen's Park. The inability to identify officers was a factor in all of the cases; the SIU determined that there was criminal responsibility in one case.

Issues and discussion

Designated speech area

"Designated speech areas," "designated protest zones," and "free speech areas" have become regular features at major gatherings of world leaders. Similarly, these gatherings have also featured "no protest areas" where obstacles, walls, or fences have been erected between the protesters and the object they are protesting. Toronto's G20 had a "designated speech area" and "the fence."

During the G20 planning stage, TPS and the RCMP appeared to have differing views on what a designated speech area was, where it should be, and what facilities for communication should be there for the public. The RCMP held the view that, since the designated speech area was outside its area of control and in TPS's jurisdiction, its role was advisory. TPS maintained that, in its view, the entire city was a free speech area and the designated speech area was only established as a result of the RCMP's suggestion.

The Integrated Security Unit (ISU) website FAQ page described a designated speech area:

Designated Speech Areas are open forums created to give people a place to congregate safely and have access to media to share their message. This is being done to protect the rights of Canadians to voice their opinions using lawful methods and activities, while ensuring that there are no disruptions to the Summits.

The decision to have a Designated Speech Area is guided by the recommendations in the Hughes Report [on RCMP conduct at the 1997 APEC conference in Vancouver] that "a generous opportunity will be afforded for peaceful protests to see and be seen in their protest activities by guests to the event." Protesters will have to obey the law as always, but otherwise may express their views wherever they wish. The use of this area is optional as lawful assembly is permitted in public areas as guaranteed by the Canadian Charter of Rights and Freedoms.

In April 2010, the ISU in partnership with the City of Toronto announced that a designated speech area for the G20 summit, with a video link to the meeting at the Metro Toronto Conference Centre (MTCC), would be set up in Trinity-Bellwoods Park, a public park approximately two kilometres northwest of the MTCC. After local residents and business owners objected, raising security and environmental concerns, the ISU announced, on May 6, that the designated speech area would be relocated.

On May 13, the ISU and the City of Toronto identified north Queen's Park as the designated speech area. In response to media questions at the time, a spokesperson for the ISU said:

The idea of setting up a designated protest zone, which will host a live feed to the summit site so protesters can be seen by visiting dignitaries, was actually a recommendation of the Hughes Commission.

Later announcements by the ISU concerning the designated speech area omitted any mention of a video feed to the G20 summit meetings. In the event, there were no audio video links set up at Queen's Park. The TPS Planning Chief told the OIPRD, "That fell through. We couldn't get the support to have that done through the RCMP, and we certainly weren't in a position to be able to set that up, so that didn't happen."

In an interview after the G20, Incident Commander Superintendent Ferguson explained the rationale for the choice of north Queen's Park as the designated speech area:

As a result of an inquiry several years ago after the Queen's Park riot (in 2000), Toronto police are responsible for policing the park in front of Queen's Park, but it is still under the jurisdiction of the Speaker of the House. So it was decided that the designated speech zone would be north Queen's Park, which is the area from Wellesley up to where the loop is across the top of Queen's Park. That area is under the control of the City of Toronto; it's a city park.

In fact, TPS obtained a permit from the City of Toronto to use the north part of Queen's Park as a designated speech area.

In an interview with the OIPRD, Toronto Police Chief Blair said:

We had recommended that there be a place where people could form up for their demonstrations, where they had reasonable access to transit, fair parking that would be minimally disruptive to the residential population. Originally, someone had suggested Trinity-Bellwoods Park. For a whole bunch of reasons, that didn't work: it wasn't very close to adequate transit, it was also very much entwined in a residential district. And, so, we suggested that Queen's Park would be a good starting point because it's a place where large demonstrations had started in the past. It's exceptionally well-served by transit and there's very little residential population impacted by north Queen's Park area. That can be a very good start off point for people who are organizing large rallies. So, that was what the area was designed for. We don't have the authority to designate a free speech zone.

When north Queen's Park was named the designated speech area, TPS, as a member of the Integrated Security Unit, issued a news release as a message to the community on June 1, 2010. In it, TPS stated:

All planning has been done, and will continue, in a way that respects the rights guaranteed to every Canadian in the Canadian Charter of Rights and Freedoms.

One of these fundamental rights is the right to peaceful assembly and protest. In an effort to support this, the Integrated Security Unit has identified North Queen's Park as a Designated Speech Area.

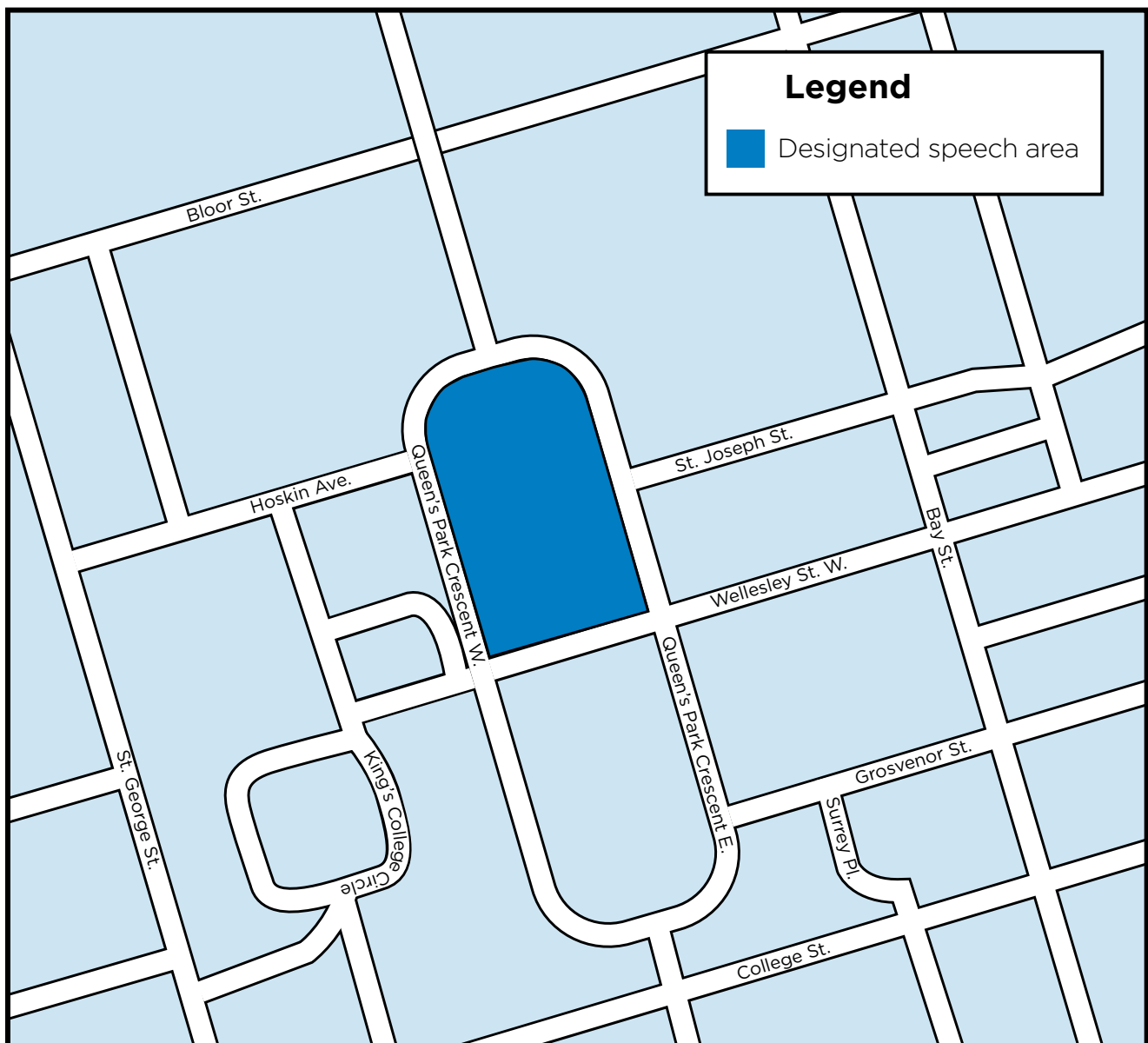
It is our hope that groups and individuals who wish to protest the G8-G20 Summits will take advantage of this area. It is an area in which these

individuals can send their message to summit delegates while having the least possible impact on our security plans.

North Queen's Park will be appropriately staffed with police resources. These officers will not only be responsible for ensuring the safety of those who attend to protest, but they will be equally cognizant of the safety and security of the surrounding neighbourhood.

We have been working with groups who have indicated their desire to march to and/or from this location. While there may be some road closures in effect to accommodate these marches, we will do our best to keep these closures to the bare minimum.

Any closures – planned or dynamic – will be communicated as soon as practical.



Lastly, even though the Integrated Security Unit has identified a Designated Speech Area for the summit, we are supportive of peaceful protests wherever they may assemble.

Please be assured that the safety of everyone involved – including those who live and work in Toronto – will be our first priority.

Although the northern part of Queen's Park was the designated speech area, it was nevertheless cleared of protesters in the second police sweep of Queen's Park after 7:30 pm. One public order unit Section Commander told the OIPRD in an interview:

I returned to Queen's Park at approximately 7 p.m. Upon arriving on scene a majority of the crowd was on the west side of the legislative building. The public order units were moving up the front lawn. The crowd, for the most part, was being dispersed up the west side of Queen's Park Circle in a northerly direction. I was asked to come around the east side and to head off this crowd from taking over the designated speech area.

In an interview with the OIPRD, night shift Incident Commander Superintendent Fenton said, "Free speech and free pass to commit criminal offences in the city of Toronto are two different things. There is no sanctuary from arrest, period." He also said:

At 7:30ish that evening, I had given the order that anybody involved in a protest is now involved in a breach of the peace. We were three and a half, four hours into riots on our streets. Enough...it had to end. There was no other option to bring this city into a situation of being safe except for the mass arrests.

On November 3, 2010, TPS Chief Blair testified before the House of Commons Standing Committee on Public Safety and National Security regarding the G20. In relation to the designated speech area, he said:

We also worked to provide a place where people could rally. It has often been called a sort of "free speech zone," and it was not, and I made

very public statements as we prepared for the summit that all of Canada is a free speech zone. But we did provide a facility in the northern part of Queen's Park where people could rally, where they could gather, and we would work with them to help them park their cars and gather safely. We would direct traffic around them and move with them as they engaged in protest.

It's very unfortunate that the right of Canadians to engage in lawful, peaceful protest was compromised by the actions of criminal groups who made it impossible, frankly.

Analysis

In reality, there was no requirement to have a designated speech or protest area for the G20, but it made sense to provide protesters with a place to assemble to begin and end their demonstrations, as well as a place to hold protests if they chose to.

Designated protest or speech areas have been set aside at previous G8s and G20s, at other meetings of international leaders, as well as at the 2010 Vancouver Olympics.

Historically, in Toronto, protests have regularly been held on the south lawn of Queen's Park and a large number of demonstrations have originated there, so people in Toronto are familiar with using Queen's Park.

From the beginning, the public received conflicting messages regarding the designated speech area. First it was Trinity-Bellwoods Park, then that was changed; there was going to be a video link, and then there wasn't. Although the ISU finally designated "north" Queen's Park as a designated speech area, Chief Blair also repeatedly maintained that, "All of the city was a free speech zone."

The media may have inadvertently contributed to the confusion by sometimes referring to north Queen's Park as the designated speech area and sometimes just referring to Queen's Park. Many activist groups asserted that they wouldn't be confined

to a particular area in voicing their protest of the summit and that their right to free speech existed everywhere in Canada.

As noted earlier, in the “messages to the public” the ISU put out regarding the designated speech area, they said,

One of these fundamental rights is the right to peaceful assembly and protest. In an effort to support this, the Integrated Security Unit has identified North Queen’s Park as a Designated Speech Area. It is our hope that groups and individuals who wish to protest the G8-G20 Summits will take advantage of this area. It is an area in which these individuals can send their message to summit delegates while having the least possible impact on our security plans.

The message went on to say, “Lastly, even though the Integrated Security Unit has identified a Designated Speech Area for the summit, we are supportive of peaceful protests wherever they may assemble.”

It is possible that members of the public who wanted to protest saw these messages more as an attempt to keep people away from the summit area than as a serious offering of a place where public messages would be heard by delegates at the summit meetings. Many protesters and members of the public seemed to be under the impression that Queen’s Park, as the designated speech area, was a sort of “home-free” base where they had sanctuary from the police and the law.

It makes good sense to designate an area where demonstrators can gather and start from. In Toronto, Queen’s Park is an appropriate site. It really did not need to be advertised as anything more than that – a starting and ending point.

Crowd warnings and breach of the peace / unlawful assembly arrests

The events at Queen’s Park raise issues related to the duty of police to protect people and property from harm and the people’s right to protest. What is an appropriate balance and at what point can

or should police lawfully break up a protest?

The Canadian Charter of Rights and Freedoms guarantees “peaceful assembly to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society” (section 1). This means that peaceful assembly can be limited by federal or provincial laws or municipal bylaws. Police can break up a protest only if there is a law that prohibits the protest or if it is not peaceful. In Canada, the laws regulating protest give police a lot of discretion in deciding what assemblies are peaceful and when protest is not allowed.

In his testimony before the House of Commons Standing Committee on Public Safety and National Security, Chief Blair said,

I have to tell you that one of the challenges of trying to police lawful, peaceful protests and respect all citizens’ rights to express themselves is that it’s very difficult when you’re also trying to manage a mob. The mob was using the cover of a large, law-abiding crowd to launch their illegal attacks on the city and on our citizens. It did compromise our ability, to some extent, to continue to work to maintain those lawful, peaceful protests and the protestors’ rights to do that.

Police have the power to detain people for “breach of the peace” and to disperse protests that breach the peace. Police have the right to make arrests when they find someone committing a breach of the peace, or to prevent a breach of the peace, according to section 31 of the Criminal Code of Canada. However, “breach of the peace” is not a charge in itself, no record is kept of the charge, and police will usually release the person soon after the event or at least within 24 hours. Sometimes, police will drop the offender off in another place where they would no longer be breaching the peace.

The Criminal Code of Canada prohibits “unlawful assembly,” which it defines as:

An assembly of three or more persons who, with intent to carry out any common purpose, assemble in such a manner or so conduct

themselves when they are assembled as to cause persons in the neighbourhood of the assembly to fear, on reasonable grounds, that they will disturb the peace tumultuously; or will by that assembly needlessly and without reasonable cause provoke other persons to disturb the peace tumultuously.

The Criminal Code also says that persons who are lawfully assembled “may become an unlawful assembly if they conduct themselves with a common purpose in a manner that would have made the assembly unlawful if they had assembled in that manner for that purpose.” The Code goes on to describe a riot as “an unlawful assembly that has begun to disturb the peace tumultuously.”

Unlawful assembly is punishable on summary conviction, while rioting is punishable as a more serious indictable offence.

In dispersing an unlawful assembly or a riot, section 67 of the Criminal Code provides for a proclamation to be read using the following or similar words: “Her Majesty the Queen charges and commands all persons being assembled immediately to disperse and peaceably to depart to their habitations or to their lawful business on the pain of being guilty of an offence for which, on conviction, they may be sentenced to imprisonment for life. God save the Queen.”

Section 68 of the Criminal Code states that:

Everyone is guilty of an indictable offence and liable to imprisonment for life who:

- (a) opposes, hinders or assaults, wilfully and with force, a person who begins to make or is about to begin to make or is making the proclamation referred to in section 67 so that it is not made;
- (b) does not peaceably disperse and depart from a place where the proclamation referred to in section 67 is made within thirty minutes after it is made; or

- (c) does not depart from a place within thirty minutes when he has reasonable grounds to believe that the proclamation referred to in section 67 would have been made in that place if some person had not opposed, hindered or assaulted, wilfully and with force, a person who would have made it.

Police officers are responsible for trying to suppress a riot. The Criminal Code states that a peace officer who receives notice that there is a riot within his jurisdiction and, without reasonable excuse, fails to take all reasonable steps to suppress the riot, is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.

According to the Criminal Code, a person just has to be present at an unlawful assembly or a riot to be charged. The Crown only needs to demonstrate that the person was participating in the protest or action – part of a “common purpose” – and that the person stayed when it became an unlawful assembly. Although the police will usually announce that an assembly has become unlawful, it is not required.

The TPS public order unit operational plan for the G20 summit outlined the following procedures for crowd dispersal, use of the long-range acoustic device (LRAD), and public warnings:

- Dispersal: Should a crowd need to be dispersed, the order will come from the public order unit (POU) Section Lead after consultation with the Specialized Operations Director. The dispersal direction, route, and Lead’s intent for use of force will be communicated. The crowd will be provided an adequate time frame to disperse. Where required, a long-range acoustic device, loud hailer, or banners may be requested to assist in communicating instructions or warnings.
- LRAD: Control over the deployment of this device and its messaging rests with the POU Section Lead. The Section Lead will request the use and the delivery of the LRAD in consultation with the Specialized Operations Director / Incident Commander. The LRAD must not be operated from behind the public order line. It should be

deployed by and protected by a squad with no officer at any time directly in front of the device. Qualified operators must follow direction from their POU Section Lead. All operator guidelines must be adhered to at all times by only qualified operators.

- POU public warnings: Protesters and the public should always be made aware of the likely police action, so they can make informed choices and decisions, particularly where a use of force may be a possibility.

At 4:05 pm, Command Lead Deputy Chief Warr advised Incident Command that he wanted “the crowd shut down now.” Operations reported they were working on getting officers to Queen’s Park.

When protesters from the breakaway Yonge Street group began arriving back at Queen’s Park there were public order unit officers at the intersection of University Avenue and College Street, just south of Queen’s Park.

Incident Command ordered officers to set up to box in the protesters. MICC Operations ordered “muzzle blasts” deployed and police ordered people to “move” and “get back.” One observer said:

I arrived at the intersection of University Avenue and College Street in front of Queen’s Park somewhere between 4:30 and 5:50 on Saturday. When I arrived, there were about 50 riot police lined up across the southern end of the intersection of University and College. The police were shooting objects out of large guns at the people gathered there for what seemed to be no reason. Soon more riot police in full riot gear started arriving and lining up across University Avenue. Then they started advancing up University Avenue towards Queen’s Park in an effort to push the people back.

One protester told the OIPRD, “Police started to push people sitting and standing on the grass close to College Street. We turned to attempt escape but were jumped on by police.”

By this time, there were an estimated 1,000 people in the Queen’s Park area. As the number of protesters grew the mood in and around the park intensified. Observers and protesters as well as police told the OIPRD that people in black clothing could be seen in groups removing their black clothing and blending in with the crowd. Police reported an actively resistant crowd. Police officer scribe notes indicate that people in the crowd were yelling and screaming at them, calling them names, swearing, and throwing objects such as rocks and bottles. The officers noted that the majority of projectiles were thrown by people behind the front line of protesters.

Arrest records disclosed to the OIPRD indicate police began to make arrests for “breach of the peace” and “unlawful assembly” at around 5 pm.

The Incident Commander authorized the LRAD to be set up and used to disperse the crowd at Queen’s Park.

At 5:25 pm, Incident Commander Superintendent Ferguson reported off duty and night shift Incident Commander Superintendent Fenton took over.

Soon after he took over command, the night shift Incident Commander ordered public order units to push north from the intersection of University Avenue and College Street to restore order. At the same time, POU officers gave shouted warnings to the crowd to move or be arrested for obstructing police.

At 5:46 pm, the LRAD was deployed at the intersection of College Street and Queen’s Park Crescent. In a statement, TPS public order unit Section Commander Inspector Meissner explained how he set up and used the LRAD:

You need two people to operate it, one to actually either hold it to the front or to carry it and the other person to operate the mechanism – the alarm systems or the voice modulator. I instructed my laser range operator to take a bearing and to identify a physical marker at least 10 metres north from our location. Once that marker was identified, I instructed “India” (Calgary) POU section to momentarily advance to clear the area

in front of their position and to immediately return to a line formation in order to comply with the guidelines. I pointed the instrument northwards toward Queen's Park in the direction of the crowd with the volume indicator positioned precisely on the line between yellow and red settings, so as not to broadcast beyond the volume levels stipulated.

Earlier in the month, the Canadian Civil Liberties Association had sought an injunction against the use of the LRAD, and on June 25, 2010, a Toronto judge ruled that, although police could not use the alert function, they could use the voice function but at a lower maximum volume level. That judgment took into consideration both parties' concern for the importance of communicating with crowds. The decision said in part:

Both the TPS and OPP expressed the importance of communications in preserving the peace and defusing potentially violent situations.

Communication with the public is key to de-escalating situations and avoiding violence. It is important to be able to communicate with a crowd to give them an opportunity to disperse peacefully before any police action occurs, and to convey information as to how they can do so. In crowd situations, protesters and the public should always be made aware of likely police action, in order to make informed choices, particularly where a use of force may be a possibility.

The need for police forces to communicate effectively with crowds has been stressed by the applicant Canadian Civil Liberties Association. In a May 21, 2010 communication to the TPS, the CCLA stated, the "Protesters should be given clear orders and explicit warnings, and time to voluntarily respond, before force is used."

The public inquiries that arose out of the APEC Conference in Vancouver and [out of] Ipperwash both stressed the importance of police forces effectively communicating with crowds during demonstrations. The following recommendation of the APEC inquiry was made regarding warning

to protesters: "Before taking action that could result in physical confrontation, police should make all reasonable efforts to warn protesters of the duty then resting with the police (such as, to clear a roadway); the steps they intend to take to fulfil that duty; and what actions the protesters should take to allow the police to fulfil that duty and to allow the protesters to avoid arrest. Once the warning has been given, the protesters should be given a reasonable opportunity to comply before the police take further steps."

In an interview, Incident Commander Superintendent Fenton described the limitations of the LRAD:

It's a loudspeaker. The LRAD does have functionality in a large crowd because it could direct sound, but it's limited too, because the sound is a funnel of sound. You can be metres on either side of that funnel of sound and not hear it. So, it would be something that would have to be moved to get the direction and projection of the sounds, so it's limited as well. Certainly [it is] not the be-all and end-all to address communication issues with a large crowd.

One protester told the OIPRD:

The police set up a strange megaphone device which I think was the LRAD. Then the police started making an announcement on the LRAD, but it was of such low volume that nobody could hear what the police were saying over the megaphone. All the people started asking the police what they were saying on the megaphone because the volume was too low but the police didn't respond. Then the police started advancing again with their shield and yelling "Move, Move," pushing the people back.

Some protesters claim they didn't hear any warnings at all.

I was lying on the grass near the south end of Queen's Park, when I saw people running northwards. I got up quickly and joined them. At no point was it announced to me (or to anyone else I spoke to) that Queen's Park no longer was a public place, that no longer was

anyone allowed to be there. Therefore what I believed I was observing was indiscriminate arrests with no justification.

Shortly after 7 pm, public order units started moving the crowd north up the west side of Queen's Park to Hoskin Avenue, where it split and dispersed.

At 7:38 pm, on instruction from the Incident Commander, Operations broadcast to police officers that all parties participating in protests were now in breach of the peace; anyone in the demonstration at Queen's Park was to be arrested for breach of the peace.

Analysis

The warning issued to the crowd on the LRAD was:

This is a police warning. The violent behaviour of some members of this demonstration is causing a public safety concern. Reasonable grounds to arrest exist and force may be used. For your safety, you are now requested to leave this area.

Although this warning reflects the words of the "riot act" in the Criminal Code of Canada fairly well, police did not allow 30 minutes following the announcement for people to disperse, as stipulated in the Criminal Code, nor did they give any dispersal route to the people assembled.

Many protesters at Queen's Park said they heard no clear warnings about being in breach of the peace or instructions on where or how to disperse, other than being told to move or get back. It would appear that the single LRAD announcement to disperse was the only "official" warning the crowd at Queen's Park received that evening, and it was not at all effective. It was used only once and was not heard by most of the people. Those who saw the LRAD being used said they couldn't hear it or couldn't hear it clearly. In fact, other public order officers who were close by said in interviews that they couldn't hear it or couldn't clearly make out the words.

The LRAD was used with a pre-recorded message so the police could not broadcast specific expectations or directions for dispersal pertinent to Queen's Park.

If G20 planners and the MICC were relying on the use of the LRAD for crowd warnings, they should have used it more times, in more directions, and in more locations around Queen's Park. They should also have had a contingency plan in the event the LRAD could not be deployed. It appears the use of the LRAD was more about using the new piece of equipment rather than a method to have real and meaningful communication with the protesters.

There appeared to be confusion in the MICC about when and where the LRAD was actually deployed. Incident Commander Superintendent Ferguson authorized the LRAD's use before he went off shift at 5:30 pm, and the TPS public order unit Alpha Section Commander stated that he deployed the LRAD at 5:46 pm. This authorization for deployment follows the procedure for LRAD use set out in the TPS G20 operational plan.

Then, at 7:01 pm, the LRAD was mentioned again. In his scribe notes as well as his statement to the OIPRD, Incident Commander Superintendent Fenton said:

At 19:01 hours, I received information from [the Special Operations Director] that the LRAD was at Queen's Park, he advised that POU on scene will make the announcement then start mass arrests at Queen's Park. [The Special Operation Director] advised that there were about 1,000 to 2,000 protesters at Queen's Park. He immediately included that they were already making the announcement on the LRAD.

At 19:03 hours, I gave [the] tactical dispatcher my BlackBerry, I advised her that POU were using the LRAD at Queen's Park warning the protesters at that location that if they did not disperse they would be arrested for breach of the peace. I instructed her to email the Chief this information.

At 19:04 hours, I was advised by [tactical dispatch] that the email had been sent to the Chief.

At 19:04 hours, [the Special Operations Director] confirmed that arrests at Queen's Park would be for breach of the peace.

At 19:05 hours, I was advised by [tactical dispatch] that the Chief approved. At 19:05 hours, [the Special Operations Director] advised me that an estimated time for the LRAD announcements to end and arrests to start would be five minutes.

That TPS Chief Blair was notified that the device was (ostensibly) about to be used and gave his approval adds to the air of confusion around this issue since, according to the TPS public order unit operational plan, control over the deployment of the LRAD rested with the public order unit Section Lead in consultation with the Specialized Operations Director and the Incident Commander. Even if the Incident Commander was notifying the Chief as a courtesy, there was still no need for "approval."

There is no confirmation in the scribe notes that the LRAD was used again at Queen's Park at this time. According to the TPS public order unit Alpha Section Commander, who was in control of the LRAD, he was indeed then at Queen's Park, and he had just come from Queen Street where he had used the LRAD; however, in an interview, he said, "I was the only one to use the LRAD during G20, and I used it twice – once on Queen Street and once at Queen's Park."

In some instances, police at Queen's Park instructed the crowd to "move" or "move back," as they – at the same time or immediately after – physically pushed the crowd back with their riot shields or moved toward the crowd banging their riot shields. In many instances police did not communicate at all. It is evident that a great number of the people at Queen's Park did not hear any announcement, and a police order to "move" does not meet the standard of "clear directions and standards." Even if the crowd heard this communication, there was no time or opportunity given to react or comply with it.

Protesters have a right to peaceful protest and to be allowed to walk away if they are not breaching the peace. Exit routes must be provided at all times.

The TPS operational plan outlined specific procedures for crowd dispersal, including that "the dispersal direction, route and Lead's intent for use of force will be communicated."

These procedures were not followed. The MICC scribe notes show that as early as 4:30 pm, the Incident Commander asked to have the protesters "boxed in." When the night shift Incident Commander came on duty, it became clear that his plan was to contain protesters rather than let them disperse and then implement mass arrests. This was how Incident Command was going to "take back the streets."

At 7:35 pm, when the Incident Commander ordered a message broadcast to all officers that all parties participating in protests were now in breach of the peace, he may have thought he was complying with proper procedures. However, there is no evidence that shows police officers on the ground conveyed that message to protesters before arresting them. Neither could any of this account for why protesters were arrested for breach of the peace between 5 pm and 5:46 pm before any public warning, including use of the LRAD, was made.

Containment and mass arrests

Before the breakaway group of protesters reached Queen's Park, Command Lead Deputy Chief Warr had already ordered the crowd "shut down now." Public order units bicycle and mobile officers were ordered to Queen's Park. When the first of this group of protesters reached Queen's Park around 4:45 pm, there was a line of about 50 public order unit officers in full riot gear lined up across College Street at University Avenue south of Queen's Park. The remnants of the main demonstration that marched on the originally planned protest route via Spadina Avenue and College Street were still scattered throughout the grounds of Queen's Park. Many were sitting on the front (south) lawn of the legislature and on the grass verges close to College Street; most were oblivious to what had happened on Yonge Street. Protesters dressed in black were seen taking off their black clothes and leaving them strewn on the ground or bundling them into backpacks. Then they melted into the crowds.

Following Command Lead Deputy Chief Warr's orders, the Incident Commander advised that they were going to set up to box in the protesters.

Analysis

Containment as a method of crowd control is not new. Lines of police officers can prevent protesters from getting past a certain point or can move protesters into a specific area, effectively limiting the protest. Once protesters are contained to a particular area, police then disperse the crowd by filtering them either through their lines or in a particular direction. This allows police to pick out and arrest particular individuals.

This containment method was used correctly at Queen and Peter streets at about 6:30 pm that same day. TPS public order unit Alpha Section Commander explained in an interview with the OIPRD:

I was the site commander so I had discretion, but at one point I was ordered to mass arrest by the MICC, and I did not. I took up a position both on Peter and Queen and to the west of Peter, and I brought them (protesters) in, but I then filtered them. I gave them an LRAD warning and as soon as I played that LRAD warning I had members in the crowd say, "Where would you like us to go." So to my way of thinking that was clearly an indication that again I had a compliant crowd and I advised the MICC and contrary to their instructions I dispersed the crowd and gave them a dispersal route and I performed what we call...a filter to disperse the crowd. One individual was arrested, and that individual was completely stark naked.

There was a fairly solid rationale for a containment tactic at Queen's Park because some of the people who had caused the vandalism on Yonge Street were likely still in the crowd. However, any containment should have included a communicated warning, a dispersal route, and a filter or a space for people caught up in the containment to exit.

In an interview with the OIPRD, Incident Commander Superintendent Fenton said:

In general terms, mass arrests would be a decision that would be made by me. It would not be a decision that I would expect a street level commander to make. I told all my folks, when I took over the operational floor on the Saturday to prepare for that eventuality. If we had to start mass arrests, we were going to do so.

There was a provision for mass arrests in the G20 operational plan. It stated that "mass arrests shall only be conducted under the authority of the Specialized Operations Director in consultation with the Incident Commander or Operations Chief." There was also an arrest plan to be followed in the event of mass arrests.

A decision to contain protesters and conduct mass arrests without the option of a dispersal route had clearly been made early in the evening. From that point on, police tactics began to change. Many protesters would claim that police became militarized and retaliatory as payback for police inability to "get" the Black Bloc vandals.

Even in the MICC, there was a sense that perhaps police were going too far. Incident Commander Superintendent Fenton's statement contains concerns from Command Lead Deputy Chief Warr about possible police overreaction:

At 19:59 hours I was approached by Deputy Warr, who began to speak about his instructions given to restore order. I got the sense that he was concerned about potential police overreaction. I told him that if he sees me do anything that he is not comfortable with to simply tell me and that I would stop that activity. He nodded and said "OK."

For more analysis on containment during the G20, see Chapter 8, Queen and Spadina.

Use of force allegations

According to section 25 of the Criminal Code of Canada, "every one who is required or authorized by law to do anything in the administration or enforcement of the law" as a peace officer or in aid of a peace officer is, "if he acts on reasonable

grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.”

Subsection 4 states:

A peace officer who is proceeding lawfully to arrest, with or without warrant, any person for an offence for which that person may be arrested without warrant, and every one lawfully assisting the peace officer, is justified, if the person to be arrested takes flight to avoid arrest, in using as much force as is necessary to prevent the escape by flight, unless the escape can be prevented by reasonable means in a less violent manner.

Police are also allowed to use force to suppress a riot. Section 32 states that

Every peace officer is justified in using or in ordering the use of as much force as the peace officer believes, in good faith and on reasonable grounds,

(a) is necessary to suppress a riot; and

(b) is not excessive, having regard to the danger to be apprehended from the continuance of the riot.

However, section 26 of the Code says: “Every one who is authorized by law to use force is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess.”

According to the G20 operational plan, the Incident Commander was responsible for actually deploying the public order unit. Once the public order unit was deployed, the Special Operations Director was responsible for all subsequent commands and orders and the POU Section Lead was responsible for the tactics. Any relocation of POU personnel was at the direction of the Special Operations Director, upon consultation with the Operations Chief.

According to the operational plan, community response unit (CRU) bicycle and mobile officers were expected to be routinely deployed during peaceful

assemblies. If there was an escalation of violence, or intelligence was received to indicate violence might occur, the public order unit would assume command and become the lead point of contact, in soft or hard tac.

The public order unit’s “less lethal” team falls under its Section Lead and was trained in deploying less lethal munitions within an active or potentially active crowd. These “less lethal” munitions included CS gas and smoke grenades, pepper balls, and the anti-riot weapon Enfield (ARWEN), which fires baton rounds (rubber bullets) and inert smoke or CS gas muzzle blasts.

The deployment of ARWEN, muzzle blast or 37 mm CS gas blast dispersion, was under the direction of the POU Section Lead in consultation with the Special Operations Director. The deployment of CS gas grenades was under the direction of the Special Operations Director in consultation with the Incident Commander.

The operational plan went on to state that officers should be prepared to respond to any act involving violence, damage to public / private property, and other Criminal Code offences requiring immediate arrest. Members of the public order unit should use discretion when deciding to arrest and consider the seriousness of the offence, officer safety, public safety, and the potential for increased violence. Mass arrests were to be conducted under the authority of the Special Operations Director in consultation with the Incident Commander or the Operations Chief.

Police in Ontario use a “use of force model” that is based on the National Use of Force Framework. This model was developed to provide officers with a reference for making decisions and explaining their actions with respect to a use of force. Central to this model is a process of continuous assessment that applies to the situation, the subject’s behaviour, and officer perception and tactical considerations. The model describes five categories of behaviour:

- Cooperative – The subject responds appropriately to the officer’s presence, direction, and control.

- Resistant (passive) – The subject refuses, with little or no physical action, to cooperate with the officer’s lawful direction. This refusal can be a verbal refusal or consciously contrived physical inactivity.
- Resistant (active) – The subject uses non-assaultive physical action to resist, or while resisting, an officer’s lawful direction. Examples would include pulling away to prevent or escape control, or overt movements such as walking toward or away from an officer. Running away is another example of active resistance.
- Assaultive – The subject attempts to apply or applies force to any person; attempts to threaten, by an act or gesture, to apply force to another person, if he or she has or causes that other person to believe upon reasonable grounds that he or she has the present ability to effect his or her purpose. Examples include kicking and punching, but may also include aggressive body language that signals the intent to assault.
- Serious bodily harm or death – The subject takes actions that the officer reasonably believes are intended to, or are likely to, cause serious bodily harm or death to any person. Examples include assaults with a knife, stick, or firearm, or actions that would result in serious injury to an officer or member of the public.

Usually, when a police officer makes an arrest, the officer will identify him or herself and tell the subject that he or she is under arrest and the reason for the arrest. The officer will take physical control of the subject and, in most cases, will handcuff the subject with his or her arms behind the back. In some cases, the police officer will take the subject to the ground to effect the arrest, applying a joint or arm lock if necessary. If the subject resists arrest, for example, by pulling, kicking, or punching, the officer can use reasonable force to make the arrest. The public is often surprised at how violent “reasonable” use of force can look. However, any force used that is more than necessary to make the arrest is considered excessive.

Analysis

The basic tactics police and security forces use to control crowds are fairly similar throughout the world. In most circumstances, the goal of police is to disperse the crowd. If the crowd gets disorderly, police will use intimidation as a first step. Officers dressed in riot gear (an intimidating sight in itself) will stand in a line formation, shoulder-to-shoulder, effectively creating a barrier. The officers will bang their batons on their shields or stomp their feet in unison. This can be quite frightening to the average citizen. If the riot police are protecting a building or blocking a street, they will remain in that position and may use a formation that is just one officer deep. If police are attempting to move a crowd, then the line may be several officers deep.

Police will target riot instigators and those breaking the law for arrest. They would not try to arrest everyone in the crowd. Without the leaders stirring them up, the crowd will often disperse more easily.

If a crowd does not disperse and becomes more aggressive or violent, the police will advance their lines on the crowd or use smoke or gas to move it in a certain direction. The unit would move forward on the crowd, commanding the people to move and pushing or prodding people who don’t respond to their requests. If some rioters still don’t move, the front line of the police formation opens up and surrounds the people and once they are inside, they are arrested or handed off to arrest teams. Then the police formation moves forward again.

The options available to a police officer considering use of force range from the simple presence of the officer, through verbal communications, to the use of batons and sprays, and finally to the use of firearms.

The Estey Commission (an inquiry regarding the conduct of police who attempted to clear a path through Ontario Public Service Union demonstrators who blocked entrances to Queen’s Park in March 1996) stated that clear directions must be given to the crowd and expectations communicated before force can be used.

Protesters told the OIPRD about their experiences at Queen's Park:

When the police started moving, they moved on a woman who was sitting backward, without giving any indication that could be heard that she should move. They started beating on her really hard.

I witnessed some people from the front lawn of Queen's Park far behind the people closest to the riot police throw some small water bottles at the riot police line. When this happened people closest to the police line would shout, "Don't throw anything! Be peaceful!" Then the riot police would make raiding parties and tackle and grab the peaceful people who were telling the other people not to be violent.

Even though I was backing away from the advancing police line, a police officer reached out and pulled me to the ground. The riot police line quickly advanced beyond me, a number of riot officers behind the line piled on top of me, one with his boot or knee on the back of my head even though I was in no way resisting.

I had my back turned and was facing south when the police started to march on us and act aggressively. I was kicked in the back of my head by an unidentifiable officer while I was sitting. I was then shoved, pushed and hit with batons while trying to move south.

I heard a commotion and saw people running and shouting as police were moving forward. I started walking away when I saw an officer running toward me. I was startled so I ran and then other officers also chased me. I heard one officer say, "Get him" but I didn't realize they were referring to me. One officer came from behind me and jumped onto my back, pulling me down to the ground. Then five to six officers arrived and jumped on top of me. They began pulling my legs and arms down. I asked what I did and they started punching and kicking me in the face and body, telling me to "Shut the fuck

up." I don't know how many times I was hit. Then they handcuffed me behind my back with plastic zip ties.

Police who were ordered to Queen's Park had come from other areas of downtown Toronto where confrontations between protesters and police were still taking place or had just ended. Many of the public order units had previously been stationed along Richmond Street, just south of the "People First" demonstration route, where protesters using Black Bloc tactics challenged them at every intersection. The police list of objects that were thrown at them included: bottles of urine, paint, and water; bags of feces; rocks, bricks, golf balls, and pieces of wood.

Public order unit Bravo Section Commander told the OIPRD, "They had sticks that were like two feet long, leaning over and hitting the (officers), and there were poles with sharpened ends they were trying to jab in [the] eye, and there were things being thrown at us." Some officers had seen the burning cars on King Street and the vandalism on Yonge Street that police had been unable to stop. Many of those who committed the vandalism were in the crowd of protesters when it returned to Queen's Park. They were part of the anarchist groups that had openly called for riot action in the weeks leading up to the G20. They were the crowd that Incident Command wanted "shut down." But, for the police on the ground, getting to them was not easy.

In an interview with the OIPRD, TPS public order unit Alpha Section Commander said:

When public order officers arrived, they [Black Bloc] were in the recesses of the crowd that was being dispersed westbound on College. The whole intent to giving the LRAD warnings was to arrest those people because they had been under observation all the way from Yonge Street, but we couldn't get to them. Part of the reason was that we had as many people who were not complying as we had people who were just spectators. The problem here was we had a lot of those people insulating the people that we wanted to get to...the Black Bloc. There were

a lot of passive-resistant people who stood in front of our lines and insisted that they couldn't move or had to be moved or required medical attention, yet they were perfectly fine before the LRAD warning was given.

Public order units began to move the protesters north from College on University Avenue, deploying a muzzle blast of tear gas at University and College. The POU gave verbal commands to the protesters to move back and the crowd responded with "No, we will not move."

One POU Section Commander explained some of the protesters' tactics for engaging police: "There were some people that were rushing up to the police, banging into their shields and then rushing away. More of them started doing it, in fact, there was a little old lady, she even got involved and she was banging against the shields." He went on to say the public order unit had formed arrest teams who were going to attempt to apprehend some of the agitators. He explained the arrest team would consist of six officers who would go into the crowd and attempt to make an arrest; however, when they did this the agitators would run off into the crowd. The teams would not punch out³⁰ too far into the crowd to make an arrest as there was a potential for officers to be injured.

In one piece of video on YouTube, a deep line of police in riot gear, some carrying ARWENs, can be seen moving forward. Officers punched out, making snatch and grab arrests. On video, a number of these arrests appear to be quite violent with four to six officers piling on one person.

While police lines moved forward, people continued to hold their cameras in front of them, trained on the police. In fact, when the video panned away from the police to the protesters, one could see hundreds of cameras aimed at police. Protesters moved back only when police moved forward. Every time police

made a snatch and grab arrest, the crowd became more agitated. Protesters could be heard yelling and swearing at police and shouting chants like "shame" and "the whole world is watching." A woman could be heard repeatedly screaming "peaceful protest." Others asked over and over again, "Where do you want us to go?"

There were several different groups and subgroups of protesters at Queen's Park, and their reactions to the heightened police presence differed. Some protesters legitimately wanted a peaceful protest; they were there to lend support to the activist protesters or had some relationship with them and wanted to support the cause generally. Some may have joined out of curiosity. They chose to be at Queen's Park because they had ended their protest march there, or they wanted to continue their protest and were there because it was the designated speech area. This group would have been willing to move had they been directed where to move and given time to disperse.

Another group wanted to confront the police and were actively resistant, abusive, and even assaultive. This crowd also included those wanting the excitement of being part of a violent mob and the opportunity for violence. This group employed tactics such as laying logs and tree branches across a road to create a barricade against police and horses. They would stay behind the front lines of the protesters stirring up the crowd, throwing objects, and coming out to confront or attack police on the line before melting back into the crowd.

The mainstream activist group was the principle reason a demonstration was there in the first place. They believe in, work, and march for social justice causes. A subgroup of this crowd consists of individuals who are not formally members of any organization but who feel strongly about an issue. Some people in the activist group are volatile, inclined toward militant protest, and willing to employ civil disobedience as a tactic. Clusters of this subgroup could get carried away in collective action and do things they might not otherwise do.

³⁰ A "punch out" is a public order unit tactic where officers on a line suddenly push or dart out two or three metres to make a barrier around an arrest team to protect them while they are making an arrest. A punch out is also sometimes used to move a crowd or a line of people back.

The dynamic between police and protesters at Queen's Park became increasingly tense as some within the crowd incited unrest and police responded with stronger security measures. When the police began using the random-seeming snatch and grab tactic, the crowd saw them as attacks on innocent people. This perception probably caused some activists who were committed to non-violence to move into a violent frame of mind. It may have caused the peaceful, more passive protesters to become activists and the bystanders and "protest tourists" to become violent.

Both rubber bullets and tear gas were used at Queen's Park. At a 9 pm news conference, Toronto Police Chief Blair confirmed that tear gas was used at Queen's Park, but that it was done sparingly in "muzzle blasts" rather than large canisters; he denied the use of rubber bullets. Although MICC scribe notes show that "muzzle blasts" and/or tear gas were used in the Queen's Park area at 4:42, 5:04, and 6:05 pm, they contain no reference to any warnings to the public about the imminent use of tear gas.

Chief Blair initially denied the use of rubber bullets, insisting that he would be alerted if they were used. MICC scribe notes showed that at 11:21 pm, Special Operations informed Incident Command they received a call from Edmonton public order unit informing them that Edmonton POU had "employed seven eXact iMPact rounds at Queen's Park during the day, with no injuries." Chief Blair would not have known this at his 9 pm news conference. However, there was, according to the operational plan, no real need for him to know: the deployment of the ARWEN was under the direction of the POU Section Commander in consultation with the Special Operations Director.

In a video supplied to the OIPRD, police can be seen marching in a line toward the crowd, which is backing away as police get closer. A sound like a rubber bullet being deployed can be heard, and one person, who was obviously hit, shouts in pain and surprise. At that point, the crowd moves away much faster. In an interview, Incident Commander Superintendent Ferguson said, "The decision to use a muzzle blast and/or rubber bullets is made on

the ground. They are considered intermediate force options – less lethal. What they are for is to move the crowd back."

Throughout the weekend, Queen's Park was noted to be a high priority with a high threat level because of potential groups "sabotaging" peaceful protests there. To complicate matters, policing resources were strained on Saturday; other security issues were occurring at various locations in downtown Toronto. As a result, Queen's Park became a policing challenge for services.

During the G20 weekend and especially at Queen's Park, a large number of police officers removed their name badges. For the Toronto Police Service, this action was against its rules. TPS identified approximately 90 officers who were not wearing their name badges and docked them a day's pay. However, the fact that officers had taken off or covered over their name badges could not have gone unnoticed by senior officers on the ground. This means that senior officers chose to ignore this violation of the rules or tacitly approved of the behaviour.

Without question, the attitude of senior officers toward protesters and toward the rules of their own services influences the behaviour of police on the ground and sets the tone for the police response. It allows individual officers, who find out they can act with impunity, to use excessive force. At Queen's Park, police were seen to be treating all demonstrators as threats to public safety. For the most part, this perception was accurate. In a statement to the OIPRD, Incident Commander Superintendent Fenton continually referred to crowds as "protesters / terrorists."

It is fair to say that the level of force used in controlling the crowds and making arrests at Queen's Park was higher than anything the general public in Toronto had seen to this point. In some cases, there was excessive use of force.

Recommendations

- The Toronto Police Service and other Ontario police services should ensure that the names and badge numbers of officers at public order events are displayed prominently on outer clothing and helmets at all times. This requirement should include hard tac equipment. Senior officers should also be accountable for enforcing the policy. Where major events involve more than one police service, security planning for the event should include an agreement among the police services that name badges will be used by all officers no matter what policy the individual police services have in place.
- All Ontario police services and all senior officers must take responsibility for ensuring that the policies, obligations, and requirements of good policing are met. Senior officers especially should not condone, or distance themselves from, the misdeeds or misconduct of subordinates and colleagues. To condone any inappropriate behaviour is to bring great disrespect to police and policing and weakens the public confidence in police. To this end, the *Police Services Act* of Ontario and the current *Code of Conduct* regulations should be reviewed to impose a positive duty on all officers: (a) to disclose potential evidence of police misconduct regardless of whether any public complaint has been made, and (b) to impose a positive duty on all officers to assist with investigations of police conduct.
- Police services should ensure that, before police take action to make mass arrests or arrests involving extractions from a crowd of protesters, loud and clear warnings are given and enough time allowed for protesters to comply with any police direction. Before any major protests begin, the Toronto Police Service should test its public announcement systems to ensure that public announcements can easily be heard by all who attend the event.
- All police services that have public order units should continually review their tactics for maintaining public order. These tactics should enable them to respond effectively to existing protester actions or evolving actions that may be employed at major events or events of mass disorder.
- The public needs to take responsibility for working/cooperating with police security organizations, especially when requested to relocate during incidents that appear to be bordering on danger or violence. It is recommended that police ensure that the public be informed of the reason to relocated before employing police security procedures. Thereafter the public must be aware that they are subject to police action.

Chapter 6: Arrests on The Esplanade

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Arrests on The Esplanade



At approximately 7:30 pm, on Saturday, June 26, 2010, police began a second sweep in an attempt to arrest or move protesters out of Queen's Park. They pushed protesters north and west of the "designated speech area." According to protesters who were interviewed by the OIPRD, many of the people who were pushed out of Queen's Park decided to march north to Bloor Street. By 9 pm, a crowd of about 500 moved east on Bloor to Yonge Street, where they turned south. More people joined the group as they marched south on Yonge.

Police were concerned that this group intended to go to the security fence on Wellington Street. The police blocked off the crowd's access to the fence by setting up lines across some streets to divert the crowd in another direction. The police, in effect, steered them away from the security area by blocking some streets and leaving other routes open. As the crowd moved, so did police in order to ensure that they did not reach the security fence. The protest group was described as loud but not hostile or aggressive.

The crowd continued moving south and east until it arrived in the area of The Esplanade and Yonge Street. They gathered in front of the Novotel Toronto Centre as a show of solidarity for workers who were on strike at the hotel.

Just after 10 pm, this crowd, now 200 to 300 strong, was boxed in by lines of riot police. Police blocked the street east and west along The Esplanade.

While demonstrators sat down in the street and chanted, "Peaceful protest, peaceful protest," the police line started to advance, limiting the space and movement of the crowd. At approximately 10:30 pm, the police, following orders from the Major Incident Command Centre (MICC), announced that everyone in the crowd was going to be arrested. Over 260 people were arrested. The exact number is difficult to determine because the TPS arrest records are unreliable.

Timeline

At 9:06 pm, a closed-circuit television (CCTV) camera at Yonge and Gerrard streets showed a crowd of between 500 and 600 people passing through the intersection going south on Yonge. In a statement to the OIPRD, Incident Commander



Superintendent Fenton said it was members of this group who ultimately were arrested at the Novotel hotel.

At 9:11 pm, a CCTV camera at Yonge and Dundas streets showed a crowd of about 600 people passing through the intersection going south on Yonge. A CP24 news van could be seen following them.

At 9:13 pm, the Incident Commander advised the RCMP liaison in the MICC that a thousand protesters were on their way down Yonge Street. A few minutes later, the Incident Commander advised the Interdiction Zone and Outer Zone Leads of the protesters on Yonge.

At 9:16 pm, a CCTV camera showed that the Yonge Street crowd had reached Queen Street. In a statement to the OIPRD, Incident Commander Superintendent Fenton said he advised that he needed officers at King Street to stop this crowd southbound on Yonge. He instructed the Operations Chief, to have the Outer Zone Director have his assets on King and Yonge streets intercept the southbound crowd.

At 9:20 pm, a CCTV camera at Yonge and Queen showed a crowd of about 600 people passing through the intersection going south on Yonge Street. In a statement, Incident Commander Superintendent Fenton stated that he received information from Operations that protesters were starting to burn stores in the Yonge and Shuter Street area. "I immediately instructed that assets be assigned to that location to verify reports of fires being set." No confirmation was received about a fire at that location, no further mention of a fire was made in any scribe notes, nor did OIPRD investigators observe any fire on CCTV video footage. CCTV cameras on Yonge Street showed no sign of fire trucks; at 9:26 pm, about 25 police officers arrived in vans, conducted a sweep of the sidewalk, and left at 9:30 pm.

At 9:22 pm, the Intelligence unit advised that information from Twitter said protesters were "taking Dundas Square and then to the fence - 'Finale.'"

At 9:23 pm, CCTV cameras showed that the crowd reached Yonge and Temperance streets, where it turned west, then continued south on Bay Street to King, west on King, south between the bank buildings in the block between Bay and York streets

to arrive at Wellington Street at 9:32 pm. A large number of police in yellow jackets lined the fence along Wellington. The crowd stayed among the buildings for a few minutes before moving out onto Wellington Street. When the crowd did move to the fence, police officers moved aside. CCTV cameras showed protesters milling around the fence, touching it, and taking photos. A few protesters who were dressed in black kicked or hit the fence.

At 9:25 pm, the Incident Commander instructed Operations and Special Operations that he wanted bicycle officers and public order units to go to Yonge and Richmond.

At 9:34 pm, the Intelligence unit advised Incident Command that information from a social network site was: “protesters are through the financial district, no police in sight.”

At 9:39 pm, the Outer Zone Director advised the Incident Commander that all bicycle teams were on route to Yonge and King to form a line at that intersection.

At 9:39 pm, CCTV cameras showed protesters on Wellington blocked in on two sides by police in riot gear. The protesters retreated between the buildings and went back to King Street. They crossed the street and attempted to go between buildings at First Canadian Place, while lines of riot police blocked the way east and west. Some members of the crowd sat down on the street. Some could be seen chanting, clapping, singing, and dancing, while others shouted at the officers. Some people moved to either side of the street.

At 9:43 pm, CCTV cameras showed that officers on the west side were moving eastward toward the crowd. More police arrived on the scene and moved in behind the line of officers on the west side. A CCTV camera showed one protester picking up an object from the ground and raising an arm to throw it at the police line on the west side. A puff of smoke could be seen rising from the police line. The protester appeared to have been hit, but still reached down to pick something up from the ground again. Another

puff of smoke emanated from the police line and the protester ran off toward the buildings on the south side of King. The rest of the crowd moved back.

The TPS public order unit Charlie Commander’s scribe notes indicated that the unit was deployed to Wellington and York streets to deal with “a crowd of hostile and violent persons; ended up on King Street, hostile crowd throwing items, rocks, bottles, etc., at officers. ARWEN deployed and used on male, white, 20-25 years. He picked up a bottle to throw at officers; was struck with one round; he then tried to pick it up again and was struck with a second round. Male ran away before he could be arrested.”

At 9:46 pm, the Operations duty officer advised the Incident Commander that they could box in the crowd in the financial area – [in the block bounded by York, King, Bay, and Wellington]. The Incident Commander approved.

At 9:48 pm, CCTV cameras show that the line of police on the east side of the protesters had thinned and some protesters or bystanders were on the other side of the police line.

At 9:50 pm, CCTV cameras show that the line of officers on the east side of the protesters on King Street filed away to the south, and the protesters marched east on King to Yonge.

At 9:51 pm, the Investigations Chief advised Incident Command that the [prisoner] wagons would be staged to the east of the box.

At 9:55 pm, CCTV cameras show that a line of bicycle officers blocked the street north at Yonge Street, so protesters continued eastbound on King. In a compelled statement to the OIPRD, Incident Commander Superintendent Fenton said this was outside of the containment box that was in the process of being put into place.

At 10 pm, the Special Operations Director requested bicycle officers to assist with tracking the crowd since there were no CCTV cameras in the area the protesters had moved into and the Incident Commander advised that he did not want to lose that group.

At 10:01 pm, Intelligence advised that the crowd was moving south on Scott Street toward Front Street.

At 10:06 pm, the Incident Commander received information from Intelligence that people were putting on masks on The Esplanade south of Front Street between Yonge and Bay Street.

At 10:09 pm, the Incident Commander advised the POU tactical adviser that more protesters might be approaching from the east. The Outer Zone Branch Director advised that bicycle officers were at King and Yonge, Church and Yonge, and on The Esplanade.

At 10:15 pm, the Incident Commander ordered bicycle officers at Wellington and Simcoe streets to The Esplanade to assist public order units with the box.

At 10:18 pm, the Incident Commander ordered the prisoner wagons be brought in closer to Church and The Esplanade.

At 10:26 pm, the Special Operations Director advised Incident Command that the protesters were boxed in on The Esplanade, and requested that prisoner wagons and buses move in.

At 10:38 pm, Operations advised that the prisoner wagons were in front of the Novotel.

At 10:40 pm, Operations advised Investigations to arrest whoever was there, unknown numbers.

At 10:47 pm, the Incident Commander inquired why protesters were not in the prisoner wagons yet. The duty officer advised that they were going through the hand-off teams.

At 11:07 pm, the Incident Commander was advised by the Investigative Chief that there was a delay in processing the arrested people. The Incident Commander also instructed the Special Operations Director to have Forensic Identification Services photograph the property left on the ground by the arrested parties at the Novotel and seize it. In a statement to the OIPRD, Incident Commander Superintendent Fenton stated he “observed on the CCTV pictures, bottles that formed a street medic

kit. This was clear evidence that this crowd at the Novotel hotel were a part of the violent protests ongoing in the city, and that they were ready and equipped with countermeasures to police use of force options.”

At 12:12 am, the Operations Chief advised the Operations duty officer that more prisoner wagons were needed at The Esplanade.

At 12:15 am, the Operations duty officer advised that prisoner wagons were at The Esplanade, but they needed people to drive them.

At 12:21 am, Incident Command advised that there were still 50 people to be arrested at the Novotel on The Esplanade.

At 12:54 am, Operations requested that PATH officers be moved to Church and The Esplanade. Operations was advised that they would get 30 officers in 15 to 20 minutes.

At 12:57 am, Operations ordered 10 officers from the Interdiction Zone to Church and The Esplanade to help wrap up arrests.

By 2 am, police had completed the last of the arrests of the people in front of the Novotel.

Complainants, witnesses, and police had this to say about events that evening (note: excerpts from interviews have been edited by the OIPRD for brevity):

“At Queen’s Park, they [the police] pushed us back and pushed us back, and we moved back till finally we were on to Queen’s Park Crescent and by that time we were on the road, and they just kept pushing us and pushing us. There were lots of people and there was this amazing consensus that we were going to march up to Bloor St. I mean, to be honest, people were just really upset that they [the police] just didn’t tell us [what was going on]. So we started marching up by Trinity College and then up to Bloor St. They let us go up on Bloor Street for sure. They could have stopped us but they didn’t. Then we marched down Yonge. Some people from the streets joined in. There were no police officers on Yonge.

“We went through these two buildings and people were going to the fence. We weren’t going to the fence to break it down or climb up it or whatever like they said we were trying to do, we were just standing on the steps parallel to it from this other building. We were standing there and chanting and the police were standing in front of the fence. And then, they all moved to the side and left the fence completely unblocked. So we were like, this is a trap don’t go to the fence, they want you to touch the fence so they can arrest you. So we turned around and went back and they chased us around and pushed us to The Esplanade.”

“At one point, protesters were blocked in by police in front of the TD building; there was no opportunity to leave. The crowd of about 200 people was boxed in. And while they were boxed in, rubber bullets or whatever the projectiles were, were fired upon them and myself. I witnessed one guy kneeling on the street, literally on his knees, and something was fired at him, while he was isolated from the crowd and on his knees. It was clearly a deliberate shot. So everyone panicked and eventually what people decided was the safest thing to do was to sit down, because that is a clear sign that there is no violence going on here. And what happened was the riot line allowed us to pass. Nobody was saying go home. No one was told to disperse.”

“That was the first point I actually saw any violence from protesters, they started throwing, I think bottles, back at the police as the police were firing rubber bullets at them. Then again they came from both sides and, we couldn’t leave, so we all sat down in this, on the sidewalk, on the side of the street and I don’t know I think people started singing “Oh Canada” or something and then, I think they eventually let up and let us leave.

“I guess somebody asked if we could go and show our support for union workers. So, we got up and we started marching again onto The Esplanade.”

“The group arrives just in front of the Novotel and they stop and I think they’re starting to protest, and someone says there’s a labour protest that’s happening at Novotel or there’s some people standing there. People sit down and they’re singing and things like that so we join in as well from the sidewalk, and there’s like a couple that comes out of the Keg [restaurant]. We notice that on the west side of The Esplanade it’s now been blocked off and there’s a couple of these tour buses have showed up, and there’s a line of riot officers blocking that side of the street. So we immediately turned to head east and then there’s another line of officers now banging the shields and heading down the east side of the street.

“People immediately start saying you know just everybody sit down and everyone on the sidewalk sits down. The people that had just sort of come out of the Keg, they sit down as well.

“We weren’t too sure what was going on, I think the actual riot officers that had blocked off the street were Calgary officers, and I asked them, “Can we go? Where do you want us to go?” And there was no answer and a couple of people [started] asking that question, “Can we go, where do you want us to go?” People in the restaurant wanted to go home and one of the officers said, “You should have gone home when you had the chance,” and nobody knew what that meant ‘cause they didn’t do a megaphone announcement for everybody to leave. It was just sort of, now everybody’s here and you’re not going anywhere, doesn’t matter if you had just apparently came out of the restaurant, or you lived in the condo there or were trying to go right home.

“There was a lot of media in the crowd, and I could see a lot of journalists trying to talk to the police and they did an announcement for one last chance for anyone with a valid media pass, they could leave. This was the last chance for official media to leave, so there was a lot of photojournalists there who did not have, like they weren’t with CBC or anything like that, but they had like the huge cameras and stuff like that. They weren’t allowed to go.

“At this point in time there were a lot of officers that arrived. The riot officers formed a semi-circle around the two hundred people that were left and there was now buses at both ends, there was no media or crowd anywhere. A lot of other riot officers had arrived and began taking off their gear and drinking Gatorade and lying down on the sidewalks and stuff like that so there was this one line and then there was everyone else that was catching a break or something like that.

“A lot of people were on their cell phones trying to call home. There was one guy who lived there, who was trying to call upstairs to let his wife know that he didn’t know what was going on. A lot of people in the crowd were starting to get upset because it’s now, I guess it’s getting past 10:30 and no officers have talked to us yet and we’re like, “Are we under arrest? Can we go, what’s happening?” And then I guess it was a Toronto officer just behind the line of riot police had a megaphone and he made an announcement that, “You are all under arrest, you will all be charged, and we will begin taking you away shortly.” There was no announcement of what we had been arrested for, what the charges were, why no one was given a chance to leave, this is exactly the kind of thing that we wanted to avoid, and never in our minds did it enter that we would be arrested for just going out that night.

“Also in the crowd what else was happening, there was a phone number going around of a Legal Aid number for people who said that they would help anyone arrested at G20. So everyone started passing that number around. Some people didn’t have anything to write it down on so they were starting to write it down on their arms and things like that. So sometimes as the officers would come through they would ask, “What’s that? Why do you have that phone number ready? Looks like you planning on getting arrested.” ”

“One lady at the front actually had a dialogue with one of the riot police. She had a megaphone and she said, “Is there any representative of the police who will speak to us please?” And finally one of the riot police took off his helmet, and they talked

for a moment, and then she turned back to the crowd and said, “Okay this police officer has said that they will disperse their lines, and we can all go through, but we all have to go home for the night, and we have to stop protesting now.”

“People thought “okay.” At this point people were quite nervous, we all had been sitting for a while...and had nowhere to go. I think people were probably ready to go home. That was the first command that had actually been given – “we will let you go home if you go home.” But, instead of that happening, another much thicker rank of riot police came from behind that rank. I don’t know if they were from the same unit or if they even had the same source of command, but that discussion never went anywhere because we were never given that opportunity to leave.

“I was sitting on the ground and the police that were now not letting us pass began to do their march forward with their batons on the shields tactic, and I looked behind me, and it was happening behind me as well. So I remained sitting on the ground cross-legged, with my peace sign displayed in my hand, so there could be no doubt in anybody’s mind that I’m not doing anything – I had no weapons, I’m not shouting, I’m not causing a disturbance, I’m sitting cross-legged on the ground. As police marched forward, I was quite surprised when the police started kicking. And as they started kicking, they shouted, “Get back, get back, get back,” as if I had an option, because about 10 to 15 feet behind me riot police were doing the same thing. What happened when they started kicking was people freaked out, panicked and stood up and ran. People got stepped on a little bit. People ran off to the side.”

“The person with the megaphone asked to speak to a representative of the police because we were there to support the union, we didn’t want to create any trouble. No one was being violent, we were all sitting with our hands in the air after we’d been kettled [contained] because the front line [of police] had been pushing us back and then the back line had been pushing us forward

and there was nowhere to go. So, we sat down. We had our hands in the air, and this person with the megaphone was saying we'd like to leave, you know if you give us the opportunity we will leave now.

"There was no response to that. Actually I think pretty soon after that, the person who had the megaphone was arrested. As we were all sitting there with our hands in the air, the front line started telling us to get back, to get back, and we were sitting there with our hands in the air, because we were saying, "There's nowhere to go." Everybody was yelling, "What do you want us to do?" "Let us go."

"Then they just started arresting people and yelled to get back, and then all of a sudden I was at the front and I was getting kicked in the stomach and in the chest. They [the police] were literally lifting their feet and kicking people back and, actually there were people standing beside them and behind them with video camera[s], so like I mean the police department should have videos of people being kicked because I saw people filming from behind the riot cops.

"After they stopped trying to push us back, there was a distinctive moment where they announced that we would all be arrested and that we should all stand and turn and put our hands on our head and wait for our turn to be, to be taken away. We were all just told to stand like that and then eventually an officer came up to me and tapped me on the shoulder and then grabbed my hands from behind me and pulled me back backwards to the other side of the line."

"...Then all of a sudden, looking westbound, I see again that line of marching riot police marching right towards us. They've created a wall and they are step by step marching toward us from the west. Probably no more than a minute after I saw that, I saw another group, doing the exact same thing from the east. So, it's like déjà vu with [what] I just had seen a few minutes earlier at the First Canadian Place, is now happening all over again in front of the Novotel. So, I knew this

wasn't a good situation. And, the second you saw that, immediately you realized you're trapped because the way the street is structured, the landscape of it is the only way you can exit The Esplanade is either through going east or west.

"And this time they cornered us in pretty good, we're talking maybe 20 feet of clearance between the east line of cops and the west line, so we are boxed in beyond belief. People are getting scared and the police were absolutely silent. They did not announce anything; they did not announce their presence. They did not give any instructions. They did not give any directions. They literally stood there like statues. Some of them didn't even blink. These police officers were from out of town. I'm not sure if Toronto police was part of that particular riot squad, but I can say without a doubt that members of the Saskatchewan and Calgary units were part of that riot squad.

"After twenty minutes or so, there is a state of confusion, we are boxed in and no one is telling us where to go. There was a police officer talking to one of the more active protesters, and what I heard was that cop told that person that everyone in this group was going to be arrested and sent to PPC [Prisoner Processing Centre]. So when that word got to the back of the group, panic started setting in and people started freaking out because nobody, obviously, wanted to get arrested. People were desperate to get out of the situation. There were a lot of people trying to call the media to say "come help us. We're being boxed in against our will." "

"They told me I was under arrest, and I respond that I am a journalist and have the right to follow the story. [One officer] took a swinging punch into my gut. I went over and had an elbow driven right into my back. As I went down my leg hit the curb and the concrete and my whole body sort of went down, and [was] pounced on by the officers behind me, I think it was, their knees were going into my back and my legs were being pressed into the sidewalk while my body was on the road. I was being kneed in the ribs and

the back, and I kept saying over and over again, “Why are you arresting me? I’m a journalist, I’m not resisting arrest.” As I said more and more that I’m not resisting arrest, they lifted up my left leg and twisted my ankle, sort of grabbed it and started twisting. I said, “I’m not resisting. Why are you beating me?” I was handcuffed after that and hauled to my feet.”

Steve Paikin, anchor of the TVO program *The Agenda*, testified before the House of Commons Standing Committee on Public Safety and National Security on issues surrounding security at the G8 and G20 summits, on December 6, 2010. Part of his testimony included a reading of some of his observations and tweets on events outside the Novotel hotel on The Esplanade:

- I saw police brutality tonight. It was unnecessary. They asked me to leave the site or they would arrest me. I told them I was doing my job.
- They repeated they would arrest me if I didn’t leave. As I was escorted away from the demonstration, I saw two police officers hold a journalist.
- The journalist identified himself as working for “the Guardian.” He talked too much and pissed the police off. Two officers held him...
- A third punched him in the stomach. Totally unnecessary. The man collapsed. Then the third officer drove his elbow into the man’s back.
- No cameras recorded the assault. And it was an assault.
- The officer who escorted me away from the demo said, “yeah, that shouldn’t have happened.” He is correct. There was no cause for it.
- I can appreciate that the police were on edge today, after seeing four or five of their cruisers burned. But why such overreaction tonight?
- The demonstration on The Esplanade was peaceful. It was like an old sit-in. No one was aggressive. And yet riot squad officers moved in.

- The police on one side screamed at the crowd to leave one way. Then police on the other side said leave the other way. There was no way out.
- So the police just started arresting people. I stress, this was a peaceful, middle class, diverse crowd. No anarchists.
- Literally more than 100 officers with guns pointing at the crowd. Rubber bullets and smoke bombs ready to be fired. Rubber bullets fired.

In an interview with the OIPRD, the public order unit Mike Section Commander related his experience:

There was one person in particular that, sort of, sticks out in my mind. It’s a perfect example of the frustration of all of this throughout the day. We see this one guy and he’s with a group of about, maybe, six or eight other people. They’re all, kind of, that Black Bloc-type look to them. This one particular guy, he seems to be, sort of, the leader of this group of guys, and he has this I don’t know what the real name for them is, you see a lot of Arab men wearing them. He’s got it across his face. So, you can just see his eyes. And, the thing that stands out is it’s a yellow turban [type] with [a] black, sort of, check pattern across it. You can see that he’s the ring leader, he’s got the big backpack, the guys are coming up to him and whispering to him.

So, we watch him. He doesn’t do anything that we can take any action on. Him and his buddies take off. The crowd moves, we get moved. The next spot we go to, same guy and the same group shows up again. This was a group that we, sort of, chased around all day on Saturday, and, ultimately, this was the group that we arrest in the mass arrest on The Esplanade.

So, we were watching this guy, he keeps showing up at all these things, but he’s not doing anything that we can arrest him for at the time. We chase this group around, we know that they’re causing problems and damage because we’re getting the information from the operations commanders. Eventually, they go down on The Esplanade, and the Calgary Police Service Public Order Unit is

following them, and we managed to get around in front of them, and we block off The Esplanade. Now, there's no side streets off The Esplanade. There's no place for them to run. We finally get them blocked in and that's the first mass arrest on the Saturday night.

We know that that guy's in that group, but the headband disappears, the backpack disappears, and what that group does is they all sit down, and they all start going, "Peaceful protest, peaceful protest, peaceful protest. You have no grounds to arrest us."

The information that we get from the tactical commanders from the videos from the intelligence officers is, "Yes, there is grounds to arrest these people. These are the people that are causing all the damage and smashing things all over. We need to stop them; we can't chase them around anymore. They are arrestable. Arrest those people." So, that's that mass arrest.

Once everybody's gone, you see all the pile of stuff on the ground of the rocks and the bottles and the headress and the stuff that covers their face. But, the interesting thing to that whole story is, though, we never, ever saw that particular guy.

That was the problem with the whole thing, right? You know, there was people within that crowd that were causing all the damage. The crowd was protecting them by sort of moving around with them. They were giving them concealment, they were hiding them within the crowd. You had to stop that from happening. We had to take up the line – and that was what the mass arrests were about, is that you have to stop them. Yes, there are people in there that aren't doing that, but there are people that are in there and the only way to stop them is to stop the whole crowd.

The TPS public order unit Bravo Section was on the ground at Queen Street West and John Street, and later in the day at Queen's Park. They were managing large crowds in both locations. After Queen's Park was cleared out, the Commander of Bravo Section

received information that there was a large group of people protesting and walking toward the Convention Centre. His section was directed to go to the area where these people were protesting. The police [public order unit and community response unit officers] blocked off their access by setting up lines so they would have to divert and change direction. The crowd would approach the police line and try to find a way around it. The police continued to set up and move POU sections in order to limit and divert the crowd's movement.

In an interview with the OIPRD, TPS public order unit Bravo Section Commander said:

I got information that they were now stopped at the Novotel, and they had been corralled so we weren't part of the original sections that had blocked them in. What I did was I brought my officers down to the area of the Novotel and when we arrived they were already corralled. They had been stopped and there was a section on the west side, one on the east side and of course the buildings [are solid along the north and south sides of the street] and they couldn't go anywhere. I marched my guys up there and there was a public order section from another service, they were standing there, and they were effecting arrests.

They were going in, I think it was [public order unit Mike Section], going in with teams of six, so they're using regular arrest teams to go in and get the people so they're marching in, rushing in to get them and people were being aggressively arrested. So I remember going up there with their commander, who I don't know, and I said, "Why are you arresting him like this?" and "Well this is how we arrest them." I said, "Has anybody asked these people if they're willing to be arrested, quietly, calmly you know, if you're going to arrest them all?" And they said, "Well no, we haven't asked them."

That's when I called the MICC. I spoke to [the Special Operations Director]. I said, "They were down here arresting all these people. Are we arresting everybody here? Like what are we

doing? You know, why are we?” He said, “We’re going to arrest them all for breach of the peace.” And I said, “Okay, that’s fine and what do we do with them then?” He said, “We have legal authority to hold them for a 24 hour period.” I said, “If that’s your direction, that’s what we’ll do.”

So I went back to them, I said, “Well, we don’t need to arrest them aggressively.” I walked into the crowd and I said, “Who’s in charge?” And they were all saying, “We all are in charge.” “Okay, we all have to listen then, because who here wants to be arrested peacefully?” And then they all, of course, say “Yeah.” You know, ‘cause when they were rushing in, of course people are running away and someone’s going to get hurt, and they’re a pretty large crowd of people. So the [POU Mike Section] guy said, “We’re still going to go in and arrest them.” I said, “No, we don’t have to go in with six. You walk up with two coppers, you stand there, you ask someone, point at somebody, they’ll come to you. Tell them to turn around, put the flex cuffs on them, walk them back. The next two officers walk up, there’s no reason to go back in and take them aggressively ‘cause you’re going to hurt somebody, and we’re going to end up with an SIU investigation if you end up hurting somebody bad enough.” So I said, “That’s not what we’re going to do here.” And then we effected the arrest of everybody that was there.

There was some media folks that were mixed up in that crowd too, and if there were media people that had proper credentials, in a recognized media outlet then we got them out of there and let them go. There were people that marked up a yellow card that said “The Media” and that to me didn’t mean a thing. I said, “I don’t know who you are? You’re saying ‘The Media’ but that could be a made up card; it’s not something I recognize and what we’ve been shown in the past, I’m sorry you’re going to have to stay with this crowd until you identify who you are.”

The arrests took several hours. There were problems with transportation because there were not enough Court Services vehicles for all the arrested parties. Eventually buses arrived to assist with transportation.

The TPS public order unit Bravo Section Commander said he believed that the grounds for the arrests for breach of the peace were that the people arrested had been involved in an active crowd, they had marched and chanted and made noise, and they had attempted to reach the security fence to disturb the G20 meetings.

The Bravo Section Commander said he could not recall a time since he had been in the public order unit where they had stopped a crowd in order to make arrests; Novotel was the first time they stopped a crowd and arrested everyone. He had no information about whether the crowd had heard an announcement or information about leaving the area before being arrested. The only direction/instruction that was given to the crowd after his arrival was his own, when he had asked them if they wanted to be arrested peacefully.

In an interview with the OIPRD, the Outer Zone Site Lead said that at 10:08 pm, he directed his officers to maintain the Outer Zone perimeter. At 10:25 pm, after receiving reports that the crowd was moving east, he deployed his bicycle officers to patrol the area bounded by King Street, Jarvis Street, Lake Shore Boulevard, and Sherbourne Street. He explained that he sent his officers to Lake Shore because the fence was vulnerable from the water up to street level. He also later deployed foot teams to The Esplanade, where they were “investigating” people, in response to a request on the air for support.

At approximately 1 am, following some confusion about whether his officers had been at The Esplanade, he went to the scene himself to confirm their attendance:

I did attend, and I did speak to [the TPS POU Bravo Section Commander], and what I observed was prisoner transportation, very orderly, and I would have estimated the crowd to be 150 to 250 maybe max, all over the area of

The Esplanade and between Yonge and Church. In fact, I went to say, “Are you guys calling for my support?” And I remember [them] distinctly saying, “No, everything’s okay,” and I left.

The Outer Zone Site Lead was asked by OIPRD investigators about his understanding of crowd control and the “kettling” process in general. To be clear, the answers provided by the Outer Zone Site Lead were *not* a commentary or critique of what occurred in front of the Novotel hotel. The Outer Zone Site Lead emphasized that he was not present for whatever occurred at the Novotel and could not speak to what happened there.

In general, the Outer Zone Site Lead said that in crowd control situations, the calm and the respect of the crowd has to be maintained. Where the crowd has a purpose or a destination in mind and the police seek to block that purpose or destination, a pressure point may have to be created to allow people to leave, whether out of frustration or for different reasons. Otherwise, the police are not always able to hold the crowd, and on occasion people get hurt. By permitting people to leave safely, police create an opportunity of control pressure that they can release.

Night shift Incident Commander Superintendent Fenton was interviewed by the OIPRD:

The CTV called the [Unified Command Centre], who advised them, and it came down the chain about these, and they named it as thousands, southbound on Yonge. Logic would tell me that there is only one place that that amount of people would come from, which would be Queen’s Park, which coincided with our [long range acoustic device] announcements and trying to clear out that area. I wasn’t able to box in Queen’s Park, so the mobility was there and, again, highlighted my concern and the need for this boxing in. They were southbound on Yonge. We got a report at one point that they were setting stores on fire. I asked for clarification or confirmation of that. That never came. How would that type of report come to my attention? It could have been they were setting garbage [alight] strewn across the street. We had that

attack on Yonge Street take place hours before that, so there was lots of stuff for them to burn. But those reports were coming in and fire struck a note with me, because the bricks and the missiles that were being thrown – apart from explosive devices, fire was the most mass weapon of destruction that they were using or could use and so it concerned me. There was never any confirmation of stores being set on fire, but that report came to me.

There was another crowd that was coming in from the west. That crowd then went to the fence – went into the financial district and then cut across King and then went east of Yonge Street. Then we lost visual on them at that point because we had no cameras in that area. That crowd then moved down into The Esplanade, which is Novotel.

In that movement, we were receiving reports that they were masking up again, tell-tale signs they were readying themselves for police counter measures. We were aware that there was a labour dispute going on at the Novotel. My information was there was no picketers at that time, it was over; I wasn’t worried about picketers.

And again, I had at 7:30-ish that evening, given the order that anybody involved in a protest is now involved in a breach of the peace. We were like three and a half – four hours into riots on our streets. Enough... It had to end... That group and the fact that we had received information that they were setting fires. And, there is a radio call that comes in, or information on the radio comes in that on The Esplanade there is people masking up which is part of this group. I mean, it all lends itself with this group. These were not peaceful protesters. But, they were engaged in a protest in Toronto which, at that point, had gone beyond what I think any member of the public would expect us to tolerate.

Novotel arrests are 10 at night, sort of around there. So we had been into it now for six hours...it had to end. The city was in – was now in darkness which made us more vulnerable

as a city, and we had to end that attack – that coordinated attack. That group was the last large group. We still had some riots going on in the entertainment district in small groups, and we were dealing with that as they occurred. We were making arrests as we could, but this was the last concentrated large group.

When we arrested [at] Novotel, and this is on camera, I can remember seeing a street medic kit that had been left behind by one of the parties that was arrested. Street medics or paramedics had been recruited by the anarchists across Canada to come into Toronto to work with the protesters, to treat them if they were hurt without them coming to the police for medical assistance. There was a street medic kit found at the Novotel as a result of that mass arrest at the Novotel...it is on camera. I told [Forensic Identification Services] to go there and seize it, and they did. So, you will be able to see a basic street medic kit. Again, evidence that this group was not – these were not legitimate protesters, if there was such a group at that time of the night in the city of Toronto.

Complaints

The Office of the Independent Police Review Director received 14 complaints relating to the mass arrests at The Novotel hotel. Two of the complainants were “third party” complainants who were not present at the Novotel and therefore not arrested. Twelve reported that they were boxed in on The Esplanade outside the Novotel. All complained that they were unlawfully arrested because the protest was peaceful and some of the people were just spectators. Four reported that excessive force was used during their arrest. Eight reported that they were not provided rights to counsel. Of the 12 complainants, all were arrested for breach of the peace. Of those, 11 were transported to the Prisoner Processing Centre; the 12th complainant was taken to the hospital after his arrest, and released from there.

The complainants stated that they were demonstrating peacefully when riot police boxed them in and announced that everyone was going to

be arrested. Ten of the 12 complainants who were present at the Novotel reported that the police did not give them any verbal warning or direction to disperse. Instead, the police blocked off all exits and advanced toward the crowd, limiting their space and mobility. The complainants and one witness who did hear a warning to disperse said that a way out was very difficult as the exits were blocked off. One complainant recalled a five-minute window of opportunity during which some people did leave before the ranks closed in again and that even during that five-minute period, people were bouncing back and forth between police lines trying to find a way out.

One complainant described the scene as “just madness” because some police officers told the crowd to leave or they would be arrested, but police blocked every possible way out and no one was able to leave.

One witness heard several announcements to disperse, but noted that there were no exit routes. Ultimately, it appears that only a small number of people, as well as members of accredited mainstream media organizations, were permitted to leave.

The complainants said that the first arrests were aggressive ones. Officers would identify a person, enter the crowd aggressively, “snatch and grab” that person from within the crowd, and arrest them. One complainant said the officers were “yanking the most agitated, animated individuals out” and “throwing them around, like pulling them out of the crowd.” He said that the only communication he heard from police was when they beat their shields, and he didn’t think that that was adequate communication to the crowd of people. He also stated that police were “just very quiet and just non-communicative.”

All parties who were boxed in, including the complainants, were arrested for breach of the peace. The complainants were then taken to the Prisoner Processing Centre where they were incarcerated from anywhere between 15 to 26 hours, after which they were released without charges.

One of the complainants alleged that officers failed to secure and return his property once he was released from police custody.

Issues and discussion

Containment as a means to arrest

The issue of containment addressed here is not so much whether the tactic of containing the protesters who were in front of the Novotel hotel was appropriate as a means of crowd control, but whether containing or boxing in people there was an appropriate means of detaining protesters in order to arrest them.

The people who gathered outside the Novotel were either part of a group of people who had marched from Queen's Park through downtown Toronto to the Novotel, or they were observers of this group. Most people reported that, although this group was noisy, it was non-violent. Their actions and movement were being closely monitored by the MICC generally, and by the Incident Commander specifically. Given the violence that occurred earlier in the day, this monitoring was prudent, considering the group marched toward the security fence, through the financial district, where vandalism had occurred earlier in the day, and kept trying to find ways around police lines. Public order units had, at times, been unable to catch up to them or get ahead of them.

The night shift Incident Commander believed that his response was measured, reasonable, and based on a belief that a breach of the peace was taking place or about to take place and that that belief was reasonable in the circumstances faced at the Novotel.

He stated that:

Based on my own observations on the street, my observations via CCTV, listening to radio activity, observing activity at the operations desks, my knowledge of intelligence reports regarding expected activity that had a risk of violence and public order concerns, and on the direction of

Deputy Warr, I set in motion, with the assistance of my command general staff, the police resources required to restore order.

In short, yes, I did order the isolation and arrest, or the "boxing in" of the group of protesters / terrorists at the Novotel hotel.

Based on the information from Superintendent Ferguson, shift one Incident Commander, the public order unit ability to address the public order concerns was being limited by the rapid movement of the disorder activity. The disorder activity was mobile through the downtown core; however, this mobility could not be matched by POU. Mobility issues resulted in relative free rein for the terrorist attack to happen without opposition. Therefore the tactic of isolating, containing the movement of the terrorists / protesters, was required to stop the ongoing attacks and prevent new attacks from occurring.

The night shift Incident Commander referred to the Toronto Police Service Public Safety and Emergency Management response document in an interview with the OIPRD and quoted the document with comments as follows:

In the event of an unlawful assembly, which we were at the very least into the situation, the public safety and emergency management personnel will effectively contain, isolate, and disperse individuals creating disorder and minimize the risk of personal injury and/or property damage.

The Incident Commander said that he did not disperse the crowd because he needed to isolate them and arrest them as they were in a "riot situation" and he had "to go outside the box" and not disperse the crowd.

If announcements or warnings to disperse were made, it was clear that they were not heard by many members of the crowd. There is no indication that the LRAD or any other loudspeaker was used. Equally important, if announcements or warnings to disperse were indeed made, it was clear that the police did not offer clear exit routes. This supports

the inference that the purpose of the containment was *not* to isolate the crowd for the purposes of dispersing it, but rather to isolate the crowd so that mass arrests could be effected.

The public order unit Mike Section Commander acknowledged, in an interview with the OIPRD, that some of the actions taken were different from what they always trained and planned for, but the G20 protests and crowds were different from everything they had anticipated in terms of crowd behaviour and control. He said that in the Novotel situation, “it was a running battle,” as people were mobile; they were not standing in one area protesting. The difference was that when police move a crowd with more traditional public order unit movements, the crowd could go someplace else and cause disorder and commit criminal offences. He said that the situation at the Novotel came to the point where containment was an appropriate tactic to employ.

In an interview with the OIPRD, Toronto Police Chief Blair said that he was not aware of the Novotel incident until after it occurred. He believed it was an operational decision made by the Operational Commander in the MICC as a response to a perceived threat.

For more analysis on containment, see Chapter 8, Queen and Spadina.

Were the arrests unlawful?

Breach of the peace

Breach of the peace is not a criminal offence *per se*. Accordingly the Criminal Code of Canada does not define what behaviour, actions, or inaction would constitute a breach of the peace. Rather, the definition of a breach of the peace has emerged through case law.

In *R. v. Howell* (1981), 73 Cr. App. R. 31 at 36, the court defined a breach of the peace as follows:

There is a breach of the peace whenever harm is actually done or is likely to be done to a person or in his presence to his property or a person is

in fear of being so harmed through an assault, an affray, a riot, unlawful assembly or other disturbance.

In *Brown v. Durham (Regional Municipality) Police Force*, [1998] OJ No. 5274 (CA), the Ontario Court of Appeal stated as follows:

A breach of the peace does not include any and all conduct which right thinking members of the community would regard as offensive, disturbing, or even vaguely threatening. A breach of the peace contemplates an act or actions which result in actual or threatened harm to someone. Actions which amount to a breach of the peace may or may not be unlawful standing alone. Thus, in *Percy v. D.P.P.*, [1995] All. E.R. 124 at 131 (Q.B.), Collins J. observed: The conduct in question does not itself have to be disorderly or a breach of the criminal law. It is sufficient if its natural consequences would, if persisted in, be to provoke others to violence, and so some actual danger to the peace is established.

Powers of arrest

The Criminal Code of Canada contains the following provisions to assist in the prevention of a breach of the peace:

Preventing a Breach of the Peace:

- 30** Everyone who witnesses a breach of the peace is justified in interfering to prevent the continuance or renewal thereof and may detain any person who commits or is about to join in or to renew the breach of the peace, for the purpose of giving him into the custody of a police officer, if he uses no more force than is reasonably necessary to prevent the continuance or renewal of the breach of the peace or than is reasonably proportioned to the danger to be apprehended from the continuance or renewal of the breach of the peace.

Arrest for breach of peace:

- 31** (1) Every peace officer who witnesses a breach of the peace and everyone who lawfully assists the peace officer is justified in arresting any person whom he finds committing the breach of the peace or who, on reasonable grounds, he believes is about to join in or renew the breach of the peace.

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Sections 30 and 31 relate to circumstances in which police witness a breach of the peace. In those circumstances, the police can arrest the person who breached the peace as well as any person who the officer believes, on reasonable grounds, is about to join in. There is, however, no power to arrest when a breach of the peace has occurred but is over and there is no reason to believe it will be renewed.³¹

In addition to this statutory authority, the police have a common law power to arrest a person for breach of the peace where an officer honestly and reasonably believes that such a breach will be committed in the future. Accordingly, a police officer can arrest a person in order to prevent an apprehended breach of the peace if the officer honestly and reasonably believes there is a real risk of imminent harm and if there is an objective basis for believing that a breach of the peace will occur. Even if the officer is mistaken in his or her belief, the arrest will be lawful if that belief is honestly held, and based on reasonable grounds. Obviously, however, the power to arrest for an apprehended breach of the peace is not meant as an ongoing mechanism whereby the police can control and monitor those they regard as dangerous or criminal.³²

As stated earlier, breach of the peace is not a criminal offence and an arrest for breach of the peace does not result in a conviction. Rather, it results in is a preventive remedy, either through arrest for not more than 24 hours at most or a peace bond at common law.³³

³¹ *Hayes v. Canada (RCMP)*, [1985] BCJ No. 1904 (BCCA., citing with approval *R. v. Howell* [1981] All ER 383.

³² *Brown v. Durham (Regional Municipality) Police Force*, [1998] OJ No. 5274 (CA) at para. 75.

³³ *R. v. Lefebvre*, [1982] BCJ No. 1038 (BCCo.Ct) at para. 14; aff'd [1984] BCJ No. 3153 (BCCA).

The 24-hour period is an outside limit. Detentions for breach of the peace are based on the grounds that they are necessary to maintain the public peace. If the police do not intend to charge the detainee with any substantive offences, then it stands to reason that the detainee must be released as soon as the risk of his or her committing a further breach of the peace has passed.³⁴

At 7:35 pm, the Incident Commander gave an order to arrest all protesters on the streets of Toronto for breach of the peace. The evidence indicates that the Incident Commander based this order in part on:

- i. His observations of what was occurring on the streets before his shift began
- ii. His meeting with the MICC Command Lead and the Toronto Chief of Police before his shift began, during which he was told to “take back the streets” and restore order
- iii. The information he was receiving that evening about a group of protesters leaving Queen’s Park and moving through the city core, including toward a security fence
- iv. Other intelligence information in general.

In an interview with the OIPRD, the public order unit Mike Section Commander said that the people in the crowd were not doing anything overt at that moment, but the crowd had been causing disorder and/or vandalism throughout the day. He contacted the MICC for direction because of concern that, if the crowd dispersed, there would be further disorder and vandalism in the city and near the security fence. The public order unit Commander said that, based on information the police had garnered from tactical commanders, videos, and intelligence officers, they had grounds to arrest people outside the Novotel, because they believed these were the same people who caused damage and vandalism downtown earlier that day. He said that police had to stop them: “We need to stop them. We can’t chase them around anymore. They are arrestable.”

³⁴ *R. v. Gross*, [1995] BCJ No. 1802 (BCProv.Ct.) at para 55.

At 10:15 pm, the Incident Commander ordered the crowd contained at the Novotel; significantly, he did not order the crowd dispersed. In light of all the information and intelligence received by the MICC by 10:15 pm, the IPRD does not question the decision to contain the crowd as a crowd control tactic. However, once the crowd was contained, measures should have been taken to allow the crowd to disperse. Apparently, although an announcement or warning to disperse may have been made, few people heard it and those who did hear it could not act on it as there was no obvious exit route. It seems clear that the crowd was contained for the purpose of making mass arrests, not for dispersal to assist with crowd control.

The commander of TPS public order unit Bravo Section, who had been directed to send his officers to the scene, called the MICC upon his arrival there to find out what was happening, since the arrests were already taking place. He was advised by the Special Operations Director (who took direction from the Incident Commander) that all members of the group were to be arrested for breach of the peace. When asked what they were going to do with them, the Special Operations Director told the Commander of Bravo that they had the authority to hold them for 24 hours.

Sections 30 and 31 of the Criminal Code permit an officer who witnesses a breach of the peace to arrest either the person who is committing the breach, or any other person who the officer believes is about to breach the peace. The Criminal Code does not authorize the arrest of a group of people en masse; reasonable grounds to arrest must exist for each member of the group, and not the group as a whole.

At the time that the group was contained at the Novotel, most appear to have been sitting and were chanting “peaceful protest, peaceful protest.” It does not appear that any specific member of the crowd was committing a breach of the peace. Therefore, the police could not have had reasonable grounds to arrest people on that basis.

Common law provides the authority for police to arrest a person for breach of the peace preventively, where the officer honestly and reasonably believes there is a real risk of imminent harm. There must be an objective basis for believing that a breach of the peace will occur or will be renewed. The crowd at the Novotel was reported to have been peaceful. Without the ability to link any member of the group to any earlier misconduct, and given that a breach of the peace was not occurring at the time of containment, there was no objective basis on which to conclude that the peace might be breached in the future by any of the group’s individuals. Therefore, the Incident Commander did not have reasonable grounds to order the arrests of any of the people gathered outside the Novotel. As a result, their arrests were arbitrary and unlawful.

Charter rights

The Canadian Charter of Rights and Freedoms protects the individual interests of citizens against state power or interference. The Charter also creates standards for the courts to use to assess policies and procedures of state agents, such as police services, as well as to assess the actions of individual police officers.

In Canada, under the Charter, everyone enjoys significant rights and freedoms. These include the freedom to express ourselves, assemble peacefully, and associate freely with others. The rights to freedom of expression and peaceful assembly are rights that are considered fundamental to the democratic process. Freedom of expression ensures that people can convey their thoughts and feelings in non-violent ways without fear of censure. The right to peaceful assembly provides protection from state interference with protest activity.

However, the scope of these freedoms is not unlimited. For example, individuals do not have a constitutional right to express themselves through violent expression or threats of violence. Accordingly, in some circumstances, these freedoms can be lawfully curtailed when weighed against other societal interests, such as the safety of the public and the police.

When police take proactive measures to maintain the public peace, such as arrests for an apprehended breach of the peace, there must be a real risk of imminent harm. Before that point is reached, proactive policing must be limited to steps that do not interfere with individual freedoms (*R. v. Gibbons*, [2008] OJ No. 5036).

In *Brown v. Durham (Regional Municipality) Police Force*, [1998] OJ No. 5274 (CA), the Court of Appeal for Ontario held:

The balance struck between common law police powers and individual liberties puts a premium on individual freedom and makes crime prevention and peacekeeping more difficult for the police. In some situations, the requirement that there must be a real risk of imminent harm before the police interfere with individual rights will leave the police powerless to prevent crime. The efficacy of laws controlling the relationship between the police and the individual is not, however, measured only from the perspective of crime control and public safety. We want to be safe, but we need to be free.

The Independent Police Review Director has determined that there are reasonable grounds to believe the arrests of the people outside the Novotel hotel were unlawful. If their arrests were unlawful, their subsequent detention and imprisonment was arbitrary. The unlawfulness and arbitrariness of their detention and imprisonment were aggravated by the fact that the Incident Commander's intention seems to have been to continue the protesters' detention for a substantial period of time, and that this determination was irrevocably made at the time of their arrests.

As a result, their rights to freedom of speech and freedom of assembly, as well as their right to be free from arbitrary detention, were infringed. In addition, their rights to be free from arbitrary imprisonment were infringed, since the decision to detain them for a substantial period was made at the time of their arrest, without consideration of whether there was a risk of any further breach of the peace and whether there remained a lawful basis for their detention.

The jurisprudence is quite clear that any detention for breach of the peace is not to exceed 24 hours. It goes without saying, however, that not every person arrested for breach of the peace is to be detained for 24 hours; that is simply the outside limit. Every arrest and every detention needs to be assessed on an ongoing basis to determine when the threat to the public peace has passed and the person can be safely released. Once the threat of the peace being breached has passed, the detainee should be released. At a minimum, any such threat had passed by the time the arrested protesters had arrived at the Prisoner Processing Centre (PPC), and they ought to have been released accordingly.

Was excessive force used in effecting arrests?

Complainants to the OIPRD alleged that police used excessive force in arresting members of the crowd in front of the Novotel. The complainants who were interviewed described the crowd as peaceful while some of the witness officers described the crowd as unruly and loud. However, none described it as violent.

Complainants told the OIPRD that the initial arresting teams of officers would point to someone, go into the crowd, grab that person aggressively, and drag him or her behind the police line, where the arrest was made.

The commander of the public order unit Bravo Section, who witnessed some of these arrests, asked another POU commander why the protesters had to be arrested so aggressively. In fact, once directed by the MICC that these arrests were to be made, the Commander of the Bravo Section showed other officers how to arrest the members of the crowd peacefully.

For a portion of the evening, a senior editor and anchor of a current affairs program on TVO followed a demonstration as it snaked its way through the streets in the downtown core to the Novotel hotel on The Esplanade. He was interviewed by the OIPRD about what he witnessed:

This would have been I guess pretty close to 10:30, quarter to 11; 11 o'clock something like that. It was on my way out. This was just after I had been told by the officer you have got to go and two officers then escorted me one on either side away. As I was walking away I looked to my right and I saw [the journalist] kind of in the midst of an argument with I don't know his rank but with a police official there. And he was trying to convince the official that he was a reputable journalist with a reputable organization and that although he did not have official G20 accreditation he did show some identification to prove who he was.

The officer then took the identification – I guess to check and make sure it was legit – and then two officers grabbed [the journalist] one on either side of [him] holding either arm and the third officer who again was wearing short pants, high black knee socks, short shirt, short sleeve shirt, kind of you know he was talking he wasn't yelling; he wasn't swearing. [The journalist] was talking to the officers. He was definitely I would say chippy. You know he did not stop talking. He kept...He did go at them but not screaming and not swearing. But he did go at them saying, I'm really just doing my job here. You really have no reason to doubt my credentials; I am who I say I am. You can check if you want, but I am just here doing my job.

At that moment, the officer in question, the third one in other words, not one of the ones that was holding his arms but the third one, kind of reared back and punched him what looked to me like quite hard in the stomach. [The journalist] doubled over, from the blow to the stomach and then that same third officer sort of you know as [the journalist] was doubled over, came down with his elbow into [the journalist's] back and that you know very much splayed him on the ground. And at that moment I said to the officer who was escorting me away, "Oh boy that looks a little rough," and the other officer said and the officer who was escorting me away said, "Yeah that probably shouldn't have happened." And then I was gone. That is all I saw.

Upon analysis and review of all available information, the Independent Police Review Director concluded, on the basis of a sufficient body of evidence and reasonable grounds, that excessive force was used during the arrests of members of the crowd. The Director also found that some people who complained of excessive force being used during their arrests could not identify the arresting officers.

Recommendations

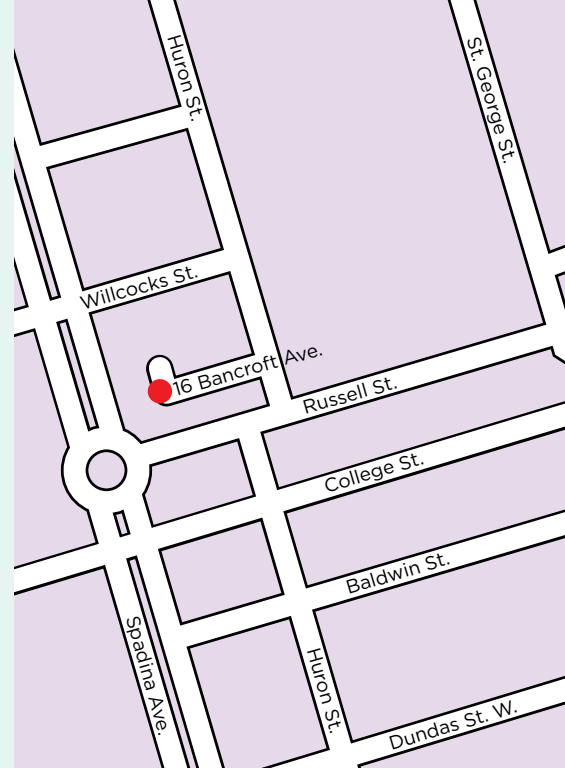
- The Toronto Police Service (TPS) should develop policies for dealing with breaches of the peace at large protests. The objective should be to remove people from the scene of the protest and to restore the peace. The TPS policies should include criteria to determine when to arrest for breach of the peace, and, in the case of mass arrests, criteria to determine the length of detention. In any event, a detention for breach of the peace should not exceed 24 hours.
- The use of containment tactics should also be closely linked to the intelligence information police have received. The police must have reasonable grounds to believe that the protesters being contained are actually causing a disturbance or likely to cause a disturbance elsewhere. Innocent bystanders and non-violent protesters (where they can be identified) must be allowed to filter out. Containment should continue only for as long as absolutely necessary, and the well-being of those contained must be given as much consideration as possible.
- In situations where mass arrests may be anticipated, police services should prepare a workable model for transporting, booking, holding, feeding, and administering and ensuring the health and safety for an anticipated large number of prisoners.
- Police services should recognize that containment must not be used for purposes of effecting mass arrests but must only be used for temporary crowd control to ensure that the peace is kept.
- In light of the large number of arrests that did not result in a charge or resulted in the charge being withdrawn, the Toronto Police Service should consider whether it is in the public interest to retain the police records of the arrestees who were either not charged or whose charge was withdrawn. It is our understanding that TPS policy allows for records to be expunged. It is recommended that the TPS should consider exercising its discretion to expunge those records where it is not in the public interest to retain them. Further, it is recommended that the TPS should communicate that policy to the public and allow members of the public to apply to have their records expunged.
- The Toronto Police Service should develop criteria for determining when it is necessary to fingerprint and photograph persons arrested for “breach of the peace.” When the TPS does fingerprint and photograph persons detained for “breach of the peace,” it should consider how long those records should be retained. It is noted that the *Criminal Records Act* provides that a record of an absolute discharge should not be disclosed more than one year after the date of the discharge. The TPS should expunge all records relating to persons arrested for “breach of the peace” at mass protests within a similar time period unless there is good demonstrable reason made to the IPRD to retain the record.

Chapter 7: University of Toronto Arrests

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University of Toronto Arrests



At around 9 am, on Sunday, June 27, 2010, police entered the Graduate Students' Union (GSU) gymnasium at 16 Bancroft Ave. on the University of Toronto campus and arrested 108 people who were sleeping there. They were all arrested for unlawful assembly and transported to the Prisoner Processing Centre (PPC). Later that day the charge was changed to conspiracy to commit an indictable offence. Preparation of a warrant to search the premises was started at approximately 11 am, Sunday morning, and executed at around 8:30 pm, that evening.

Background

The GSU building, at 16 Bancroft Ave., on the St. George campus of the University of Toronto, is owned by the university and provided to the GSU for its use. This building houses a pub and restaurants which are independently operated and rented from the GSU. The building also contains a gym and offices for the student union. As an organization, the GSU has five full-time staff positions and nine elected student representatives called the "GSU executive."

Although the U of T announced it was closing the whole campus during the G20 summit, two student unions – the Graduate Students' Union and the University of Toronto Students' Union – decided to remain open. The university did not require them to close since they are quasi-independent bodies.

According to student representatives, the GSU has billeted people in its gym for protests on several occasions in the past. The GSU executive let the

university administration and the campus police know about their plans to host people for the G20 protests. They told the OIPRD that neither the university administration nor the campus police expressed any concerns.

The GSU student representatives sent invitations to other graduate students' unions and the Canadian Federation of Students, inviting members to participate in the protest and stay in their gym. During the G20, students were protesting rising tuition rates in a rally called "From the Classroom to the Streets." The Toronto Mobilization Network was also looking for places to billet protesters, and the GSU representatives told it they could house 75 people. The Toronto Mobilization Network made most of the arrangements for billeting protesters.

The GSU received the first group of people (about 10 students from British Columbia) on Friday at about 5:30 pm. Just after midnight on Friday night /



Saturday morning, a second group arrived on buses from Quebec. GSU student representatives estimated that this group was 50 per cent students, 40 per cent “community leaders,” and 10 per cent activists over 60 years of age. The Quebec protesters advised the OIPRD that they came to the GSU on “collective transportation” (arranged by emailing an address on posters displayed at universities in Montreal advertising public transportation to protest at the G20 for \$28). The GSU student representatives believed they had about 70 people staying in the gym and about 10 in the basement, but they could not say exactly how many were in the building.

GSU student representatives said they had prepared for people to stay in the gym by covering the floor with mats and buying bottles of water, coffee, granola bars, and snacks in case people staying in the gym wanted them. They also bought “simple first aid kits and vinegar in case anyone got tear gassed.”

Timeline

June 25, 2010

On Friday, June 25, the CBC reported:

Busloads of protesters are en route to Toronto from Montreal for demonstrations at the G20 summit. Five buses left Montreal just after 6 am. They were aiming for an early-afternoon arrival, when a number of planned protests are scheduled to begin in the city’s downtown. The buses were organized by two groups: RAGE, a coalition of anti-G20 students, and the Anti-Capitalist Convergence. Four more buses are scheduled to depart Montreal Friday evening.

According to a student representative of the GSU, an unmarked van sat outside the building Friday night watching people enter and leave. They presumed it was U of T security or part of the Integrated Security Unit (ISU).

June 26, 2010

At 3:05 am, the Deputy Incident Commander updated the night shift Incident Commander regarding four buses with Quebec markers offloading near the University of Toronto.

At 3:08 am, the Outer Zone Branch Director informed Incident Command that there were four school buses with trailers and an estimated 40 on board. The Incident Commander advised they would get a video service unit to go over. The Special Operations Director informed Incident Command that he was sending units over to check and mobile teams were on the way to determine the exact location of the buses.

At 3:18 am, the Operations Chief reported that the public order unit Tactical Adviser was at 16 Bancroft, “the U of T residences; two hundred protesters from Montreal were present in circle of residences at U of T; POU advised that U of T police were on site and intelligence officers as well as their [the protesters’] lawyer.”

At 3:24 am, the Special Operations Director advised he was sending a unit to speak with the U of T security dispatcher.

At 3:27 am, the Outer Zone Branch Director advised Operations that according to U of T police, the buses and U-haul trailers were off-loaded and had left by the time police arrived.

The Director of U of T campus police told the OIPRD in an interview:

After midnight on the Saturday, when reports came to us that a number of school buses towing trailers had pulled up on Spadina and the buses disgorged a number of people, a call was placed to Toronto police to investigate because it was beyond our capability to deal with that number. I was sleeping at this time but the duty officer made the right call, called them, Toronto police attended, we stood back and whatever Toronto police did, they did, and I’m aware that there were conversations with people in the

building. I was made aware that Toronto police was refused access to the building and they went away.

At 3:41 am, the Outer Zone Branch Director advised Operations that police units were on site at 16 Bancroft and talking to security. He further advised that the parties were not very cooperative.

At 3:54 am, the Major Incident Command Centre (MICC) communications log indicated that the MICC requested video to zoom in on each face in the crowd.

At 4:20 am, the Outer Zone Branch Director advised Incident Command that a wanted party was possibly on site at 16 Bancroft. There was a warrant for conspiracy to commit mischief with the Investigative Site Lead for [a named individual.] The TPS public order unit Foxtrot Section Commander “spoke to a person who may have been him; she is on the way to the MICC to view photo.”

At 4:41 am, the Outer Zone Branch Director advised Incident Command that he had confirmed with Intelligence regarding the identified male, and he was still sending picture to public order unit Foxtrot Section Commander to confirm that it was the male; the male was last seen at 16 Bancroft.

At 4:49 am, the Outer Zone Branch Director advised Incident Command and Operations that he had confirmed with the Foxtrot Section Commander that it was the male.

At 4:55 am, the video services unit asked Incident Command how long they should stay at 16 Bancroft and were instructed to stay one more hour.

A retired TPS police officer (who was under contract with the U of T campus police as a private investigator during the G20) was interviewed by the OIPRD:

Early Saturday morning, I came to the office, and I was made aware that three busloads of people had arrived; they had Quebec licence plates and they were all observed going into the Graduate Students’ Union. Under direction from the Director of U of T campus police, we [U of T

campus staff sergeant and private investigator] went into a building [opposite], and I was able to photograph everybody as they were either coming or going out of the Graduate Students Union there without them knowing I was there.

According to a GSU representative, at approximately 5 or 6 am, someone in the gym awoke to find a man, from the group that came from Quebec, videotaping everyone who was sleeping. The person who woke up told some Quebec organizer's, and they asked him to leave. The man left immediately. They assumed he was an undercover policeman.

Between 8 and 8:30 am, two student union representatives arrived at the U of T, where they would be staying while they took part in a G20 student federation rally. They got off the Spadina Avenue streetcar at Willcocks Street and walked toward the university with their luggage. They were stopped by a police cruiser that they say blocked their path. Two officers got out of the cruiser and asked the men to put their hands on the hood of the cruiser. Another four to six officers surrounded them and searched their pockets and luggage and asked for identification and questioned them about the student federation shirts and materials they had in their luggage. Officers also read through the text messages and emails on the men's phones. The officers confiscated one bandana. After the search, the officers let them go. The men asked the officers where the Graduate Students' Union building was and were directed to it. They went into the gym and set up their sleeping bags.

The retired TPS police officer interviewed by the OIPRD, said:

I probably took over 300 pictures of various individuals, either alone or in groups. They went from various stages of dress, some of them were in pyjamas to start with, and they all got dressed, and then they got backpacks, and then they all had bandanas, and they all started wearing them – some of them had balaclavas. The longer it went on in the morning, the more heavily dressed they got and you could see that they were preparing to go out to do whatever they were gonna do.

According to him, there were certain people among the group who appeared to be the leaders. He said that they were doing their “rah rah chants.” He alleged that they all “amassed” in front and then headed off toward Spadina Avenue. He said that is the last he saw of them.

From about 10 am until 5 pm, the GSU was closed and locked, according to a GSU representative.

At 11:53 am, one person was arrested and charged with possession of a dangerous weapon. The location listed on the arrest record was 16 Bancroft (U of T campus.)

At 5 pm, the GSU gym was opened and people started filtering in.

At 6:52 pm, the Special Operation Director informed Incident Command that Black Bloc was on site at 16 Bancroft, and police units were needed there.

At 7:09 pm, the Investigative Chief informed Incident Command that Black Bloc were at the U of T pub and that parties who were there the previous night were back. Incident Command advised the Investigative Chief to keep plainclothes officers inside the pub and to advise if they started to move.

At 7:45 pm, the Interdiction Zone Director advised Incident Command that 16 Bancroft was quiet and 14 PCs and two sergeants were there but had left. The Incident Commander instructed him to get officers back to that location and monitor for Black Bloc.

At 9 pm, according to a GSU student representative, approximately 10 police officers were “hanging out” in front of the building. They did not ask questions or want to enter the building.

June 27, 2010

At 1:01 am, the night shift Incident Commander asked the Interdiction Zone Director if officers were still on site at 16 Bancroft and was informed that all had left around 11 pm.

During a 6 am briefing by TPS public order unit Alpha Section Commander, Alpha Section was told they “were going to go to a Black Bloc safe house located at 16 Bancroft Ave.,” an Alpha Section constable told the OIPRD in an interview.

At 6:32 am, TPS Intelligence advised [that there were] 160 protesters in 16 Bancroft at U of T residences student union property. The day shift Incident Commander requested two buses be sent to 16 Bancroft with officers in hard tac.

At 6:36 am, the Incident Commander requested the Command Investigative Lead to have U of T help observe on Bancroft. Intelligence informed the Incident Commander that they had an eight-man team at the Bancroft address. Operations was requested to have one public order unit on the ground at Bancroft.

The director of U of T campus police reported that early in the morning, maybe 7 am, he approached plainclothes officers he encountered on the road outside one of the U of T buildings. He said that when they found out who he was they asked if he knew what the layout of the building was. He went to his computer and gave them the floor plans. He said that he didn’t ask who the officers were and that he never saw them again after that.

At 7:20 am, the public order unit Alpha Section Commander’s notes indicated Alpha Section went to Willcocks Street at St. George Street.

At 7:46 am, the Alpha Section Commander’s notes indicated public order unit Alpha Section Group Four squad was assigned to a region bordered by Yorkville on the north, Spadina Avenue on the west, Church Street on the east, and Dundas Street on the south.

At 8:05 am, the Alpha Section Commander’s notes indicated that he met with U of T security personnel and received information about an “address believed to be occupied by Black Bloc situated on Bancroft Ave. identified as Graduate Students’ Union building.” U of T security personnel drove the Alpha Section Commander and his Section Lead around to show them where the entrances to the GSU at 16 Bancroft Ave. were. At this same time, the Alpha Section

Lead’s scribe notes indicated that U of T security drove them “to a location where the Black Bloc is staying on site of the U of T grounds.”

The retired TPS police officer / U of T private investigator encountered police when he and a staff sergeant of the U of T campus police were driving around the campus early Sunday morning. In an interview with the OIPRD, he said:

Early in the morning, like 7 o’clock ish...when we were out driving around, I notice a large number of police officers amassing down in the area of the GSU. I spoke to [POU Alpha Section Commander] and, there were a few other people in the car, I knew them all personally so it was no problem for me to go up and talk to them and say, “Hey, what’s going on?” and they advised me that they were getting prepared, and I believe they said they were gonna get prepared and gradually execute a search warrant. We drove around the outside of the building with them and just showed them the various entrances and exits from that area – GSU.

At 8:15 am, the Alpha Section Commander’s notes indicated that he and his Section Lead returned to Willcocks and St. George, where the Alpha Section Lead notified the G20 investigative team mobile detective about the address and the information received from the U of T security personnel. The Alpha Section Lead’s scribe notes for this time indicated “approximately 60 Black Bloc on site at location.”

At 8:40 am, at the MICC business cycle meeting, the Special Operations Director reported that they were working on arrest plans for the U of T.

At 9 am, the Alpha Section Lead’s scribe notes indicated that he was notifying the Alpha Section Commander of the results as stated [prior].

At 9:01 am, Operations indicated that U of T security reported finding bricks, bottles, golf balls secreted in the bushes of the perimeter of U of T and Queen’s Park.

At 9:04 am, the public order unit Alpha Section Lead's scribe notes indicated that he was notifying the investigative team mobile detective of information from the Alpha Section Commander to place everyone under arrest for participating in an unlawful assembly. Advise Alpha section to secure scene.

At 9:05 am, the Alpha Section Commander's notes indicated he was inside the GSU, and he advised parties present that they were under arrest for participating in unlawful assembly. The notes indicate that all the people in the room appeared to have just woken up. The notes also indicated that rights to counsel were given in English and French and that everything said by the Alpha Section Commander was translated by a Montreal commander. The total number of people in the building was noted as 70.

At 9:08 am, the public order unit Alpha Section Lead's scribe notes indicated that the scribe arrested a male identified with a Quebec driver's licence for unlawful assembly, cuffed him to the rear, conducted a pat-down search and read his right to counsel. The scribe notes go on to say:

While I'm arresting, [the POU Alpha Section Lead] is at front of pub; white female approaches staff and IDs self as the Internal Commissioner of the Graduate Students Union. Female also provides card to support her position. Female asked if she's the one in charge of the pub accommodation for the people inside. Female, with reluctance, advises that she did give the others permission to be at the pub.

At 9:09 am, the Alpha Section Lead's scribe notes indicated the female was advised she was under arrest for participating in an unlawful assembly. Read female [right to counsel].

French-speaking complainants to the OIPRD said they were told in French that they were under arrest for taking part in a riot.

At 8:25 am, the Alpha Section Lead's scribe notes indicated he spoke with the Investigative Command Lead to advise him squads were set up around the perimeter of the GSU bar/pub; he observed officers

speaking to two individuals both on the patio of GSU pub. The scribe notes continued without any additional time signature:

Walk up to patio, the front door of the pub is open, observe people sleeping in the foyer area of the pub, several steps up there are a few people laying down against the walls of the corridor, can see what appears to be a large room – many people laying down on the ground in the open room. Additional officers on-site, enter auditorium (open room), announce / identifying ourselves as the police. Ask who is in charge three times; hesitantly, two white males in their 20s stand up, identifying themselves as people in charge. Males asked to come forward, other people, approximately 70 of them lying on the ground, some still waking up. The two males come up, ask them again if they are the ones in charge of the facility and the group; they both advise that they share the responsibility. Both have strong accents – French – but communicate without any problems. Both males accompany us outside; one male speaks with [police constable], the other speaks to [writer of scribe notes and POU Alpha Section Lead]. Male identifies himself with a Quebec DL. [Personal information and description included in scribe notes.] Again ask male if he is in charge of the group. Staff asked who gave authorization for male and his group to sleep at the pub. Male, with hesitation, advised that he did not know. Male was asked if he attended the U of T. Male advised that he did not. Male advised he lives in Montreal. Male was asked what his purpose was in Toronto. Male advises that he came down for the G20.

Video footage (65 seconds in total) taken inside the gym and shown as part of the CBC's *Fifth Estate* program "You Should Have Stayed at Home" showed approximately five police officers wearing caps and Kevlar vests, arms at their sides, standing in a room near the door and surrounded by people sitting on the floor. AUDIO: "sit down" "settle down" "move back." The next shot showed a group of police officers standing in front of people sitting on floor. AUDIO: sound of jeers, clapping, fades down a bit, officer voice:

“...creating an unlawful assembly. You have the right to retain and instruct counsel once you’ve been processed. Do you understand?” A male voice close to the camera can be heard saying: “No, no.” An officer in a helmet speaks in French, but the voice of an interviewee makes him inaudible. The next shot showed officers moving around the room, several with guns, one with long gun slung downward. The shot showed people sitting on the floor and police moving through the group looking at people; they appear to be looking for someone; some people could be seen leaving the room with police; police officers could be seen writing in notebooks. AUDIO: low level sound of people talking, comments heard more clearly (in English) about “size of gun,” “scary.” Note: The OIPRD identified the officer in the video who was speaking to the people in the gym in English as the public order unit Alpha Section Commander.

Complainants and witnesses had this to say about the events of that morning:

[A GSU representative] “One of the students came down around 8 am, and said, “There’s lots of cops outside.” So, I went outside to talk with them. They got an officer who was in charge, and I introduced myself and showed him my U of T ID and gave him one of my business cards. And he said, “We got a call from someone to say that you guys were trespassing.” And I said, “No, no, we’re not trespassing. I’m an executive here, and I have authority to say that we’re allowed to have these guests staying in our gym.” And he said, “Oh, okay.” And he went away from me. Then the officer came back to us and said, “You’re all arrested.” And we said, “Well, do you have a warrant?” And he said, “I don’t need a warrant.” They immediately put me in handcuffs, and they sat me on the curb while they’re organizing everyone else.”

[OIPRD Note: Arrest records for this GSU representative indicate an arrest time of 8:59 am; officer’s notes indicate this GSU representative approached police at 9:07 am, and was then arrested.]

“At 8 [sic] o’clock I awoke as many others did to the sound of stomping boots and yelling. I was in the office and went out and asked what was going on. The officer said, “Who are you, what are you doing in that room?” I said, “I’m an executive here, it’s my responsibility for this building. Why are you in here? I’d like to know what the reason is for you to enter this building and do you have a warrant?” So he immediately asked a couple of officers to come and get me and took me outside the building. An officer came up and said, “Are you responsible for this?” and I said, “I’m an executive here, at the Graduate Students’ Union, I want to know why you’ve entered and if you have a warrant.” He evaded by trying to come up with reasons I suppose, why they would consider coming into this building including, “This is a pub, you can’t be in a pub after hours.” I said, “No, this is a student union building, there is a pub, we’re not in the pub.” At some point after this kind of back and forth he turned around to somebody else and came back and said, “Sir, you’re under arrest, everybody else here is under arrest.” ”

[OIPRD Note: Arrest records for this GSU representative indicate an arrest time of 9:10 am.]

“At around 9 am, I was awakened at gunpoint. I was kicked in the ribs and the officer said, “Wake the fuck up, you fucking piece of shit.” Police officers swarmed in from the door by the stairs and there was also about another 15 police officers that swarmed in from the doors at the back of the gym. In total, there were between 30 and about 55 officers that swarmed in. Most were dressed in riot gear, quite a few of them were carrying weapons. There were probably about three undercover officers who walked in as well. We were told to shut the hell up. Multiple times an officer would be walking around and then he would yell, “*Alright, everybody, listen up,*” and then they wouldn’t say anything. An officer asked who organized the group. At which point, two students raised their hands. They were then grabbed very forcefully. I witnessed the officer slam the individual up against the wall and then throw him down onto the ground and put handcuffs on him and dragged him down the

stairs. At certain points in time, the undercover officers would come in and point at someone who was then picked up and very forcefully moved from the room. Between 90 and 95 per cent of the people in that gymnasium were francophone. So an officer from the Montreal police department was brought on scene to translate in French. But, then, they stopped translating in English, so we had to ask for English translation every once in a while. We were then told to put our cell phones in front of us, shut off all recording devices. Then an officer in some sort of captain's hat walked in with a cup of coffee and announced to everyone that we are all being arrested for unlawful assembly, at which point the officer started to remove individuals from the gymnasium one by one."

"I was arrested around 9 when I was asleep in a gymnasium with about a hundred other people. When I woke up, police officers were jumping over my mattress. They pointed their guns at me and yelled at me in English not to move."

"I was in the gymnasium sleeping. I heard voices yell, "Get up, get up." There were at least a few dozen police in the gymnasium who came in with all kinds of weapons. One of them had a taser and he was pointing it really close to people. I saw at least one with a taser, and there were others with some type of huge weapon, it looked like rubber bullet guns, but I couldn't tell you what type of weapon it was, but they were aiming them at people. We put our hands up; we didn't understand what was happening. There were police officers speaking English, but since most people spoke French some officers were called in to translate. There was a police officer, he spoke French really well, and he explained to us that we were under arrest for taking part in a riot, and that we would be detained and then arrested."

"It was a very surreal experience when we were woken up. It was over 30 police officers screaming out – they barged in through the GSU. There was over a hundred students sleeping in this building and the officers basically then just

started screaming: "Who's organizing? Who's doing this?" There were officers that were completely clothed in riot gear and officers who were wearing just regular street clothing, so it was mix of different types of officers. It was 45 minutes to an hour where we were sitting there waiting. An officer came in at one point and he was holding a coffee, and he leisurely told us that we were all being arrested for unlawful assembly."

About the arrests:

"An officer allowed me to pack up my luggage, from which point, I was escorted outside. He then put me into zip straps in front of – or behind my back. This would have been probably just after 9. He then read me my rights. He went through my suitcase and everything was catalogued and written down. He counted out exactly how much money I had in my wallet at the time, and then got me to witness it and sign that I had seen that – we had counted that exact amount of money. After he had finished processing me, I was then moved to a Court Services truck, in which the officers in question took my photo, tagged all my belongings, and then I was put into a Court Services truck with about eight other individuals. Everyone was taken outside and processed by a different officer in different areas out front. At this point in time, I would say there would be about 80 to 100 officers that I witnessed."

"A female police officer handcuffed me and took me outside. I asked her if I could take my things with me and she said, "No. You can get them back some other time." I was taken outside, but when I was walking along the gymnasium corridor to get outside between two rows of police officers, one of them started imitating me because I was crying. Because I was feeling humiliated I stopped walking and then a police officer hit me in the head and told me to keep walking. When I got out with the female police officer, I told her that a police officer had just hit me in the head and she told me, "Oh, well it's because you stopped walking." "

“An officer brought me to the side against the other building, and they sat me down there and then zip tied me with my hands behind my back, and had an officer watching me. Eventually an officer came over and said, “You’re under arrest, the reason is unlawful assembly.” The officer who had been watching me starts to search me (against the wall) and then somebody else comes in from behind, a very tall guy, and started doing the search, and actually violently grabbed my genitals, not once but twice, during the search. I turned around to say, “I’m not resisting, there’s no need to be rough.” And before I could even get out all the words, he put me in a chokehold so that I couldn’t even breathe, pushed my head up against the wall, and then asked me what I was about to say, and I couldn’t even speak; that’s how I know it was a serious chokehold, and he let go. Then he, with the heel of his police boot stamped down on my shin and left me with an open wound.”

“The arrest took about four or five hours. No one read me my rights during that time. It took about three hours before I was able to go to the toilet. The charges changed several times. It was not the same in French as it was in English. There was “unlawful assembly” and “taking part in a riot.” ”

“At this point, we were told we were being charged with unlawful assembly. We were placed in zip straps, which were briefly taken off so we could be paraded in front of the media in handcuffs. Other than this brief respite, however, we remained in zip straps for around 16 hours. We were then escorted to the Eastern Avenue Detention Centre and placed in the holding cages there.”

At 9:13 am, Operations reported that the Special Operations Director had advised that 70 were under arrest at U of T and that the building at 16 Bancroft was surrounded.

At 9:20 am, the public order unit Alpha Section Commander’s notes indicated that “wagons” were arranged to attend for transportation and that all parties were afforded the opportunity to use the bathroom one at a time for security reasons.

At 9:32 am, the Alpha Section Lead’s scribe notes indicated that an investigative team mobile detective was on site and advised.

At 9:38 am, the Alpha Section Lead’s scribe notes indicated that Forensic Investigation Services (FIS) were on site and directed to speak with the investigative team member.

At 9:43 am, the Alpha Section Commander’s notes indicated there was a commander meeting by the GSU building. Public order unit Oscar Section (Montreal) was to assist investigators with parties in the GSU building because the majority were French-speaking. The rest of Alpha Squad Four were to assist combing the outside area for stashed weapons.

At 9:50 am, the Alpha Section Commander’s notes indicated that media was on site. He assigned the media to the Koffler House area.

At 10 am, the Alpha Section Commander’s notes indicated that he advised the media to blur the faces of undercover officers. The Commander also advised public information officers about the investigation.

At 10:02 am, the Alpha Section Lead’s scribe notes indicated that he spoke with the Vice Provost of Academic Programs. She advised that the GSU pub refused to shut; it is not a residence; another place that refused to shut down was the Hart House; it may be another place of interest.

At 10:25 am, the Alpha Section Lead’s scribe notes indicated they were going to the other location that refused to shut down.

At 10:45 am, the Alpha Section Commander’s notes indicated that he was on site at “The Hart House” and the building was surrounded by members of Alpha Section.

At 11 am, the Alpha Section Commander's notes indicated that the Provost of U of T entered Hart House independent of police and confirmed no one was inside. His notes indicated that the public order unit was not entering.

At 10:50 am, the Investigative Unit detective's notes indicated she met with [the investigative site lead and investigative staff] to discuss preparation of warrant for Woodcroft [sic] address; called [the Alpha Section Lead] to request someone to come in to provide source information to assist the investigation; asked a staff member to look for historical material for Black Bloc and met with officers from Montreal who are here to discuss any information to offer of assistance

At 11:39 am, at the business cycle meeting, the Incident Commander reported that over 70 arrests had taken place at 16 Bancroft, including one person suspected of torching a police car the previous day.

At 11:40 am, in a late entry, the Investigative Unit detective's notes indicated that she spoke with an investigative team mobile detective, who was a part of the Mobile Team, who advised that the location was *frozen*, which meant they were not going back in once they had escorted people from the gym area. Instead, they were holding the scene waiting for a warrant to be executed. The investigative team member advised there were still a number of sleeping bags in the gym area and that nine prisoners appeared to be the organizers. He also described a whiteboard with dates on it, note papers, sticks, and weapons outside, which she already knew about. He noted that Forensic Identification people had arrived to take photographs of the items outside, and he provided contact numbers for the private investigator on contract to U of T campus police and the staff sergeant of campus police.

At 11:45 am, the Investigative Unit detective's notes indicated she was notified that the Alpha Section Commander was on site [at the PPC] and agreed to sit down to provide information for the search warrant.

At 11:50 am, the Alpha Section Commander's notes indicated he was at the PPC Investigations office, meeting with the Investigative Unit detective who was taking information for a warrant.

At 11:58 am, the Investigative Unit detective's notes indicated they met with other members of the investigative team.

At 12:21 pm, the Investigative Unit detective's notes indicated that they had finished the briefing. The notes also indicated that she did a Google search regarding the Graduate Students' Union at the University of Toronto, and started to draft Appendix C [of the search warrant].

At 12:40 pm, the OPP G20 public order unit timeline disclosed to the OIPRD indicated that under direction of the MICC at the request of TPS, OPP Echo was deployed to 16 Bancroft Ave. in soft tac "to assist TPS with arrest of protest group at 'GSU.'"

At 12:55 pm, an investigative team member at the PPC indicated in his notes that he spoke to the private investigator for the U of T campus police on the phone regarding information the private investigator had. The private investigator advised the Investigative team member he would email a statement to him.

The private investigator for the U of T campus police told the OIPRD:

Well Saturday afternoon [sic] [Note: The OIPRD believes the interviewee made an error in recalling the day as Saturday instead of Sunday.] I was back in my regular duties in the office and I was contacted by Toronto Police, and I provided them with a complete will say statement of my actions in the morning, so that they were able to do whatever they wanted to do, plus they asked, when they found out we had pictures, they asked if we could provide copies of the pictures which we did on a flat screen; those pictures were downloaded from my camera onto the Director of campus police's computer; we made a copy on a flash drive, and they were given to the officers when they came to pick them up.

At 12:58 pm, the OPP G20 public order unit timeline disclosed to the OIPRD indicated that OPP Echo unit was staged at 16 Bancroft. The Montreal public order unit Commander requested soft tac support; Echo replaced Montreal, which was in hard tac.

At 1:05 pm, the OPP G20 public order unit timeline disclosed to the OIPRD indicated that Echo unit was advised by the investigative team mobile detective on scene to secure area of U of T property as a crime scene; no one was to go in or out.

A detective sergeant in the G20 Investigative Unit was designated major case manager for the U of T arrests. In an interview with the OIPRD, he said:

The original arrest was for unlawful assembly, and it later changed when I had an opportunity to speak to one of the Crown attorneys. After the briefing with the assistant Crown attorney at about 1:20 pm, I spoke about the case and the circumstances surrounding the arrests. We had a discussion that the more appropriate charge was conspiracy to commit the offence of mischief. And then we had a discussion with regards more of a logistical scenario with regards charging 10 people at [a] time on a criminal Information instead of putting 100 plus people on a single Information and the reason behind that was that 116 or more people would have to physically make a court appearance on the same day and it becomes obviously very difficult for 116 people to do that, so the suggestion was [to break] it up into group[s] of 10 so that 10 people would have to make a physical court appearance on the same Indictment and so we had a discussion about that. Then later that same day, I had a conversation with another G20-committed Crown attorney with regards to the circumstance surrounding the arrest and again about the information, and she assisted me by providing a suggested wording of the Information.

At 1:22 pm, the Investigative Unit detective's notes indicated that she received another phone call from the Investigative Unit team member on the scene who advised that approximately 100 persons had left from that location and that OPP was holding

the scene. He advised that all parties were arrested for unlawful assembly and were being transported to the PPC. The Investigative Unit detective's notes also indicated that she discussed the named offence for the warrant with other staff members. They agreed that the offence named should be conspiracy to commit mischief, based on the previous day's events captured on film by an undercover officer and the public order unit Alpha Section Commander's observations at the location, along with photos from U of T security officers.

At 1:25 pm, Operations scribe notes indicated that the team on Bancroft was still staging prisoner transport and public order units were still there.

At 3:16 pm, a detective who was with the G20 Investigative Unit team got the "thumb" drive from a detective who had picked it up from the private investigator with the U of T campus police. The drive had about 150 pictures on it; the Investigative Unit team detective made a note of three, which they were going to use for the search warrant affidavit.

At 6:35 pm, the Investigative Unit detective's notes indicated that the search warrant was signed by the justice and granted a time of execution from 6:30 pm that day to 4 pm, Monday June 28, because it was a large location.

At 7:45 pm, the Investigative Unit detective's notes indicated that she met with a member of the OPP and the team of officers who were going to execute the warrant. She briefed them on the details of the investigation and had them read and sign the warrant. They then went to the address.

At 8:10 pm, the Investigative Unit detective's notes indicated that she entered the address and saw the gym and basement. She located contact information in the basement for a person who was in charge in order to give someone a copy of the warrant.

The warrant prepared for 16 Bancroft was a warrant to search. It stated there were reasonable grounds to believe that there were at 16 Bancroft Ave. certain things being sought as evidence in respect to the commission of an offence against the Criminal Code, namely:

That person(s) unknown sometime between and including the 25th day of June in the year 2010 and the 27th day of June in the year 2010 in the City of Toronto, in the Toronto Region did conspire to commit an indictable offence, to wit: Mischief Over \$5,000 contrary to Section 465(1) (c) of the Criminal Code of Canada.

At 8:30 pm, the Investigative Unit detective's notes indicated that she phoned the person in charge and advised her that she was executing a search warrant and that campus security people would attend to secure the location when the search was finished.

The things being sought were items that could be used by anarchists using Black Bloc tactics to cause mischief to property. A list of over 500 items of property seized from 16 Bancroft Ave. was disclosed to the OIPRD. It included backpacks, clothing in various colours including black, bandanas and scarves in various colours including black, cameras, cellphones, maps, and G20 literature. It also included the following items that one might expect protesters to bring to a demonstration: noisemakers, cowbells, a banner with a hammer and sickle on it, a banner with "resistance" on it, and anti-G20 stickers and buttons. Items found that one would not normally expect to be brought to a protest included: gas masks, a plain black banner, a small metal pipe, a shelving bracket, a chain, a handsaw, a wrench, screwdrivers, a pair of vice grips, heroin, spray paint, and a "sabotage" book.

At 8:55 pm, the Investigative Unit detective's notes indicated that she left the address and returned to the PPC to update investigation staff.

Data disclosed to the OIPRD from the Criminal Information Processing System showed that Supplementary Records of Arrest, providing a synopsis for a guilty plea to the charge of conspiracy to commit indictable offence CC 46(1)(c), were prepared by Toronto police for individuals arrested at 16 Bancroft Ave. A synopsis for a guilty plea is one of the documents included in the "Crown brief" for a court appearance. It provides a detailed account of the specific allegations against an accused person,

outlining the actions of the accused, as well as other parties to the offence, and information about where and when the alleged offence occurred.

These documents were prepared in 10 batches with nine to 13 individuals named on each supplementary record of arrest. The first document was completed at 2:41 pm on June 26 and the last at 12:26 am on June 28.

There were two versions of the synopsis for a guilty plea for conspiracy to commit indictable offence, which differed only slightly. The information, in part, included:

On June 26th 2010, undercover and uniformed officers attended the area of Queen's Park, Toronto. Various protesters were assembled to voice their concerns over various issues. One of these groups in attendance was a group commonly referred to as the "Black Bloc" which is an anarchist movement with Anti-authority views.

The officers observed unidentified persons [in some documents an individual was named] us[ing] a large banner in a coordinated effort to conceal the accused [list of names] and several members as they "Blocked Up."

"Blocking Up" refers to the coordinated effort to wear similar clothes with padding and equipment underneath to assist the protesters in fighting with the police. The banner was held up in a manner so that people were able to enter the enclosed banner and change their clothes without detection, from what they were wearing, into a set of clothes, usually all black, with disguises to avoid being identified.

These accused persons left the safety of the enclosed banner held by the unknown persons, now dressed in a similar appearance (black clothing) and wearing disguises. They travelled to meet a larger crowd in the area of John Street and Queen Street West.

At this point, with the larger and reinforced group all dressed in black, they began to throw projectiles at police and engaged them in physical confrontation. Subsequent to this assault on police officers the unknown persons dressed in black retreated into the crowd and later moved down the street setting police vehicles on fire and causing damage to many businesses in the Toronto downtown core.

[List of names], as well as a multitude of their “associates” were witnessed and photographed wearing disguises (bandanas on their faces in order to disguise their identity) prior to and during the protests. They wore the disguises while committing the violence upon officers and inflicting the damage on property throughout the downtown core.

Officers and security personnel representing the University of Toronto became aware that this group had made arrangements to reside en masse at a property located at 16 Bancroft Ave. The premise is leased by the U of T Graduate Student Union.

According to persons surveilling this address, bus-loads of individuals arrived early during the weekend of the summit and likely inhabited the Gym portion of the building, where they slept and organized. Photographic evidence was taken of their activities during this time period, and their comings and goings from the premises to Demonstration events.

Numerous demonstrations and marches had been organized to take place in Toronto on the Sunday following the Saturday “unrest” and there was little doubt in the minds of the organizers of the police response that the same persons who had been at the centre of the unrest on Saturday would also be avid participants for the balance of the weekend given the opportunity.

In support of this, intelligence gathered by Toronto Police through various sources led officers from the Public Safety Unit to attend 16 Bancroft Ave. on Sunday June 27th, 2010

(after the night of violent rioting in Toronto), and there, the inhabitants of the premises were arrested for Conspiracy to Commit an Indictable Offence.

They were all transported to the Prisoner Processing Centre on Eastern Avenue and charged accordingly, being held for bail hearings. A search warrant was executed at 16 Bancroft Ave. and there were located a large quantity of: banners, buttons, spray paint, stencils, Logos, pamphlets, helmets, masks and other assorted paraphernalia consistent with such an organization.

Some of the documents also included the following paragraph: “Some of the arrested persons were debriefed and provided valued intelligence on the group, their activities / intentions, and ‘core values.’”

These documents included the names of 105 individuals. Five of the supplementary records of arrest included the name of a known G20 activist, listed this individual as “the recognized leader of the [Black Bloc] group,” and included information about this individual causing specific damage on Yonge Street. This activist was actually arrested on Eastern Avenue and was not at 16 Bancroft Ave.

According to arrest records reviewed by the OIPRD, and discounting the individual arrested on Eastern Avenue, 108 people, including young people under 18, were arrested at 16 Bancroft Ave. on Sunday morning. This number differs from the 113 reported in the Toronto Police Service After-Action Review. The OIPRD reviewed and re-reviewed disclosed TPS arrest records and could not find more than 108 people arrested at the GSU. One person was arrested on Bancroft on June 26, who may have been included in the TPS count of arrests for its After-Action Review. The OIPRD also found a number of people in the TPS arrest records that were categorized as arrested at 16 Bancroft Ave., but, upon further investigation, this location of arrest was found to be incorrect. OIPRD investigators found a number of inconsistencies in the collation of all TPS G20 arrest records.

June 28, 2010

The people arrested attended a bail hearing. They were released on strict conditions, and those from out of province were ordered to leave Ontario immediately.

June 29, 2010

On June 29, the *Globe and Mail* published the following article:

Protest group accuse police of profiling Quebecers

Ingrid Peritz

MONTREAL – After successfully marshalling hundreds of demonstrators to Toronto for the G20 summit, Montreal protest organizers now say Quebecers were singled out and subjected to profiling by Toronto police.

A militant protest group says members were victims of intimidation and arbitrary arrests. Of 450 protesters who went by organized bus to Toronto from Montreal, only 125 returned; many remain in detention and others are unaccounted for, according to a group known as the Anti-Capitalist Convergence.

Danie Royer, a spokeswoman for the Quebec-based group, says many Quebecers were stopped by police simply because they spoke French or had Quebec licence plates.

About 50 members of her group were picked up in the Sunday morning police raid at the University of Toronto, after her group publicized their plan to stay at the university on its website.

“We had nothing to hide. They came to get people from Quebec,” Ms. Royer told a news conference in Montreal on Monday.

The group, which ran an active campaign to get protesters to Toronto – one document on its website says “Let’s attack the G20” – wouldn’t distance itself from the violence associated with the Black Bloc, the group linked to setting police cruisers on fire and smashing storefronts.

“For us that’s not violence. It’s a form of expression,” said Mathieu Francoeur, another spokesman for the anti-capitalist group.

Others disassociated themselves from violence and still had brushes with police.

Antoine Tardif, a 22-year-old who works in a bike shop in Montreal, said Toronto police surrounded him and two other Quebecers while they spoke French and sat on a park bench in Yonge-Dundas Square.

“It was intimidating. Obviously the police arrested more Quebecers because we were easier to pinpoint. It was profiling.”

He got to Toronto on his own steam, stayed with friends, and voiced hesitation about violent protest tactics. “It’s not something I would do. I understand these people are angry, and it’s their only way to be heard. But I don’t know if it’s productive.”

One university student who identified herself as Camille said she was arrested en route to a protest after her car, which had Quebec plates, was stopped at a red light. Police found an anarchist book in the car and black clothing among her possessions, she said.

Charged with disturbing the peace, she said she was kept in a cell of about 20 women, all but one of whom was from Quebec, and given only a sandwich and one glass of water during a nine-hour detention.

Quebec’s strong representation on the streets of Toronto – more than 1,000 went with the anti-capitalist group alone from across Quebec – grows out of an active anti-capitalist and anarchist movement in the province, an author and professor on the subject says.

Francis Dupuis-Déri, a political science professor at the University of Quebec at Montreal, said the Anti-Capitalist Convergence formed for the 2001 Summit of the Americas in Quebec City, disbanded but became active again in January to target the Toronto summit.

On June 29, staff of the Graduate Students' Union were able to access the building. One of them told the OIPRD about the state of the GSU building when they took it back:

It was a mess. The gym was full of sleeping bags and people's gym bags; they had broken our expensive camera; it looked like they had tried to get the chip out. They broke into the bar which would have been padlocked; they (police) were kind of using it as their office area because there were chairs and tables, half eaten sandwiches and open drinks everywhere.

GSU staff explained some of the things that were found in the basement: sticks (because the students used them for anti-tuition fee increase rallies, which are held usually once a year and there was a pail of them in the office); banners; vinegar (because of fear of tear gas); buttons that they had made saying "Resist G20"; information pamphlets; black T-shirts – the T-shirts were student orientation T-shirts, some black and some green.

October 6, 2010

On October 6, 2010, one individual who had been arrested at 16 Bancroft Ave. turned himself in to TPS 23 Division and was arrested on 10 charges, including mischief over, theft under, and disguise with intent, in relation to the police vehicles that were damaged and destroyed at King and Bay streets and the vandalism on Yonge Street on June 26.

October 14, 2010

On October 14, 2010, all charges against the complainants and others arrested at the GSU for conspiracy to commit indictable offence were dropped.

Detective Sergeant Gary Giroux of the G20 Investigative Unit told the OIPRD:

My understanding from the Crown is that these charges were ultimately withdrawn by the Crown attorney at their direction. Once charges are laid, the decisions to proceed or not proceed with the

charges are in the purview of the Crown attorney offices. My understanding was there is evaluation and expectation of conviction, and if it does not make that threshold then they make a conscious decision to withdraw the charge.

In his testimony to the House of Commons Standing Committee on Public Safety and National Security, Chief Blair said:

The court also commented that the officers had reasonable and probable grounds to make that arrest, but there was a technical problem with the way in which the arrest was done, and that's why the charges were dropped. That's my understanding. I'm aware of the circumstances under which the Ministry of the Attorney General made a decision not to proceed. It was not on the absence of reasonable and probable grounds, but on a different criteria, which is a reasonable prospect of conviction.

October 15, 2010

On October 15, a media article from QMI Agency reported in part:

Charges against nearly 100 people accused of conspiracy to commit a criminal act during the G20 Summit in Toronto last summer were dropped Thursday morning in a Toronto court. The suspects were arrested during early-morning raids on Sunday, June 27, at the University of Toronto. Almost all of them are from Quebec. Crown prosecutor Vincent Paris told the courtroom the decision was made because of insufficient evidence against the suspects. "These matters have been reviewed and despite there having been reasonable and probable grounds to justify the initial arrest, the result of this review is that there does not exist a reasonable prospect of conviction," Paris said.

Complaints

The Office of the Independent Police Review Director received five complaints relating to the events that occurred at the Graduate Students' Union at 16 Bancroft Ave.

The complainants alleged that officers entered the gymnasium at the GSU at the University of Toronto without legal authority and arbitrarily and illegally arrested everyone in attendance for “participating in unlawful assembly” without reasonable grounds. They were transported to the Prisoner Processing Centre where they were held up to 18 hours and then advised that their charges were changed to conspiracy to commit indictable offence [Criminal Code, s. 465 (1)(c)].

All the people arrested at the GSU gym were subjected to a level-3 strip search because all were taken into custody and detained pending a bail hearing. The complainants were transported to either the Vanier Centre for Women or the West Detention Centre and incarcerated until they attended a bail hearing on June 28, 2010. Some were held for over 60 hours. The complainants were released on strict conditions and those from out of province were ordered to leave Ontario immediately. Subsequently, all charges against the complainants and any others arrested at the GSU for conspiracy were withdrawn.

The complainants also alleged that officers entered the gymnasium at the GSU with guns and tasers drawn and pointed at sleeping occupants. Some alleged that the arrests of some individuals were “violent” and that police officers were aggressive.

The French-speaking complainants said that they were treated in a discriminatory manner by the non-Montreal police officers. They also said that originally information was provided in English until later, when a French-speaking officer arrived. They were told in English that they were arrested for “unlawful assembly,” while in French they were told it was for “taking part in a riot.”

Issues and discussion

Were the arrests lawful and necessary?

On the morning of June 27, 2010, officers entered the gymnasium at the Graduate Students' Union at University of Toronto while the people inside the room were sleeping and, without legal authority to do so, arrested everyone in attendance for “participating in unlawful assembly.”

The Criminal Code sets out the authority for officers to arrest. Section 495(1) states:

A peace officer may arrest without warrant

- (a) a person who has committed an indictable offence or who, on reasonable grounds, he believes has committed or is about to commit an indictable offence;
- (b) a person whom he finds committing a criminal offence; or
- (c) a person in respect of whom he has reasonable grounds to believe that a warrant of arrest or committal, in any form set out in Part XXVIII in relation thereto, is in force within the territorial jurisdiction in which the person is found.

The offence of “unlawful assembly” is set out in section 63 of the Criminal Code:

An unlawful assembly is an assembly of three or more persons who, with intent to carry out any common purpose, assemble in such a manner or so conduct themselves when they are assembled as to cause persons in the neighbourhood of the assembly to fear, on reasonable grounds, that they

- (a) will disturb the peace tumultuously; or
- (b) will by that assembly needlessly and without reasonable cause provoke other persons to disturb the peace tumultuously.

Section 66 of the Code states:

Every one who is a member of an unlawful assembly is guilty of an offence punishable on summary conviction.

The Criminal Code does not permit an officer to arrest an individual for being a member of an unlawful assembly unless that person is found participating in an unlawful assembly. As the occupants of the GSU were not found committing the offence of unlawful assembly, their arrests without a warrant were unlawful.

The courts have held that, in general, an illegal arrest violates section 9 of the Canadian Charter of Rights and Freedoms, which provides:

Everyone has the right not to be arbitrarily detained or imprisoned.

Analysis

The TPS public order unit Alpha Section Commander told the OIPRD about his role in the arrests. At 7:20 am, on the morning of June 27, 2010, he was dispatched to Willcocks and St. George streets. While discussing the events of the preceding evening with members of his team, the question of where the crowd had gone came up. The commander had determined from the Transit Patrol that the crowd had not dispersed onto the streetcar or subway system. He concluded that they may have had a connection with some of the student groups who lived in the area and may have remained in the area. He understood that the university had shut down for the week and that no one was supposed to be living on campus during the G20 summit.

The TPS public order unit Alpha Section Commander began to canvas passersby to determine if anyone had seen Black Bloc members. He had contact with a person wearing a security shirt, who put him in touch with a private investigator under contract to the U of T campus police, who advised him that he had photographed a number of people outside the GSU the previous day wearing “Black Bloc attire” and masking up and concealing their identities. The

Commander believed that the people inside the GSU were involved in the previous day’s protests and criminal activities.

The Alpha Section Commander contacted the Investigative Unit mobile detective, advised him of his concerns, and asked if he had any officers in the area and if he wanted him to secure the area. He was told that they were aware of people being in the area because they had received prior intelligence information. Following this conversation, the Commander spoke to the Investigative Unit Site Lead and asked him if they wanted him to remain in the area. The Investigative Unit Site Lead was going to contact the MICC and advise them accordingly.

The Alpha Section Commander understood that the Investigative Unit was starting to prepare a search warrant for that location, and his intent was to secure and hold the location until the warrant could be executed. He said, “When I spoke with the Investigative Unit Site Lead and with the Investigative team mobile detective, I was satisfied that they were looking to investigate people that they had been monitoring all along. That’s all I knew.” He told the OIPRD that his understanding was that a warrant “to enter the dwelling and seize property” was the type being prepared.

As his team began to establish a perimeter, he observed one or two people leaving the GSU. Public order unit officers from Montreal had already stopped one French-speaking person known to them from Montreal. The TPS public order unit Alpha Section Commander started to worry that their presence was known and their location may have been compromised. He entered the GSU in what he described as a “stealth entry” – he didn’t have to use force because the door was open. He found people sleeping in the gymnasium and then went into the basement where he found eight people and observed walls with schedules and “evidence of organization.” He escorted these people upstairs and, when he realized the people in the gym were beginning to wake up, he went in and announced to them that they were under arrest for “unlawful assembly.” He had his counterpart from Montreal’s Oscar Section reiterate his instructions in French.

The TPS public order unit Alpha Section Commander said,

We began to have an issue when they started chanting and singing in French, and we had people starting to indicate that “there’s only so many of them, we can take them” that became problematic. So, that’s when I said it’s time for a little show of force. I had to put people in there to maintain a bit of order and some direction and I openly displayed some use of force.

The Commander denied any of his officers had their guns drawn when they entered the gym. He said officers entered with anti-riot weapon Enfields (ARWENs) but denied that any tasers were used, explaining:

If a taser is drawn, a use of force report has to be submitted, because that’s like me drawing my handgun. When we deploy taser, you have to announce, “taser, taser, taser.” It’s an officer safety issue as well, because it does ramp up the escalation.

The Commander said it was an accepted practice to place everyone under arrest if you have reason to believe that some may be involved in a criminal offence, and then, subject to investigation, they can be released from the scene. He stated that he was prepared to do so because he did not know if everyone in the GSU was involved.

The Alpha Section Commander provided source information to obtain a search warrant. The warrant included statements from him, including:

- A number of persons were seen to leave the address dressed in black clothing and were investigated by members of the Public Order Unit.
- He then ordered the building be secured as he had concerns that this building was being used by members of the radical group of anarchists, “the Black Bloc” and that there was a cache of weapons inside the premises. He entered the premise, which was left insecure and as he entered with other members of his squad, he was not challenged.

- He observed bottles of vinegar, sharpened sticks, heavy bags of some material (unsure what), contact lists, notes, radio equipment and a white board with what appeared to be scheduling listed on it, with the dates of the G20 weekend and times. These items were not seized.

Reasonable and probable grounds for the arrests

The TPS public order unit Alpha Section Commander made the decision to arrest all the GSU occupants on the charge of “unlawful assembly.” He stated that the “unlawful assembly” had occurred on the preceding day. He did not suggest that an unlawful assembly was taking place inside the GSU. The Commander advised that most of the people who were arrested that day were in the gymnasium sleeping when he entered.

The Commander acknowledged that he did not know whether all the GSU occupants were involved in the events of the preceding day, but thought that he had reasonable grounds to believe that *some* people in the GSU had been involved in illegal activities on the preceding day. It appears that his intent was to arrest everyone and then release those who were not involved in the criminal activities from the previous day at the scene. This did not occur, however, because all the GSU occupants were taken to the PPC and detained.

It does not appear that there were reasonable and probable grounds to arrest all the GSU occupants without more information as to which person was involved in the illegal activities. Furthermore, the arrest and detention of the people there were permitted to continue, and no steps were taken to investigate whether any of the arrestees had been involved in illegal activities.

The orders were clear that everyone was to be arrested and transported to the PPC. Apparently no orders were given to the team to investigate the occupants and release parties deemed not to have been involved. The only assistance the Alpha Section Commander sought was with the processing and transportation of the prisoners. It is relevant to note

that the arrangements for prisoner transportation to the PPC were made at 9:20 am, approximately 15 minutes after he entered the GSU.

Section 9 of the Canadian Charter of Rights and Freedoms provides: “Everyone has the right not to be arbitrarily detained or imprisoned.”

The Independent Police Review Director has found the arrests of the occupants of the Graduate Students’ Union to be unlawful on two basis: the police did not have the requisite grounds to believe each arrested party had committed the offence of unlawful assembly the previous day; and, a warrant was required to arrest a person for unlawful assembly where that person was not found actually committing the offence and such a warrant was never obtained.

The search warrant

Requirement for a Feeney warrant

The question of whether a warrant was required to enter the GSU to make the arrests was addressed by TPS Chief Blair at a House of Commons Standing Committee on Public Safety and National Security (SECU) meeting on issues surrounding security at the G8 and G20 summits, and in the media. Therefore the topic merits discussion here.

In his testimony at the SECU, Chief Blair said:

My understanding – and forgive me, I don’t have the details of this and I can only offer you my understanding and the explanation I have received as to why those charges were dropped – is that it was because the police did not have the appropriate warrant for the apprehension of those individuals. The Crown and the court determined that the circumstances of that arrest required what is called a Feeney warrant and that the police did not have the appropriate warrant to make those arrests.

It should be noted that the requirement for an arrest warrant in this circumstance is not the same as the requirement for what is commonly referred to as a Feeney warrant. A *Feeney* warrant, or a warrant

obtained under section 529 of the Criminal Code, permits a justice or judge to include in a warrant to arrest or apprehend the power to authorize the peace officer to enter a dwelling-house for the purpose of executing an arrest or apprehension. In other words, this type of warrant is required if police officers wish to execute an arrest warrant in a *dwelling-house*.

Although the occupants of the GSU were using the gymnasium as temporary sleeping quarters, the quarters not only were temporary but also were shared with approximately 100 other people, without any structures designed to ensure privacy for each party sleeping there. Moreover, the GSU is a building to which the general public is granted entry and to which there is arguably an implicit invitation to enter, regardless of whether people are sleeping there. In addition, the doors to the GSU were not only unlocked but ajar at the time of the officers’ first entry.

Accordingly, the Independent Police Review Director is not calling into question the lawfulness of the officers’ entry into the GSU for the purposes of arresting the parties found there. Rather, the IPRD has determined that reasonable grounds exist to find that the arrests were unlawful without a warrant.

Was there unnecessary use of force?

According to section 25 of the Criminal Code of Canada:

Every one who is required or authorized by law to do anything in the administration or enforcement of the law as a peace officer or in aid of a peace officer is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.

Under usual circumstances, when a police officer makes an arrest, the officer will take physical control of the subject and, in most cases, handcuff the subject with his or her arms behind the back. In some cases, the police officer will take the subject to the ground to effect the arrest, applying a joint

or arm lock if necessary. If the subject resists arrest, by pulling, kicking, or punching, for example, the officer can use reasonable force to make the arrest. However, any force used that is more than necessary to make the arrest is considered excessive.

OIPRD complainants and others in the GSU gymnasium alleged that officers entered the gym with guns and tasers drawn and pointed at sleeping occupants. Some alleged that the arrests of some individuals were “violent” and that police officers were aggressive.

The TPS public order unit Alpha Section Commander told the OIPRD that his intent when he entered the gymnasium was a “show of force” and this did not involve tasers or drawn guns. If a taser had been drawn, a use of force report would have been completed. He also denied that any guns were drawn, but confirmed that some of his officers carried ARWENs, which look like a cannon but deploy small rubber bullets.

There is contradictory evidence as to whether guns were drawn in the course of arresting the occupants of the GSU. The occupants of the gym were lying or sitting on the floor. To them, it would certainly appear that the barrels of the ARWENs the officers were carrying were pointing at them, even if the officers were pointing them downward. In light of the large number of arrestees, a display of force in the beginning may have been justifiable in order to maintain order.

A complainant alleged that an unidentified officer hit her in the back of the head when she walked through a line of officers but was unable to identify the officer who did this.

One complainant also alleged that an officer who kicked him in the ribs used profane language when he said, “Wake the fuck up, you fucking piece of shit.” However, the complainant was unable to identify the officer who did this.

In regard to the use of profane language, it is not inconceivable that this incident happened, considering the number of allegations of police swearing at people made by complainants and

others during the G20 and especially in the Prisoner Processing Centre. On the other hand, YouTube video and other audio and video evidence disclosed to the OIPRD showed protesters swearing and screaming profanities at police on dozens of occasions.

The Independent Police Review Director has found that during the G20 weekend, both the police and protestors used profanity against each other.

Processing of arrests

Some OIPRD complainants and others at the GSU said they were not given anything to eat or drink during their processing, which lasted for more than four hours, and that at one point officers refused permission to use washrooms.

The Investigative Unit mobile detective told the OIPRD that the arrested parties were allowed to use the washrooms while his unit was there, and there was never a time that this would have been prohibited. He said his primary function was to process the arrested parties and organize food and water for both the people in custody and the officers. He said bottled water and protein bars were provided to the arrested parties if they wanted them. However, there is no indication that he made any attempt to distribute them, nor does it appear that the availability of water and food was communicated to those arrested.

Given the number arrested, it would have been difficult to maintain overall control and ensure that basic provisions were made available to the arrested parties who were held for over four hours. The process of arresting people took a long time because of the number of arrestees and because the proscribed process for arresting people was, for the most part, followed correctly.

Recommendations

- In light of the large number of arrests that did not result in a charge or resulted in the charge being withdrawn, the Toronto Police Service (TPS) should consider whether it is in the public interest to retain the police records of the arrestees who were either not charged or whose charge was withdrawn. It is our understanding that TPS policy allows for records to be expunged. It is recommended that the TPS should consider exercising its discretion to expunge those records where it is not in the public interest to retain them. Further, it is recommended that the TPS should communicate that policy to the public and allow members of the public to apply to have their records expunged.

Chapter 8: Queen and Spadina

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Queen and Spadina



On Sunday, June 27, 2010, at approximately 5 pm, a large protest of more than 700 people began marching north on Bay Street from King Street and then turned west on Queen Street West. Although they were disruptive, interrupting pedestrian and vehicular traffic and causing streetcars along Queen to stop, the group was not violent. By the time it reached Queen and Spadina, it had attracted more protesters, some members of the media, and a number of curious onlookers.

A line of police prevented the group from proceeding west on Queen Street and south on Spadina Avenue, and the Incident Commander ordered police to box the group in and to arrest everyone for conspiracy to commit mischief.

Just after 7 pm a torrential thunderstorm began. Protesters were detained in pouring rain for four hours while the arrests were being processed. Public order unit (POU) commanders asked for use of the long-range acoustic device (LRAD) to communicate with the crowd as well as an exit route for people to leave the area, but both requests were denied. Commanders were forced to shout instructions to the crowd, but many people did not hear them. Some police officers went against orders to allow people in distress a way out.

In an audio recording for a POU Commander's scribe notes, a police officer on the line can be heard saying, "He's maniacal this MICC, he's maniacal."

In the end, Toronto Police Chief Blair went to the MICC [Major Incident Command Centre] himself and called the Incident Commander and the Public Information Officer out of a meeting. He ordered that the boxed-in people be released "unconditionally and immediately."

Timeline

In the early afternoon of June 27, the police were monitoring several protest groups, including a 200-250 member mass bicycle ride in the downtown area and a group participating in a prayer vigil at King Street East and Church Street. The prayer group of about 80 people began marching west on King, and closed-circuit television (CCTV) cameras showed that they reached King and Bay streets at 2:45 pm, where they stopped. Some members of the group sat down on the south side of King, while others



stood behind them. Lines of police blocked Bay Street south of King, so the crowd could not move closer to the security fence.

At 4:40 pm, CCTV cameras showed people on bicycles beginning to arrive and filling the intersection.

By 5 pm, the crowd had grown to about 700 people, and the majority of them started walking north on Bay Street.

At 5:07 pm, a CCTV camera at Bay and Queen showed police lining up across Queen Street, causing the crowd to continue north on Bay. It stopped at the corner of Queen and Bay, in Nathan Phillips Square.

At 5:10 pm, a CCTV camera at Bay and Queen showed the police move aside to let the crowd walk west and the streetcars proceed east. The crowd walked on the sidewalk and in one traffic lane; the officers moved through the crowd to the front. Also at this time, the Outer Zone Deputy Director advised the day shift Incident Commander that the crowd was moving west on Queen Street, appearing orderly.

At 5:10 pm, in a statement to the OIPRD, night shift Incident Commander Superintendent Fenton stated:

At 17:10 hours, I arrived on the operational floor. I observed the activity on the operational floor. I observed the CCTV screens. I listened to the radio band. I could see a line of police bicycles stretched from the northwest corner of the intersection of Queen and Spadina Ave, ending at the southeast corner of the intersection. Therefore, the protesters had a clear path north from this location, and in fact could have turned back east on Queen Street. [The Intelligence Chief] advised me that there was intelligence that there was a plan to attack the fence; however, it was unclear if the fence was the summit fence, or the fence surrounding the PPC [Prisoner Processing Centre on Eastern Avenue].

At 5:11 pm, a CCTV camera at Queen West at the Sheraton Hotel showed bicycle officers forming a line across Queen Street just east of York Street. The crowd was stopped from moving west by the bicycle officers. POU officers arrived behind the community response unit (CRU) line.

At 5:17 pm, the CCTV camera at the Sheraton Hotel showed police allowing the crowd to continue west. Police lined up across the south side of University Avenue.

At 5:21 pm, a CCTV camera at Queen and University showed the crowd crossing University at Queen Street and proceeding westbound.

At 5:24 pm, a CCTV camera at Queen and John streets showed the crowd walking past the intersection. Also at this time, the MICC communications video log advised that “the BB are back at Queen and John, at John and Peter, going on to Dundas and Spadina.”

At 5:26 pm, the day shift Incident Commander was advised by Intelligence that protesters at Queen and John were running to the security fence around the summit; the Incident Commander advised officers in the Interdiction Zone to notify officers at the fence.

At 5:28 pm, Operations was advised that the mounted unit was on site at Richmond and Peter streets, walking west toward Spadina Avenue.

At 5:29 pm, a CCTV camera at Queen and Peter streets showed a large crowd walking west toward Spadina Avenue among stopped streetcars.

At 5:32 pm, Superintendent Fenton assumed command as night shift Incident Commander.

At 5:35 pm, in a statement to the OIPRD, Incident Commander Superintendent Fenton stated that he instructed the Special Operations Director to get mounted units to the Queen and Spadina area:

It was clear from the information that I had gathered at that point via video and the operations desks, the immediate threat at Jimmie Simpson Park was minimal as no protesters were at the park. There was an issue developing at Queen and Spadina, [and] no POU were in that area. This was the location where disorder issues began June 26.

At 5:35 pm, the Incident Commander advised the Outer Zone Director that bikes were needed at Queen and Spadina.

At 5:36 pm, the Outer Zone Director advised Incident Command there were “tons” of bikes at Queen and Spadina. The Incident Commander advised the Special Operations Director that officers in hard tac (full POU gear) were needed at Queen and Spadina.

At 5:38 pm, the Incident Commander requested cameras at Queen and Spadina and instructed the Outer Zone Director to have bicycle officers attend. The Incident Commander ordered the Special Operations Director to box the group in at Queen and Spadina.

At 5:39 pm, in a statement Incident Commander Superintendent Fenton stated that the Special Operations Director advised that it was necessary to hold the line at Queen and Spadina.

The line of bikes that I had observed earlier was still in place at this point stretching from the Northwest to the Southeast corner. Protesters were still free to move north or move back east along Queen Street, as there were no police blocking movement in these directions. I reiterated the need to not let the crowd move. I did not want the crowd moving south as the summit fence was vulnerable. There were no POU in the area at that time. Intelligence had advised of chatter on social network sites that an attack on the fence was planned. Supt. Ferguson [the day shift Incident Commander] had advised of another group of protesters west of this location; therefore I did not want these groups to merge. However, my main concern was with the summit fence immediately to the south of this location. I could hear police radio transmissions that led me to believe that protesters were being let through the police line. At 17:40 hours, I put over the police radio myself the order: do not let the crowd through. I stress at this time there were no police assets preventing movement north. Moving in this direction would be consistent with the stated destination of the protesters.

At 5:42 pm, the Incident Commander asked the Special Operations Director to keep the ground at Queen and Spadina. He also requested that a video service unit go to the scene and for Operations to get prisoner wagons staged nearby.

At 5:43 pm, the scribe notes for the OPP public order unit Foxtrot Section indicated that they received an “officer needs assistance” call to Queen and Spadina.

At 5:44 pm, the Intelligence Chief advised Incident Command that there were 15 to 20 Black Bloc protesters in the middle of the crowd. The Incident Commander also requested the Outer Zone Director to stop a U-Haul truck that had been observed at Adelaide Street and University Avenue. The Incident commander said in a statement that he had intelligence that protesters had planned to use U-Haul vehicles and that he was concerned about the proximity of this particular truck to the summit fence.

At 5:46 pm, the Incident Commander instructed the Investigations Chief that they needed an extraction team at Queen and Spadina. The Incident Commander indicated in a statement that he asked the Investigative Liaison if there were options other than the Prisoner Processing Centre (PPC) where those people arrested could go. He was concerned that staff at the PPC would not be able to cope with the influx of prisoners if they began arresting some of the crowds on the streets. The Investigative Liaison advised him to contact the PPC to see if the facility had reached capacity, and, if it had, to contact the various Toronto Police Service divisions. The TPS Business Continuity advised that all divisions had been warned to expect prisoners in their lock-ups.

At 5:49 pm, the Incident Commander instructed the tactical dispatcher to call the TTC to get the streetcars to back up on Queen Street.

At 5:50 pm, the Incident Commander indicated in a statement that he received information from Intelligence that the protesters wanted to go south to the summit fence. He instructed the Special Operations Director to get the crowd boxed in as soon as possible.

At 5:51 pm, the scribe notes from the OPP public order unit Foxtrot Section Commander indicated that they arrived at Queen and Spadina in hard tac; one team moved to the line to relieve the bicycle unit. The Foxtrot Commander advised that they were going to push the crowd forward. The OPP started to arrest some protesters on the west corner. The notes stated that the crowd was confined to a small area on the east side of the intersection surrounded by police. Prisoner hand-off teams (HOT teams) were organized and were preparing to continue with the arrests. Instructions had been given that all parties present had been given the opportunity to leave (before Foxtrot’s arrival), but they had not, and now they were all to be arrested. One by one the protesters were arrested, handed over to the HOT teams, and taken to the transport trucks. The plan set out by the OPP public order unit Group 7 Commander was to arrest everybody who was still on the street.

At 5:53 pm, the tactical dispatcher notified the Incident Commander that the streetcars would be backed up, but that they needed assistance. The Special Operations Director advised the Incident Commander that the arrests would be for breach of the peace and conspiracy to commit mischief.

At 5:55 pm, the scribe notes from the commander of the TPS public order unit Group 3 (which comprised POU’s Echo, Foxtrot, Hotel, and Mike) indicated that, as the group was en route to Spadina and Queen Street, the Major Incident Command Centre advised that the OPP public order unit Group 7 Commander had command of the scene and that they were to report to him. Also at this time, the video services communications log indicated that three arrests were made northbound on Queen and Spadina and that a cache of weapons was seized.

At 5:56 pm, Incident Command was notified by the Intelligence Chief that the crowd was either going to 1266 Queen Street W. (the Parkdale Community Legal Services office) or to the fence. The Incident Commander asked the Special Operations Director if Emergency Task Force (ETF) officers were available. In a statement to the OIPRD, Incident Commander Fenton stated:

At this point we had intelligence regarding an imminent attack on the fence. We had intelligence that Black Bloc were embedded in the crowd. Officers on scene had observed large groups approaching this location with weapons. The risk to police, citizens, protesters / terrorists of injury or death was significant. At 17:56 hours I inquired from the Special Operations Branch Director if ETF assets were available. I wanted police assets to ensure no movement of this group of protesters / terrorists. It was at this time that I decided that the arrest of this group of protesters / terrorists was required for the safety of all persons in the downtown core. On June 26, terrorist / protester activity had resulted in multiple and widespread targeting of Toronto businesses and police officers. The safety of citizens that lived and worked in the area of Queen and Spadina in particular was in jeopardy. On June 26, fire had been used as a weapon to damage property, with total disregard for the safety of persons in neighbouring property, and with total disregard for the safety of other persons on the street including police and terrorist / protesters that were in close proximity. Intelligence reports indicated that fire was to be used against police on the planned attack on the fence.

At 5:57 pm, Emergency Management informed the Incident Command that the TTC had advised that it had problems going backward. The Incident Commander emphasized the need to get the streetcars out.

At 5:58 pm, the Incident Commander asked the Traffic Branch Director for assets to help get the streetcars out.

At 5:59 pm, Incident Command was advised that two prisoner wagons were staged for Queen and Spadina. The Investigative Chief advised that there was room for 200 more prisoners at the Prisoner Processing Centre.

At 5:59 pm, the TPS public order unit Group 3 arrived at Queen and Spadina. The Group 3 Commander's scribe notes stated:

When we arrived, bike units had secured the south, east, and west side of the intersection. The OPP POU Group 7 advanced north on Spadina and relieved the uniformed bike officers. The north portion of the street was not yet secured. Foxtrot Section arrived and secured the east side of the intersection as a second crowd had formed. London police moved in to the north; however, they did not secure all of the crowd to the north. Section 5 moved south on Spadina to secure the rest of the protesters. Once the entire protest group was secured, [the POU Tactical Adviser] advised that they wanted all of the protesters arrested. [The Group 3 Commander] informed senior officers of the Community Response Units and the Primary Response Units on scene that they will be required to arrest and process the arrested parties. Several plain-clothes officers were also on scene to assist the arrests. The arrests commenced with the crowd on the west side of the intersection. HOT teams and prisoner wagons were stationed near Richmond / Spadina. As the arrests continued, the Site Command OPP POU Group 7 Commander and TPS POU Group 3 Commander confirmed that all of the protesters were to be arrested one at a time. We remained on scene as the protesters were arrested one at a time. [OPP] Foxtrot Section had to punch out³⁵ numerous times to move the crowd back because they had been increasingly hostile.

At 6 pm, the OPP public order unit operational timeline indicated that the Alpha, Charlie, Delta, and Foxtrot units were at Queen Street and Spadina Avenue and assigned to hard tac deployment in support of the TPS for a mass arrest at this location. The direction from the MICC was to box everyone in and to arrest them all. The timeline indicated that there was no resistance.

At 6:01 pm, the Incident Commander asked the Special Operations Director about the location of the LRAD. In a statement, Incident Commander Fenton

³⁵ A "punch out" is a public order unit tactic where officers on a line suddenly push or dart out two or three metres to make a barrier around an arrest team to protect them while they are making an arrest. A punch out is also sometimes used to move a crowd or a line of people back.

stated that the Special Operations Director advised him that he would get the location of the LRAD. He (the Special Operations Director) then advised that he felt it was not necessary. The Emergency Task Force at the location had warned the crowd of the intention to arrest. Incident Commander Fenton agreed with the position that the LRAD was not required.

At 6:02 pm, the Incident Commander instructed the Operations Chief to advise bike units of the impending arrest, but not over the air because of possible injuries to officers.

At 6:06 pm, the Canadian military liaison in the MICC inquired if the water cannon had been deployed. The Incident Commander advised that it was the ETF truck, not the water cannon, at the scene.

At 6:11 pm, the Incident Commander instructed the POU Tactical Adviser to move the POU assets to box the crowd in closer.

At 6:13 pm, the Incident Commander instructed the Deputy Incident Commander to call the PPC and advise the staff there that more prisoners were coming.

At 6:14 pm, the Incident Commander instructed that a message should be broadcast over the radio that no one was to leave the box. He also advised the Special Operations Director to tighten up the southwest corner.

At 6:17 pm, the Operations Chief advised the Incident Commander that there were about 200 people and that another prisoner wagon was needed. The Incident Commander instructed the police to hold the crowd until more prisoner wagons arrived.

At 6:24 pm, the Public Information Officer advised the Incident Command that there was a live feed at 1266 Queen St. W. (Queen and Noble) to the Internet, showing the Queen and Spadina crowd.

At 6:34 pm, the Incident Commander advised the Operations Chief that more resources were needed to help with arrests.

In a statement, Incident Commander Superintendent Fenton said that, at 6:37 pm, he and the Special Operations Director had a discussion regarding arrests:

I emphasised that I wanted discretion used with the arrests. I did not want to see people arrested that were not involved in the protest. [The Special Operations Director] agreed and advised that he had already spoken with his leads on the ground. [The Special Operations Director] had instructed his leads to use discretion. He undertook to re-emphasise this with the leadership on the ground. I recognized that exercising discretion is a difficult task as the tactic used by terrorist / protesters was to embed themselves in legitimate protests and use them as a vehicle to facilitate movement and attack. By design, while greyed down (not wearing all black clothing) the terrorists were difficult to identify. At 18:37 hours I heard chatter on 3DPLAN3 that weapons had been found and officers were asking what to do with it. I ordered to ensure FIS [Forensic Identification Services] attended to take pictures of any weapons found. I advised that all property was to be seized. I ordered that this be broadcast, all property to be photographed before it is removed.

At 6:46 pm, the OPP public order unit operational timeline indicated that the OPP Echo Unit had arrived at Queen and Spadina and was assigned to hard tac deployment in support of the TPS mass arrest at that location. A box had been established on arrival.

At 6:51 pm, the Incident Commander was advised that air video support had gone because of the approaching thunderstorm.

At 6:53 pm, Operations advised the Special Operation Director that more flex cuffs and uniformed officers were needed at Queen and Spadina.

In a "late entry," the scribe notes from the TPS public order unit Group 3 Commander stated:

Before the arrests of the second and larger group commenced, [the Group 3 Commander] confirmed with the MICC that they were in fact to arrest all protesters on scene. This was done three times. The MICC also noted that no releases were to be made on scene. [The Group 7 Commander] also contacted the MICC to ensure that all of the remaining protesters were to be arrested. The MICC confirmed the same information to him that all were to be arrested.

The OIPRD investigators viewed two YouTube videos of an incident that occurred just before the rain started. These videos show a large crowd on Queen Street West east of Spadina Avenue which is blocked from proceeding west on Queen Street by a line of public order officers. The crowd sings “Oh Canada” and, near the end of the national anthem, three males and one female sit on the road in front of a line of public order officers. After the singing ends, the line of public order officers rush east toward the crowd. The crowd runs to the east, away from the police. The police punch forward a short distance and then stop. The four people who were sitting on the roadway appear to have been pushed by officers with police shields.

In an interview with the OIPRD, the TPS public order unit Group 3 Commander said he was familiar with the incident. He explained that people were attracted to what was occurring at Queen and Spadina. He said that a large group of people was moving toward the intersection, and that this group became a real threat to police operations and to the safety of people at the intersection. He said that, originally, this group of people was moved back a short distance, but that they pushed forward again into the police. He reported that, under his authority, the public order unit at that location punched out to move the crowd east to a distance where people would not be able to see what was occurring in the intersection. The TPS public order unit Group 3 Commander said that this move occurred just as the rain began to fall. He said that, as a result of the police action, the crowd dissipated and left.

At 7:02 pm, it began to rain.

At 7:09 pm, the Special Operations Director advised that units would arrest a few people at Queen and Spadina; they had just arrested seven Black Bloc.

At 7:15 pm, the Operations Chief advised that there were 200 people and that most of them were compliant. There were 100 more arrests to be made, possibly 150 more, and he requested the Investigation Chief to arrange for arrested people to be taken to different police divisions if the PPC was closed.

At 7:18 pm, the Incident Commander asked the Command Operation Liaison Officer if there were facilities at the PPC to house prisoners outside the cell area. The Command Operation Liaison Officer did not think that was an option.

At 7:26 pm, the audio scribe notes from the OPP public order unit Charlie Section Commander reported:

[The Charlie Section Commander] has tried three times along with York Region’s Staff to notify the command and have a decision made on whether these arrests of the protesters are going to be made in the pouring rain. We are now dealing with hypothermia issues with the protesters. We already have three that have medical issues and have been escorted out by medical staff; still holding the line waiting for command’s decision. Rains are heavy. Temperatures are dropping slightly.

At 7:28 pm, the audio scribe notes from the OPP public order unit Charlie Section Commander reported:

Spoke with [the York Region POU Commander] – advised him of my concern about what would happen if individuals start dropping from hypothermia, whether alleged or real and the medical issues that it will cause. The answer is that he has been instructed to contain the intersection as we have been doing and, if we can get individuals outside if they are truly believed to be in a medical emergency then do so very quietly. We don’t want to release everybody from inside the intersection because that is not what his directions are.

At 7:34 pm, the Operations Chief reported that Investigations had advised that six TTC buses had been ordered to provide shelter.

At 7:41 pm, the Investigations Chief reported that there would be no more room at the PPC after the next group arrived. Arrested people would be going to central lock-up.

At 7:46 pm, the Outer Zone Director advised Incident Command that 12 media that were arrested in the crowd had been released.

At 7:48 pm, the audio scribe notes from the OPP public order unit Charlie Section Commander reported:

Observed two young females, very scantily clad, obviously in almost medical distress, shivering uncontrollably, appeared to be 12 to 14 years of age. I spoke to them and both indicated they lived very nearby, their parent didn't know where they were. The one has fairly severe asthma takes medication three times a day – arranged for metro officers to perform a HOT arrest detail. We had two support members bring them through the line and place them under arrest and turn them over to metro to make sure they were looked after medically and they would be released unconditionally.

At 7:52 pm, Operations advised the Outer Zone Director to make sure “guys” were aware the TTC buses were on site so they could get out of the rain.

In a statement, Incident Commander Superintendent Fenton stated:

At 19:52 hours, [the] Investigative Chief approached me and wanted to discuss the 300 people still at Queen and Spadina awaiting transportation to Divisions. We moved over to Special Operations and engaged [the] Special Operations Branch Director. We discussed that because we have identified and arrested the most violent, could we now release the remainder in small groups? It was agreed that we all had concerns regarding releasing prisoners from the scene as we would run the risk of them forming

up again, and going mobile. It was agreed that we would stick with the plan to move them to divisional lock-ups for processing and release.

At 8:08 pm, the audio scribe notes from the OPP public order unit Charlie Section Commander reported:

Middle aged couple dressed in sport clothing out biking were inside the intersection both were shivering and looking like they would be very close to being in medical distress. They brought themselves up to the line. He did [so] on behalf of his wife, however he actually looked worse. We brought them through the line, assessed them and I have great concerns about their medical health, so we took them back to the north and gave them into the custody of two metro bike officers to be dealt with there. They said they lived at the bottom of Spadina and Bathurst. That's the end of our detail with them.

At 8:25 pm, the Incident Commander was advised by the Investigative Chief that they were to have a meeting with the Deputy Chief regarding the arrests at Queen and Spadina.

In a statement to the OIPRD, Incident Commander Superintendent Fenton stated:

At 20:38 hours we had a meeting with Deputy Warr. Present were [Special Operations documentation officer, the Investigative Chief, the Special Operations Branch Director, Fenton's scribe], and myself. I presented a very brief update on the arrests at Queen and Spadina. Deputy Warr expressed concerns about continuing the arrests at Queen and Spadina. He instructed to have those arrested and taken to the PPC released, and to release those at the scene with the record of arrest to be completed. He expressed that we have stopped the breach of the peace, there is significant processing yet to be done, therefore release them unconditionally. I expressed a concern that they may form up again if released and we might then be chasing them all night. Deputy Warr advised to release them from the PPC with a record of arrest.

[The Special Operations Director] inquired about those under arrest at the PPC, and Deputy Warr instructed to release them. At 20:42 hours the meeting ended.

In an interview with the OIPRD, Command Lead Deputy Chief Warr, said:

When I got back to Headquarters, I noticed that they had public order on all four sides. So they couldn't go anywhere. So I immediately, when I saw what was going on on television, I saw it was pouring rain and all that was going on, I immediately called the Incident Commander and the Public Order Commander to a meeting and asked why this was, and I ordered them all [everyone in the boxed-in section] to be released. I ordered that they all be released unconditionally at that time. So that order went out, but the problem was [that] the process was still being followed. You know, whenever we arrest somebody, somebody will still have to do paperwork. I asked why they had been contained, and the information was that there was intelligence that there was a group of demonstrators, Black Bloc types, that were caught on a streetcar heading towards... And that they had seen some in the crowd. And they were trying to contain them so that there wouldn't be any further outbreak with any violence or damage. They did let some go, but they kept them there while they used the tactics to contain the crowd. I wasn't satisfied with that. I saw what was happening on the media, and the fact it was pouring with rain and all these other aggravating factors. It was time to let them all go. As far I was concerned, the breach of the peace was over.

At 8:45 pm, the Special Operations Director said that he would contact the TPS public order unit Group 3 Commander and advise him. The Investigative Chief stated that those still on prisoner buses could be released with the "hot sheet."

At 8:50 pm, the scribe notes from the TPS public order unit Group 3 Commander read:

After [the Special Operations Director] instructed the remaining protesters be arrested and released on scene, [Group 3 Commander] ensured this order was carried out. The reason for the order was that the PCC could no longer accept prisoners. The MICC instructed that the officers were to try and identify any Black Bloc members. All other protesters were to be released with no charges. As the arrests continued, an EMS supervisor approached and advised concern over people showing signs of hypothermia. [The Group 3 Commander] requested TTC buses to keep prisoners warm. [The Group 3 Commander] then went down the line with the EMS supervisor to locate any prisoners with these symptoms. The EMS supervisor advised that all of the prisoners needed to go on the buses to warm up. [The Group 3 Commander] immediately had all of the prisoners moved to the buses. He also ordered 10 more buses to the scene as quickly as possible. [The Group 3 Commander] called several times to get an ETA [estimated time of arrival] for the buses; however, they did not show up. [The Group 3 Commander] called on the radio and specified, "I cannot overstate the importance of getting the buses here, they [some people in the crowd] are getting hypothermia."

At 8:51 pm, the Public Information Officer advised that a media release was being prepared regarding the release of those arrested.

9:36 pm: In a statement, Incident Commander Superintendent Fenton stated:

At 21:36 hours Chief Blair entered the conference room where the business cycle meeting was happening. He requested to speak with me and the Public Information Officer. My scribe accompanied us. The Chief spoke to us in the Public Information Officer office adjacent to the conference room. He stated that the need to continue with the arrests at Queen and Spadina had ended, the breach of the peace was over, and therefore, to keep persons in custody any further would not be lawful and to immediately release them. There was no dialogue with the

Chief – only the Chief spoke. The Chief left and my scribe and [the] Public Information Officer and myself returned to the business cycle meeting. I concluded the Business cycle meeting as soon as possible – it concluded at 21:42 hours.

9:43 pm: In a statement to the OIPRD, Incident Commander Superintendent Fenton stated:

At 21:43 hours I met with [the] Investigative Chief, [the Public Information Officer, the head of Command Operations, the Deputy Incident Commander, and the Special Operations Branch Director]. I advised all about the orders of the Chief to effect immediate release of all arrests from Queen and Spadina, no paperwork required.

In an interview with the OIPRD, Toronto Police Chief Blair said that, early on Sunday evening, he was at the Intercontinental Hotel at the summit site as part of a group of police meeting the U.S. President. He continued:

We left and, as we're leaving Intercontinental Hotel, it started pouring rain. A deluge, it's really coming down, and so we got out to the car and went right back up to headquarters. When I went into headquarters, I flipped on the news. We were winding down here and saw that there was a large contingent of people on Queen and Spadina in the rain.

I spoke to Deputy Warr and said, "I think the threat of the breach of the peace has passed, the summiteers have left, let that crowd go," and he said, "Okay." I then went back to my office and was doing other things and then turned on the news again and saw that they were still there, went down to see Deputy Warr and said, "Tony come on." I said, "Those people have to get out of there; what are we doing?" He says, "I've given orders that they're to be released." So, I said, "Well could you follow up on it and make sure that that happens immediately because it looks like they're still there." I wasn't sure whether the media was just simply showing what had been previously, they did that, but I said, "It looks like they're still there."

Then, I guess about 20 minutes later, I was leaving headquarters and I went down to the duty desk and I saw on the TV of the duty desk they're still there and that's when I went upstairs and I went to the MICC myself and, frankly, it was the only operational order I gave all weekend. I went in and I called Superintendent Fenton and Staff Superintendent McGuire out of a business meeting they were having and said, "I want those people released and I want them released unconditionally and immediately." So they did.

At 9:45 pm, the scribe notes from the TPS public order unit Group 3 Commander indicated that he received an order from the Chief of Police to release all the protesters at this time. The notes further indicated that all their property was returned, and medical attention was made to anyone who required it.

At 9:55 pm, the scribe notes from the TPS public order unit Group 3 Commander indicated that the last of the prisoners in the TTC buses were released without incident. None were complaining of any medical issues. Soon after, the Group 3 Commander advised that there were still five wagons full of prisoners. He attended the area south of Queen Street.

At 11:13 pm, the Public Information Officer advised the Incident Commander that Command Operations Head Staff Superintendent McGuire had addressed the media at 10:25 pm regarding the Queen and Spadina protest and release of prisoners.

He said that police and the citizens of Toronto had been through a very difficult weekend and praised the efforts police made over the weekend. He said that during this protest police had evidence to suggest 'Black Bloc type' people who 'actually donned masks' were in the crowd, as well as people who chose not to disassociate themselves from this group. He also said police had recovered weapons along the route. All this led police to believe they had reasonable grounds to believe a breach of peace was going to take place, so they brought the crowd to a stop and arrested them. He said, "After discussion of breach of the peace and I suspect that part of

the calming atmosphere of the weather the rain brought, the danger of further breach of the peace to dissipate and after discussion at the command level upon the direction of the chief of police, all of the people involved in this incident have been or are in the process, but I am fairly confident that everyone has been released at this point, unconditionally and as quickly as we could.”

At 11:37 pm, the scribe notes from the TPS public order unit Group 3 Commander indicated that all the prisoners were released without any medical issues.

The OIPRD interviewed several complainants and witnesses to the events at Queen and Spadina that Sunday, June 27. A sampling of their descriptions is as follows:

“We arrived at Spadina and Queen at 5:45 pm; there were a couple hundred protesters, observers (media, photographers) and local residents who were standing mostly stationary in the intersection of Queen and Spadina. The march was not moving because a line of bike police had blocked off Spadina Ave. to the south and Queen St. to the West. There was some chants coming from the crowd, but it was not a very active protest and showed no signs of aggression or violence. When we first arrived, about 50 people left Queen and Spadina to continue the march elsewhere; the rest stayed. At around 5:50 pm, a man was arrested and dragged into an alleyway directly north of Queen and Spadina. Beside that one arrest, I saw no other arrests before the riot police arrived.

“Riot police began to arrive around 6 pm. They reinforced the police lines blocking the southern and western exits from the Queen and Spadina intersection. They also formed a line about 300 feet north of Queen on Spadina that extended all the way across Spadina.

“Shortly after the riot police arrived and formed lines to the north of Queen St., on Spadina, they began to advance quickly on the crowd. They would yell, “Move” and they walked / jogged forwards; everyone would move south which was

the only place people could move. In the space of 10 minutes the northern police line herded us to the intersection of Queen and Spadina. Once I got to Queen and Spadina, I saw that another line of riot police had formed east of Queen and Spadina and there was no way of leaving the intersection. At approximately 6:10 pm, I was in a crowd of 200–300 people who were completely surrounded by riot police, and even though I wanted to leave I could not leave the intersection of Queen and Spadina.

“Once I was surrounded, the only communication I had from the police during the first two hours [of] my detainment occurred when a police officer yelled from behind 2–3 lines of riot police; the police officer was not amplified and only yelled once. I did not hear what he said, but other people in the crowd said that he told us we were all under arrest.

“It began to rain quite heavily soon after the police surrounded me. I did not have a rain jacket, and I was soon very wet and very cold. After standing in the rain surrounded by police for two hours, I walked up to a gap in police lines where people were getting handcuffed and escorted away from the crowd. I was taken away by a police officer and handcuffed. He took me to the southeast corner of Queen and Spadina, where I spent the next two hours in handcuffs being processed in the rain. My rights were read to me for the first time, and I was told I was under arrest for conspiracy to commit mischief. At around 9:30 pm I was loaded onto a TTC bus. At around 10 pm, I was released and told that all charges had been dropped against me.”

“Me and my roommate took our bikes and had a look at the fence and then we wanted to go back. We took Queen Street, and we noticed that ahead of us, going westwards, around Queen and Spadina, there was a group of people, demonstrators, standing there. We decided to join them and that was about 4:30 or 4:40 pm. So we locked our bikes and joined the peaceful people who were sitting on the

intersection. It was a peaceful atmosphere. There was absolutely no indication of any violence or vandalism in that crowd.

“As we were looking around we noticed that from east on Queen Street, [a] huge number of police officers were approaching the intersection. Quite frankly, it was shocking to see how many armed police officers were approaching us. I looked north on Spadina and another group of police was approaching us from the north. Coming down and from the south side, I noticed another group of police officers were again closing up on us.

“At this point, I really want to emphasize there was absolutely no warning, whatsoever, to leave the intersection. Basically the police surrounded us, and I was waiting, actually, to hear something in terms of, you know, “If you don’t leave the intersection, these will be the consequences and that will be the, you know, you’re responsible for whatever happens to you.”

“We were standing there, basically watching how the police rounded us up, surrounded us. Actually, they divided the group, the crowd, into 2 groups – a smaller group and a larger group. The smaller group was located on the west side of the intersection, and we were located on the north side, on Spadina, where the streetcar stop is. After a while, I don’t know, 10 minutes or so, we noticed that the smaller crowd was being arrested forcefully, and I heard screams, and I heard people, I saw people thrown to the ground, snatched violently and thrown to the ground and arrested. And that was random. And the randomness really scared me.

“We were staying there, surrounded by the police. The crowd was in a calm mood. We saw that police officers, undercover officers, in civilian clothing were pointing at protesters and those protesters were snatched from the crowd. Those officers had police vests on, so that I knew that those are undercover officers. And it’s a quite eerie situation, I have to tell you. If you are among the crowd, and you have done absolutely nothing,

and you see that left and right people are taken, snatched from the crowd and thrown to the ground and arrested for no apparent reason.

“However, after a while it started to rain. Basically, after an hour under that pouring rain, I was shivering. It was getting very cold. We didn’t know what was going to happen. We couldn’t believe that they were going to arrest everyone, which eventually that happened. So after a while, I think it was around 7:30 or 8, I was so cold that we decided to surrender in order to get out of that situation, to get to a warm place. It was basically, to that level, I would have done anything to get away from that situation. Basically, we gave ourselves up because we saw they were taking these people away. There was no way around to get away, and they handcuffed us with these plastic tags, and I was put in a line.”

An individual who was contained at Queen and Spadina testified on December 6, 2010, before the House of Commons Standing Committee on Public Safety and National Security. In his statement he said, in part:

The next day I went to King Street, and joined the “bike block.” It was a peaceful group that had returned from a peaceful demonstration outside the University [sic] Avenue detention centre. I followed them along Queen, past my house, until we reached Spadina. There we were blocked from continuing west, away from the fenced area. We were far from the fenced area. As the crowd continued to chant “peaceful protest” to the police and to each other, I expected this to be like any other protest. The mood of the crowd was similar to that of Tuesday – positive and upbeat.

There we began to feel that things were starting to change. I started to realize the alleys had been blocked and a line of riot police was making its way south toward us. This seemed odd, as no warnings were given, and as I said, when I looked around at the people who were there with me, there was no Black Bloc and there was no one who was looking to do any violence at that moment.

As the riot police approached, I could hear people behind me crying. We were all very frightened. We didn't know what was happening or why it was happening. I looked around and couldn't see anyone who wanted to do any damage. It was a mix of locals, tourists, and the innocently curious. By that time, we were kettled [contained] in a small area. As we were forced to sit in the rain, you could see the doubt on the faces of the officers who were around us. I actually in fact had a conversation with one of them in which I asked them to point out one person in that kettle who they thought could pose any harm at all. They couldn't do it.

By that time, we were wet and shivering. It wasn't a chanting group at all, because it wasn't a traditional protest type of group. It was a frightened group. And many of the officers there knew that. By the time the RCMP shift arrived, wearing massive equipment – they were almost like walking war machines – the crowd was certainly wet and more frightened than it had been earlier. At that point, I had had conversations with people in the crowd: the Sunday cyclists, the German tourists who were getting hot dogs, the four rugby players from Europe... it was a mix of people.

It was soon after the RCMP shift that we were allowed to leave – some of us who hadn't been detained were allowed at that point to leave. But of course we were all left wondering why we were kettled in the first place. Were we paying the price for damages that took place the day before? Who was responsible for keeping us there?

"Someone made an announcement on a megaphone and said, 'You're all under arrest for conspiracy to create mischief. We don't want to hurt you, so if you don't want to be hurt, line up to be arrested.'" And a few people lined up and were arrested and escorted out behind lines. Most of us just kind of panicked in a circle and assumed hey, we weren't doing anything wrong, so we're not going to get arrested.

"I figured the only way I was going home was by arresting, I realized they were just arresting everyone and there was no going home. I assumed that if we [he and his partner] got arrested they would ask us questions, we'd explain that we weren't protesting, that we weren't involved and they'd let us go and then be it the most painless way to get out of that situation. So, we went up to the lines a few times and just kind of held up our hands and said, 'Can we go, please take us, can we go?'" Eventually [an officer] told us to come forward and then they handcuffed us, separated us and then he said, 'You're under arrest for conspiracy to create mischief.'" And I said, 'Okay that's fine, but we're not protesting, we were just on our way to dinner.'" And he replied, 'Well that's not what our security cameras tell us.'" And I said, 'Okay,' and kept my mouth shut after that and I was escorted, we were separated immediately. I was escorted to kind of underneath an awning. I was searched by a female officer. I don't know, I don't have any of the names or badge numbers of any of the officers, I was kind of passed from officer to officer for most of the time, but anyways, I was questioned by her and searched and she put my belonging[s] in a bag.

"We were sitting there and there was a younger guy next to me who was arrested and he asked two male officers that were standing above us – he said, 'I'm going to school to be a security guard, is this going to affect my ability to go to school?'" And the officer that was dealing with him was not particularly nice and he said, 'You bet it will, buddy, you're going to jail.'" And then the other officer who was nice said, 'A lot of these are going to just be processed and there won't even be charges. You're just being charged right now, but the charges will probably be dropped. You might be taken to jail for a bit, and that will be it, so don't worry too much.'" So, he was nice, and I appreciated that. Later on, the guy next to me that was arrested asked if he could go to the bathroom – he said 'please.'" Like, we were sitting there for a good half an hour, and I think the time of arrest was around 6:30, 7. It was pouring rain, we were getting wet, then he

asked to go to the bathroom, and another officer who was standing around told him to just piss his pants. He said, "Just sit in it, who cares, you're already wet anyway, just piss your pants, kid." He said that a couple of times. Maybe 20 minutes goes by and finally someone takes him around the corner and lets him go to the bathroom."

"There were some of us, about 25 to 30, in the corner section, that they kind of barricaded off and they kept telling us we were instigators to everything. And they kept pushing and pushing and, you know, we didn't know where to go. And there was [a] police officer standing behind me telling me to move forward, one in front of me telling me to move back. And then they just yanked us out one-by-one, by our collars and our necks, and after that it got a little rough.

"The police officer who did take me out was plainclothes. He was very nice. He said nothing was going to happen. I'll be fine. He handed me off to somebody else in a riot suit. Then they ended up pushing us against the walls. He took everything from me, my glasses. I'm practically blind without them. I can't really see, so that was kind of unnerving, not being able to see anything or anyone. And shoe laces, everything. And then once we were in line to start going into the paddy wagon, they started telling us some pretty horrific things. They kept saying, "Do you know what jail is like?" "You know, you're going to get beaten, and you're going to get raped in there." "We're going to gang-bang you." And the girl in front of me started crying. And she was just so upset. I was trying to calm her down. And she just, she couldn't stand it anymore. And they finally stuck us in the paddy wagon. And once we were in there, it took them...probably like two hours, to see if we were okay, and we were all screaming to use the washrooms. Everyone said, No, you don't get a washroom, you [use the] floor. I mean, we're all sitting there with no shoes or socks on. We don't really want to go on each other's feet. And there's a bunch of girls hyperventilating, some have like asthma problems and they couldn't breathe, because we were so tight in there. And they wouldn't help them at all.

"They left me and another girl in there. Finally, took us out, put us in a different paddy wagon, drove that paddy wagon just around the block, nowhere else, we could kind of see out the little holes and stopped again. And then about an hour after that, we were finally released again at Queen and Spadina, just out of the paddy wagon, there and given our things and told to go home and leave."

"I got pulled out – they grab you by the hand, pull you out – by one police officer who then said, "You're under arrest." I was arrested and read my rights and they put those plastic arrest things on my hands. They took me to this alleyway where they had other people who they had pulled out. He took me there and asked me why I was there. I told him we hadn't done anything. And he said, "Well, we gave you an opportunity to leave." I said, "There was no opportunity to leave. We asked how we could leave. You guys didn't open it up for us to leave." He said, "Well you saw us approaching, you should have left." I didn't know that, they never said we should leave or how we could do it.

"While this is happening [giving personal details] a female police officer comes up – it's not my police officer – who doesn't identify herself to me and asks him, "Has she been searched?" He said, "Well I looked in her purse." She said, "We've got to search her." She said, "I'm going to search you." And I said okay. But without saying anything further – I'm a practising Muslim, I wear a head scarf, we're in public in an alleyway, and it is within my religious practice not to take my scarf off in front of men – she came and took my scarf off without asking me. She just started unwrapping it. I was wearing a full sleeve sweater and again, without asking me, and I do not understand the purpose of this, she took my sweater off. So not only has she taken my scarf off, she's taken my sweater off, both of which were unnecessary. Then she tells me to sit down on the ground. I was the only person in that line who got told this – they did not tell my friend this. And I couldn't really sit down the way my hands were and my purse was behind me, it

made it really awkward, but I tried. And then I just stood back up and my officer, he actually said to me, “What would you like put back on?” And I said, “Please put my sweater back on.”

[Later] “Right before I left, my police officer said to me, “I’m sorry if we offended your religion in any way.” ”

One individual who was arrested reported that, while he was waiting in the processing line, an officer said to him and two other men words to the effect: “You guys are screwed. You guys, the public is pissed. They saw what you did yesterday and they are pissed. We were leashed yesterday and today we are unleashed and the public is on our side.”

Police who were on the ground at Queen and Spadina also told the OIPRD investigators what they experienced. The OPP public order unit Group 7 Commander (who commanded three OPP public order units made up of approximately 40 officers each), stated:

We’re at the intersection of Queen and Spadina. I can see a large protest group in front with a bicycle formation going directly across Spadina, so that their traffic was impeded. My information was that all parties were given instructions to leave, or they would be arrested, and it was conspiracy to commit mischief at that point. I received instructions from the MICC directly through the radio communications that we were to arrest all parties within – box all parties within for conspiracy to commit mischief. Box them in, which is something that we don’t normally do, as an OPP unit. I asked about egress routes, and speaking to the site commander, I spoke to him, I spoke to [Group 3 Commander], I spoke to my Team Lead, I spoke to my other Public Order commander, and what normally we would do is create the line formation directly in front of the bicycle units. I wanted the bicycle units to go to the west side so that they could create a line formation across Queen.

So, we’re in a line formation and as I’m doing this, I’m receiving instructions, again, to arrest all parties contained within the area for conspiracy

to commit mischief. I asked for an egress route or a dispersal route so that the members within the protest group could leave. The information I had was they were given instructions prior to that arrival. We are to box them all in, and we are to arrest all the parties contained in the box.

The OPP doesn’t do that. We’ve never done that before, it’s not a tactic that we do. But, as a Public Order Unit we need to adapt to what we’re going to do. And, we need follow instructions. If we don’t follow instructions, then we’re going to [cause] chaos at the location. We have to understand the people that are looking out not only for our safety but the safety of the people that are contained within the box and to resolve this in a safe manner. So, I have to follow instructions.

Now, you’ve got to understand that from an intelligence point of view, I’m not privy to everything that was happening. And, if I’m not privy to a lot that was happening in the MICC, and they’re privy to the information of what had happened throughout those two days, they may have more information that they were trying to provide the information to us to say that everybody within that location was to be boxed in. So, they may change the tactics of what’s going to be used.

They weren’t violent, they were chanting; they were loud. There were, I think, a lot of media were in the crowd. There was people that wanted to know what was going on, and the information that I was provided was that they were given a request to disperse prior to our arrival. Again, these are incidents that we’re taking over. We were not there at the beginning. So, it wasn’t a violent crowd. We saw people throughout the crowd that we took a look at, we thought might be agitators or might cause us some trouble, and those were people that were louder than the other chanting, or had signs because they could be turned into weapons or they were carrying knapsacks or packs that might contain other things.

We proceeded to take the line formation over from the bicycle unit. At that point I was still receiving instructions, and then I can see another public order unit coming from the east I had no control over. There [were] also two public order units coming from the north; I didn't have control over them. I'm supposed to have command of the situation; command and control was not in my hands at that point.

I did not overhear any conversations happening on my MICC radio as to what they were doing, and the next thing I know the crowd was being pushed towards our location. I don't think it was a punch out, but I do believe the line formation was moving forward – not under my direction.

Our line formation went from the corner – across Spadina from the northwest to the southeast – so, we're kitty-corner, we're cutting across Spadina stopping at that route. And what happened was the units that were coming from the east heading west were cutting across my line formation. What that was doing was creating another box within a box. And, they were pushing from the other side and created probably, three boxes, it looked to me. It was very confusing, and shortly thereafter we straightened that out and we ended up with a box formation.

At that point, we were told the hot units or arrest teams were en route. There were some there already. There was processing vans and buses, and we were waiting for their arrival to deal with what we were ordered to do – arrest the parties within the box.

[OPP public order unit Alpha Commander] asked for the LRAD – denied. We would have communicated to the people what we were doing. One of the LRAD's purposes is to communicate the instructions that we're providing them to make it clear to the people, so that they have an understanding, so that they don't get frustrated themselves. They understand, so their anxiety level state is low and group dynamics stay low, they don't get

heightened. One of our purposes as a public order unit is to keep the anxiety levels as low as possible.

The rain started, it was light at first. You could see that the clouds were coming in. It started to rain heavy, and then the thunder and the lightning, which really concerned me. The heavy rain and you could see people were dressed in shorts or T-shirts. And even my own members, our equipment gets soaked to that point; you can imagine how heavy that equipment becomes, and then you're heated underneath and all of the sudden you're fighting the elements as well. We were soaked through, right through to our skin, so, I can only imagine what the people within the box were going through. And I made that note to the MICC. I said, "Are you seeing..." at one point, I said on the radio, and it was overheard by others and I'm looking up at the camera, saying, "Are you seeing what I'm seeing – lightning and the rain?" ...I asked for processing units to be sped up and asked them to get as many there as possible because of the elements, to speed the process up.

The TPS public order unit Group 3 Commander (who commanded the TPS Echo and Foxtrot POU sections, Hotel – Edmonton POU, and Mike – London POU), stated:

I was one of the first persons to arrive, and upon my arrival, the Primary Response and CRU [community response unit] were still moving people away from the scene and, in fact, many people were leaving. The significant numbers I saw were walking eastbound along Queen Street. A few people were walking west, but, mostly, people were walking eastbound and leaving the area. So, that was happening. They were telling people to leave the area. In fact, my officers were telling people to leave the area because we were going to deal with the issue in that intersection, that there was a blockage within the intersection. Again, that took some time because you need a large amount of Public Order Unit officers. It takes a lot of police officers to form a perimeter

around such a large intersection. So, during that course of time of officers coming, we're asking people to leave the area.

When the intersection was finally cornered off, there [were] only, perhaps, 30 or 40 people left in the intersection. It was quite obvious that they were committed to staying there in that intersection because the large volume left. Once we confirmed the direction from the Major Incident Command Centre that we were to arrest them, we commenced the arrest of those 30 people, which went fairly rapidly, quite frankly. I think it was little more than half an hour or so to make those arrests because there was significant amount of police officers there at the time.

That group of people was more animated than the second group of people during the course of their arrests. There was more yelling and shouting going on, but I wouldn't say there was any violence during the course of that. They were – best describe it as making more of the event so that the media that was there and others would see that they were being martyrs, if I can't use a better term. That they were the ones that were putting themselves in the position, that were being arrested for, I believe, their principles they stand for. So, they were being very vocal about it. But, there wasn't any real physical altercation during that period of time.

They were arrested, moved out fairly rapidly, and then left us with a larger group to the north. I contacted the MICC to get further direction on what action we should take with the larger group. In fact, we'd been in communication with the larger group too during this time. I was shouting at the whole group at times. I didn't use an audible loud system. In fact, not just myself, but my other commanders were shouting at people, "Please leave the area, move on," and that sort of thing throughout the entire event. It's one of the tactics that the Toronto Police Service uses; it's proven very effective before. They're trained not to just stand there and look stone-faced at people. They're trained to talk to them

and ask them to comply. Largely, it's successful. It doesn't always work, obviously. In this case, not everyone complied, but large numbers did.

So, we had this larger group now north of the intersection that were still there. What action does the MICC want us to take? And, that's why I called him on three occasions to ensure they saw what we were seeing and understood from our perspective it was going to take a long time to process all of these people. And, is that the action that they wish us to take. We were directed, "Yes," that we would continue to do that.

I knew from being in the MICC before, too, that my commanders had access to information that I didn't have access to. And, they were going to ask me things, to do things at times that I may not fully understand at that point, but it was imperative that I do it effectively and efficiently and in a timely fashion that they required it. Because, they know something I don't know. And, they're utilizing me to fulfill some tactics, that they have a strategy for this reasoning for it.

The TPS public order unit Group 3 Commander continued:

Immediately upon receiving that phone call [the Chief's orders to release all the protesters], I called in the unit commanders of all quickly, to tell them what I was going to do and, quite frankly, they were asking me for clarification over it. And, I admit to a level of frustration because I was cold too and I just stopped them short and I went into the group by – I directed all of my officers to step back and they, actually, were confused too because this is something you don't often do. So, I actually breached my officers' lines and stepped into the larger group of people, I'm thinking 70 people, perhaps, that were left, and stepped into that group and shouted at the top of my lungs, "I am Inspector Neil Corrigan of the Toronto Police Service. Earlier this evening, you were arrested for breach of the peace. Do you understand that?" And, it was almost comical because the crowd went,

"Sir, yes sir." I said, "All of you were detained. You are no longer being arrested for breach of the peace. You will be released from custody. Do you understand that?" "Sir, yes sir." And, again, it was almost comical at the point that they would respond. I said, "Are there any people that have any problems or injuries?" "No sir." "You are all free to go from custody. Officers, please step back and allow these people to leave this area." Most of the officers took a minute because they're looking, like, "Who's this idiot?" And, then, the officers moved back. I actually, physically pushed a couple of officers back and people kind of looked around saying, "Is this fellow serious?" for a moment, and I stood there as each one left.

I made it clear to them I was the boss. If there is anything you have to say, if there's any issues, here I am and remained there for all of them as they went by. And, none of them approach me, quite frankly, many of them, probably, just wanted to go at that point. But, they all left. No one approached me, no one complained or anything.

A police constable on the line stated:

[The rain was] light at first and then an absolute torrent. And it went on for several hours. Certain articles of my uniform, I had to throw out that day, because they were ruined, including a personal cell phone, that was ruined. It was a logistical nightmare when it comes to trying to take notes, trying to keep track of things. For lack of better words, it wasn't a pleasant time...I don't remember having a pleasant day that day, to be honest with you.

During a portion of the events at Queen and Spadina, the recorder for the audio scribe notes from the OPP public order unit Alpha Section Commander was left on. A conversation between four or five officers on the line can be heard, but the recording does not identify the speakers:

Male [believed to be the OPP Alpha Commander]: The instruction from [OPP public order unit Group 7 Commander] is that the

arrests are gonna commence from the right side – everybody that's caught in the box is to be arrested. I've requested the LRAD from [Inspector] and to provide a dispersal route for the people in the box. He's yet to get back to me. [OPP public order unit Group 7 Commander] is under orders to effect arrests from the MICC.

[Other radio chatter and crowd noise]

Female officer: Where are they going to give them a chance to disperse?

Male officer 2: They aren't, that's the problem.

Male officer 3: That is a problem.

Female officer: Well, that's stupid.

Male officer 3: It's a huge waste of resources.

Female officer: Then just deploy gas and let everybody go.

Male officer 2: The MICC is Alexandrian.

Male officer 3: He's maniacal this MICC, he's maniacal.

Male officer 4: You can have a dispersal route, single file walk out one way before you make an arrest. That's what the LRAD is for...

[More chatter, unintelligible]

Male [believed to be the OPP Alpha Commander]: I know [unintelligible] all the OPP Commanders – Scotty, myself, and Paul – say we should get the LRAD [unintelligible] for a dispersal route. That apparently has either fallen on deaf ears [or] has not made it to the MICC. I'm just letting you know that that was our suggestion. We are in several lines with several POU's right now, holding the line as arrests are effected – we're talking in the hundreds.

Male officer 2: Sir, do you want me to ask the MICC over the air just so we have a recording of it?

Male [believed to be the OPP Alpha Commander]: Well, I'm not saying we need to use the LRAD, I'm saying that if we can, if we're gonna run out of cars, how are we going to arrest all these people...if not, the LRAD needs to be brought up here, a dispersal route needs to be set up if we're beyond the capacity of arrests.

[Chatter and background noise]

Male officer 2: Sir, do you want me to ask the MICC over the air so you have a recording?

Male [believed to be the Alpha Commander]: What I'm going to say is that they're going to put it on the air that they want everybody arrested. No problem, but that's their call – all the use of force, all the arrests – that's now the MICC's call.

The Complaints

The Office of the Independent Police Review Director received 37 complaints about events that occurred in the area of Queen Street West and Spadina Avenue. Thirty-four of the complainants reported that they were arbitrarily arrested and/or detained by the police. A number of them said that they were not part of a protest and were heading to another location when they were arrested and/or detained.

Eighteen complainants reported that they were formally arrested, and 16 said they were boxed in and detained by the police. In apparently similar circumstances there were inconsistencies in what the complainants were arrested for. The 18 complainants who were formally arrested said they were arrested for the following offences: 10 for conspiracy to commit mischief, seven for breach of the peace, and one for unlawful assembly. In six incidents there was a discrepancy between what the complainants said they were arrested for and what police documentation showed they were arrested for. In addition, in four incidents there were discrepancies between different police arrest documentation and/or what the officer advised the complainants they were being arrested for.

Two complainants reported that excessive force was used during their arrests. A number of complainants who were arrested said they were searched by officers of the opposite sex. Seven of the complainants who were formally arrested said they were not read their rights to counsel.

The majority of complainants said that they were boxed in and unable to leave the cordoned-off area. Thirty-one complainants said they did not hear any announcements from the police advising them to disperse and/or advising them of what action the police were taking. Eight complainants heard a general announcement telling the crowd at the intersection that they were under arrest for breach of the peace, and two complainants heard a general announcement that they were under arrest for conspiracy to commit mischief.

Thirty complainants said they were detained in the rain without any shelter for a significant period of time. Three said that their shoes were removed after they were arrested and that they were made to stand in the rain without their shoes. The complainants said they were not given access to washroom facilities and not supplied with food or water, though police officers were given refreshments in their presence. A number of complainants reported that officers made inappropriate or offensive comments toward them.

The complainants were treated differently: some were released at the scene, some were taken to the Prisoner Processing Centre and released, and some were transported to Toronto Police Service divisions and released. A number of complainants were released without any means of communications or transportation.

All the complainants who had been arrested at Queen and Spadina were released unconditionally with no charges being laid.

Issues for analysis and discussion

Police announcements to the crowd

The G20 Summit Toronto Police Service public order unit operational plan outlined the following procedures for crowd dispersal, use of the LRAD, and POU public warnings:

- Dispersal: Should a crowd need to be dispersed, the order will come from the POU Section Lead after consultation with the Specialized Operations Director. The dispersal direction, route and Lead's intent for use of force will be communicated. The crowd will be provided an adequate time frame to disperse. Where required, a Long Range Acoustical Device, loud hailer or banners may be requested to assist in communicating instructions or warnings.
- LRAD: Control over the deployment of this device and its messaging rests with the POU Section Lead. The Section Lead will request the use and the delivery of the LRAD in consultation with the Specialized Operations Director / Incident Commander. The LRAD must not be operated from behind the public order line. It should be deployed by and protected by a squad, with no officer at any time directly in front of the device. Qualified operators must follow direction from their POU Section Lead. All operator guidelines must be adhered to at all times by only qualified operators.
- POU public warnings: Protesters and the public should always be made aware of the likely police action, in order to make informed choices and decisions, particularly where a use of force may be a possibility.

To repeat, 31 of the 37 people who complained to the OIPRD said they did not hear any announcements from the police advising them to disperse and/or advising them what action the police were taking. Eight complainants heard a general announcement telling the crowd at the intersection they were under arrest for breach of the peace, and two complainants heard a general announcement that they were under arrest for conspiracy to commit mischief.

Three of the complainants made comments about police announcements to the crowd as follows:

Once I was surrounded, the only communication I had from the police during the first two hours [of] my detainment occurred when a police officer yelled from behind 2-3 lines of riot police; the police officer was not amplified and only yelled once. I did not hear what he said, but other people in the crowd said that he told us we were all under arrest.

At this point, I really want to emphasize there was absolutely no warning, whatsoever, to leave the intersection. Basically the police surrounded us, and I was waiting, actually, to hear something in terms of, you know, "If you don't leave the intersection, these will be the consequences and that will be the, you know, you're responsible for whatever happens to you."

Someone made an announcement on a megaphone and said, "You're all under arrest for conspiracy to create mischief. We don't want to hurt you, so if you don't want to be hurt, line up to be arrested."

The TPS public order unit Group 3 Commander reported that he did not know what announcements were made to people before his arrival at Queen and Spadina. He said he was aware that bicycle officers and primary response officers made efforts to clear the intersection of people, and that his group was detailed to corner off the intersections and make arrests. He said that his officers were telling people to leave the area because they would be making arrests.

This same Commander told the OIPRD that, initially, a small group of about 30 people was arrested at Queen and Spadina. He said that, after the initial arrests, they were left with a larger group at the north side of the intersection. He reported that they had been in communication with the larger group and that they had an opportunity to keep walking north on Spadina Avenue. He said that he personally went into the group of people because a lot of public order officers were standing around,

and he didn't think they needed so many. He said he actually breached his own lines, which generally isn't done. He stated that he went into the group and started talking to individuals, asking them to move to the west. He did so because he wanted to reduce the number of officers at the intersection. The Commander noted that many people were polite, though some were venting at the police. He said the crowd largely complied with his request. When a few people asked, "Where do you want us to go? What do you want us to do?" he told them where he wanted them to go. He said he opened a lane that allowed people to go past the lines on Spadina Avenue.

The TPS public order unit Group 3 Commander continued (to quote the words again):

I contacted the MICC to get further direction on what action we should take with the larger group. In fact, we'd been in communication with the larger group too during this time. I was shouting at the whole group at times. I didn't use an audible loud system. In fact, not just myself, but my other commanders were shouting at people, "Please leave the area, move on," and that sort of thing throughout the entire event. And, one of the tactics that the Toronto Police Service uses, it's proven very effective before. They're trained not to just stand there and look stone-faced at people. They're trained to talk to them and ask them to comply.

The OPP public order unit Group 7 Commander said (again repeating the words):

[OPP POU Alpha Commander] asked for the LRAD – denied. We would have communicated to the people what we were doing. One of the LRAD's purposes is to communicate the instructions that we're providing them to make it clear to the people, so that they have an understanding, so that they don't get frustrated themselves. They understand, so their anxiety level state is low and group dynamics stay low, they don't get heightened. One of our purposes as a public order unit is to keep the anxiety levels as low as possible.

In a statement, Incident Commander Superintendent Fenton reported that, at 6:01 pm, he asked the Special Operations Director for the location of the long-range acoustic device. He said that this director advised that he felt it was not necessary because the Emergency Task Force at Queen Street West and Spadina Avenue had warned the crowd of the intention to arrest.

The Special Operations Director confirmed to the OIPRD that LRAD was not used at Queen Street West and Spadina Avenue. He said he directed that the tactical unit make the announcements: they had an armoured vehicle equipped with a public address system. However, there is no indication from the MICC scribe notes or from interviews with police on the ground that a public address system was used to make announcements.

Analysis

It is clear that a great number of the people contained at Queen and Spadina were confused about what was going on and what they were supposed to do. The announcements delivered to the crowd were verbal shouts from police officers. Many people said they didn't hear the messages at all; many said they didn't hear them clearly or didn't hear the complete message.

The TPS public order unit Group 3 Commander stated that verbal shouts are one of their tactics, and they have used this tactic successfully in the past. He explained:

It's one of the tactics that the Toronto Police Service uses; it's proven very effective before and sometimes other organizations don't use this much. It sounds kind of obvious, but we talk to people, our outlying officers, although they were in that heavy equipment and it can look intimidating, we interact with the public that we deal with. They're not ordered to sit there stone-faced and not talk to people. They ask them to comply with the directions and most of the times it's quite effective and it seems to work. It doesn't always work, obviously. In this case, not everyone complied, but large numbers did.

Public order commanders requested that the LRAD be used for communication with the crowd, but the request was denied by the MICC. The Incident Commander and the Special Operations Director did not feel the LRAD was necessary because they had already warned the crowd of the intention to arrest. However, as the POU commanders on the ground indicated, the LRAD can also be used to communicate instructions and police intentions, so the crowd understands what is going on and the tension and anxiety is lowered.

The evidence shows that the POU commanders on the ground did the best they could to communicate with the crowds, but they were hampered by the lack of a public address system. The LRAD would have been a useful tool in this regard.

Mass arrest and detention

Police were ordered to contain a crowd of over 400 people at Queen and Spadina. While some of the people were allowed out of the containment area early on, the rest were detained for four hours in a torrential rainstorm, and approximately 300 people were arrested.

The arrest charges

The instructions from the Major Incident Command Centre were that all protesters at Queen and Spadina were to be boxed in and arrested for conspiracy to commit mischief.

Conspiracy

“Conspiracy to commit an indictable offence” is outlined in section 465 of the Criminal Code of Canada. Criminal conspiracy is an agreement between two or more people to commit an unlawful act or to achieve a lawful act by unlawful means. There must be an intention to agree, the completion of an agreement, and a common design. A conspiracy must involve more than one person, even though all the conspirators may not either be identified or be capable of being convicted. More than an intention in common on the part

of two parties is required.³⁶ Conspiracy is a more “preliminary” crime than attempt, because the offence is considered to be complete before any acts are taken that go beyond mere preparation to put the common design into effect. In *R. v. Cotroni*, the Supreme Court of Canada explained that the offence of conspiracy is complete at the point those elements exist whether or not any steps are actually taken pursuant to the conspiracy.³⁷ Further, each of the conspirators must have a genuine intention to participate in the agreement. Individuals cannot be conspirators if they merely pretend to agree.³⁸

Mischief

Mischief generally refers to damage or interference caused by another person’s action or inaction.³⁹ Mischief requires proof either of intention or recklessness as defined in section 429 of the Criminal Code.⁴⁰ Section 430(1) sets out the details necessary for the charge of mischief:

- (1) Every one commits mischief who wilfully
 - (a) destroys or damages property;
 - (b) renders property dangerous, useless, inoperative or ineffective;
 - (c) obstructs, interrupts or interferes with the lawful use, enjoyment or operation of property; or
 - (d) obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of property.

Breach of the peace

According to Toronto Police Service arrest records disclosed to the OIPRD, the majority of people at Queen and Spadina were arrested for breach of

36 See *R. v. Koury*, [1964] SCJ No. 2, [1964] SCR 212, [1964] 2 CCC 97 (SCC); *R. v. Lindquist*, [1985] AJ No. 529, 40 Alta. LR (2d) 392 (Alta. CA).

37 *R. v. Cotroni*, [1979] SCJ No. 47; or *R. v. Papalia*, [1979] 2 SCR 256 (SCC).

38 *United States of America v. Dynar*, [1997] SCJ No. 64, [1997] 2 SCR 462, 115 CCC (3d) 481, 8 CR (5th) 79 (SCC); *R. v. H.A.*, [2005] OJ No. 3777 (Ont. CA).

39 *R. v. Jamieson*, [2009] OJ No. 5161. Alan D. Gold, Halsbury’s Laws of Canada Commentary, *Criminal Offences and Defences* HCR-468.

40 See *R. v. Muma*, [1989] OJ No. 1520, 51 CCC (3d) 85 (Ont. CA.); *R. v. Toma*, [2000] BCJ No. 1804, 147 CCC (3d) 252 (BCCA).

the peace. Officers on the ground said they were ordered to arrest for conspiracy to commit mischief and that they followed orders. It is clear that many charges were changed from the original conspiracy charge to breach of the peace at the Prisoner Processing Centre. However, it is difficult to confirm arrest numbers and charges because HOT sheets⁴¹ were not filled out completely or were damaged due to the rain.

Police have the right to make arrests when they find someone committing a breach of the peace, or when they hope to prevent a breach of the peace, according to section 31 of the Criminal Code of Canada. However, “breach of the peace” is not a charge in itself: no record is kept of the charge, and police will usually release the person soon after the event or at least within 24 hours.

In case law, “breach of the peace” is a generic term, and there seem to be a range of possible activities that may constitute a breach of the peace. The core notion of a breach of the peace is a violent disruption or disturbance of the public tranquillity, peace, or order.⁴²

The common law provides a police officer with the power to arrest a person in order to prevent an apprehended breach of the peace, if the officer honestly and reasonably believes there is a real risk of imminent harm.⁴³ A preventative arrest is justified if there is an objective basis for believing that a breach of the peace will occur or will be renewed.⁴⁴ Even if the officer is mistaken in the belief that a breach of the peace is imminent, the arrest will be lawful if that belief is honestly held and based on reasonable grounds.

41 Hot sheets are arrest record forms that are filled out at the time of arrest and include personal details, charges, location of arrest and other details. They are used by Toronto Police Service officers in public order situations.

42 *R. v. Gosai* [2002] OJ No. 359 (Sup. Ct.); *Woods v. Vancouver (City)*, [2009] BCJ No. 2046.

43 *R. v. Morin*, [2010] AJ No. 1070. See also *Hayes v. Thompson* (1985), 18 CCC (3d) 254 (BCCA), and *Knowlton v. The Queen* (1973), 10 CCC (2d) 377.

44 *R. v. Jamieson*, [2009] OJ No. 5161; *R. v. Howell* (1981), [1982] QB 416 at 425 (CA) [Howell].

Detentions for breach of the peace must be necessary for the maintenance of the public peace. A lengthy detention is not permitted. At most, a person arrested for breach of the peace can be held for 24 hours without being charged.⁴⁵ The police will generally be required to release a detainee sooner if the risk of a breach of the peace has passed.⁴⁶ Given the liberty concerns that arise in the context of preventive detention, the parameters of the police power to detain for breach of the peace must be clear.

Unlawful assembly

A very few people at Queen and Spadina were arrested on charges of unlawful assembly. This charge is outlined in section 63 of the Criminal Code of Canada:

- (1) An unlawful assembly is an assembly of three or more persons who, with intent to carry out any common purpose, assemble in such a manner or so conduct themselves when they are assembled as to cause persons in the neighbourhood of the assembly to fear, on reasonable grounds, that they
 - (a) will disturb the peace tumultuously; or
 - (b) will by that assembly needlessly and without reasonable cause provoke other persons to disturb the peace tumultuously.

Lawful Assembly becoming unlawful

- (2) Persons who are lawfully assembled may become an unlawful assembly if they conduct themselves with a common purpose in a manner that would have made the assembly unlawful if they had assembled in that manner for that purpose.

45 *R. v. Lefebvre* (1982), 1 CCC (3d) 241 at 244 (BC Co. Ct.), aff'd (1984), 15 CCC (3d) 503 (BCCA).

46 See *R. v. Grosso*, [1995] BCJ No. 1802 at para. 55 (BC Prov. Ct.).

The Canadian Charter of Rights and Freedoms

The detention of a large number of people for four hours in a severe rainstorm raised the issue of Charter rights.

Section 9 of the Canadian Charter of Rights and Freedoms guarantees that everyone will be accorded the right not to be detained or imprisoned arbitrarily. An officer must be able to give a reason for the detention of someone, and that reason must be based on reasonable grounds.

To determine whether a particular detention is reasonable, a court will consider several factors, including the circumstances and the nature of the police conduct.⁴⁷ If a person is detained without legal grounds, that detention is arbitrary. The arbitrariness of detention or imprisonment in the section 9 context is determined by whether there are appropriate expressed or implied standards that determine if a power to detain or imprison is exercised.⁴⁸

Analysis

There appeared to be some confusion in the MICC about the charges that people at Queen and Spadina should be arrested on. Although the majority of the people were arrested for conspiracy to commit mischief, as the Incident Commander directed, people were also arrested for breach of the peace and a small number for unlawful assembly.

In his statement to the OIPRD, Incident Commander Superintendent Fenton stated:

At 17:53 hours the Special Operations Director advised that if parties are arrested that it will be for breach of the peace and conspiracy to commit mischief. I believe that this understanding came from an email received from the Command Investigative Lead. I shared the understanding that the Special Operations Director articulated.

47 *R. v. Grant*, [2009] SCJ No. 32 at para. 44 (SCC).

48 *R. v. Hufsky*, [1988] SCJ No. 30, [1988] 1 SCR 621 at 633 (SCC).

The statement included a copy of an email that stated that the Investigative Unit spoke to an assistant Crown attorney, and it was decided that, “conspiracy to commit mischief will be the charge covering a day two period.”

In his statement to the OIPRD, Incident Commander Superintendent Fenton went on to say:

This email was part of a thread that referenced those persons arrested at 16 Bancroft. This was not meant to dictate the reason for all arrests on day two. This was a misunderstanding. Investigators are not bound by law to lay the charge for which a person was placed under arrest. If evidence leads investigators to a more appropriate charge than the charge for which a person was arrested, that more appropriate charge will be laid. There is no charge for a breach of the peace.

The Incident Commander was aware that the group of people arrested earlier that morning at the University of Toronto Graduate Students' Union on Bancroft had been charged with conspiracy to commit an indictable offence. He would have been aware that they were originally charged with unlawful assembly and that the charge had been changed to conspiracy in consultation with Crown attorneys. It appears that the Incident Commander figured that, if a conspiracy charge applied to those arrested at the University of Toronto, it was also appropriate to be used as the charge for protesters at Queen and Spadina.

The OPP public order unit Group 7 Commander, who was placed in tactical command on the ground at Queen Street West and Spadina Avenue, explained that the directions to arrest everyone for conspiracy to commit mischief caused him some “angst.” He felt they should rather have been arrested to “prevent a breach of the peace.” He said that he followed the information given to him and trusted that it was true.

The London Police Service public order commander said that, when the order came from the MICC to arrest everyone for conspiracy to commit mischief, all the officers in charge of the public order units had

discussions about what they were doing and why they were doing it. He said that he did not personally see anyone committing any offences for which they could be arrested. He described the crowd as a protest crowd and an excited crowd. He said people were yelling, chanting, and screaming. However, the direction from the MICC was very specific when they tried to clarify it: “No. You’ve been given your directions, and you need to make the arrest.” At that point he took the position that the MICC had the “big picture” and, if the MICC was directing that people were “arrestable” for conspiracy to commit mischief, then the police on the ground had to act on what they were being directed to do.

A Niagara Regional Police staff sergeant said that he was informed by a female Toronto Police Service inspector that everyone who had been detained at Queen and Spadina was under arrest for conspiracy to commit mischief. He said the inspector did not explain the grounds for arresting people for this offence. The staff sergeant said that he arrested approximately 100 to 150 people for this offence and handed them off to officers for processing.

It is difficult to understand why the Incident Commander decided to arrest for conspiracy, not breach of the peace, which, considering the circumstances, would have made more sense. The protest was a mix of people from the prayer vigil, the bicycle ride protest, and individuals who joined the march as it went along. The crowd that was boxed in at Queen and Spadina also included bystanders, media, and people who were walking on the street and going about their business. It’s hard to believe that this disparate group conspired together to commit mischief.

The instruction given to the commanders and officers on the ground to arrest everyone for conspiracy to commit mischief was flawed. Reasonable grounds to arrest hundreds of people at Queen and Spadina for this offence did not exist.

Processing arrested people

Shortly after 5:30 pm, the police began a process of containing everyone at the intersection of Queen Street West and Spadina Avenue. The police then began to arrest everyone who was contained in this area, including protesters, members of the media, and onlookers. An hour and a half into the containment, heavy rain began to fall, while most people were still being detained.

In a statement to the OIPRD, Incident Commander Superintendent Fenton said:

Once the decision to arrest was made by me, I was bound by procedure of the Toronto Police Service and the procedures and plans set in place for the processing of prisoners for the G20 summit. Procedures are lawful orders of the Chief of Police and as such they must be followed by law. ...The only person that could release me from this lawful obligation to gather the personal information of all persons arrested in order to enable the creation of a CIPS report is the Chief of Police of the Toronto Police Service. Not even Deputy Warr could deviate from this requirement under law.

Arresting and processing the large number of people at Queen and Spadina proved to be a laborious and time-consuming process. The TPS did not have enough arresting officers, court officers, and transport vehicles to accommodate the number of arrests being made.

The police detained people in foul weather, without any shelter from the rain, for up to four hours. Some of the complainants reported that the police made them remove their shoes during this time. The complainants said they were not given access to washroom facilities and were not supplied with food or water, even though police officers were given refreshments in their presence.

The TPS public order unit Group 3 Commander explained that once the initial small group of people was arrested there was still a larger group north of the intersection:

What action does the MICC want us to take? And, that's why I called him on three occasions to ensure they saw what we were seeing and understood from our perspective it was going to take a long time to process all of these people. And, is that the action that they wish us to take. We were directed, "Yes," that we would continue to do that.

The Group 3 Commander went on to explain that processing the number of people who were being arrested was an arduous process. When it rained, people were stepping into custody, saying: "I'll go first. I want to go first." He said that the process started to back up, and that taking pictures of the people arrested was creating the greatest delay. As more and more people were arrested, the line grew ever longer. He asked for more resources, he said, and more officers arrived from around the city to assist.

The OPP public order unit Group 7 Commander explained the concerns of the officers on the ground and the process for arrest:

We were soaked through, right through to our skin; so, I can only imagine what the people within the box were going through. And I made that note to the MICC. I said, "Are you seeing..." at one point I said on the radio, and it was overheard by others, and I'm looking up at the camera, saying, "Are you seeing what I'm seeing, lightning and the rain?" We had concerns and, throughout the event, from the beginning to the end, I asked for processing units to be sped up and asked them to get as many there as possible because of the elements, to speed the process up.

He continued:

What would happen is I would identify, or somebody would be identified, to come out of the box. They were handed off to a HOT team – an arrest team. It would be two parties; they were searched and handcuffed as per proper procedure. They were then taken over to the processing unit where their picture would be taken, their belongings would be tagged. The

officers' information would be gathered and they would be put into a prisoner van or a bus or whatever was being utilized for that purpose. And then those two officers would turn and come back again. And we were trying to get as many officers as we could and...the MICC, was...providing as much as they could.

The night shift Incident Commander was aware that public order tactics are to "contain, isolate and disperse" people who are creating disorder. He said, however, that he had to take actions "outside the box" and decided not to disperse the crowd but to have the people arrested. He did not, however, use the same thinking and flexibility when he was directed by Command Lead Deputy Chief Warr to release everyone who was being detained in the rain at the intersection of Queen and Spadina. At that time he stated that only the Chief of Police could authorize the release of people without first completing a record of arrest.

Although the initial arrests and detention of people at Queen Street West and Spadina Avenue could possibly have been justified, the continued arrest and detention of people in a severe rainstorm that included thunder and lightning was unreasonable, unnecessary, and unlawful. The complainants' rights guaranteed in section 9 of the Canadian Charter of Rights and Freedoms were violated as the police arbitrarily arrested and detained people. In addition, by failing to exercise the care that a reasonable, prudent person would manifest in similar circumstances, the police demonstrated a degree of negligence by detaining people for a significant period during the severe rainstorm.

The weather

Shortly after 7 pm, it started to rain heavily. Police officers, complainants, and witnesses alike described the rain as a "torrential downpour." An OPP public order group Commander said that the rain was light at first but soon came down heavily. It was accompanied by thunder and lightning, "which really concerned" him. He explained that he could see people who were dressed in shorts or T-shirts, and that his team's equipment was getting soaked. "I can

only imagine what the people within the box were going through,” he thought. At one point he stated on the police radio to the MICC, while looking up at a camera, “Are you seeing what I’m seeing, lightning and the rain?”

A TPS public order unit Commander commented that, when he arrived in the area of Peter and Richmond streets, close to Queen and Spadina, it was raining in “a complete deluge of water.” He had to put his shield on his head to prevent the rain from getting in his eyes and, at one point his shield was bending because of the force of the rain. He reported that he walked over to Queen and Spadina and observed approximately 300 public order officers at that location. He said that, when he was walking northbound on Spadina Avenue from Richmond Street toward Queen, the entire street was lined with people who were under arrest. The commander of the Toronto Police public order group said there was no need for the LRAD because the police were already engaged in activity.

Another OPP public order Commander described how, when he arrived at the intersection, it started to rain heavily. He observed children and adults young and old and in all states of dress detained within the box in the pouring rain. He realized that some individuals within the intersection were visibly uncomfortable – they were pale and shaking. He described incidents where he removed two young girls (12 to 14 years old) and a middle-aged couple from inside the box because they appeared to be in medical distress.

The TPS public order unit Group 3 Commander reported that, as it began to get cold, he requested TTC buses to provide shelter to the arrested people, but it took a considerable period for them to arrive. He explained that, during this time, his Emergency Medical Services supervisors came to him and expressed concern that some people might begin to suffer from hypothermia. He said that six empty streetcars were blocked north on Spadina Avenue, and he asked the TTC if he could move some of the prisoners into these vehicles. The TTC agreed. He also contacted the MICC and requested more buses.

Again it took some time for the buses to arrive and for the people waiting to be taken into custody. He noted that people were standing in the rain “shivering” during this whole time.

The Incident Commander felt that the processing of the arrested people should have been accomplished in a much shorter period of time, though it was undoubtedly slowed down by the excessive rain. He said in an interview that weather would not be a determining factor in making arrests. In this particular case, he stated that he wasn’t expecting the rain storm. He admitted, however, that he did receive information from confidential RCMP intelligence reports and that the knowledge he gleaned from them influenced him in making decisions. He got one such report at 1:37 pm on June 27 which noted that, as of 9:20 that morning, Environment Canada had forecast a slight risk of severe thunderstorms mostly for the afternoon and evening across the Huntsville to Toronto corridor. The main threats were torrential downpours causing reduced visibility, wind gusts up to 100 km per hour, and intense lightning, with a lesser risk of isolated tornadoes and large hail. The low-pressure system and cold front had already spawned a large area of showers and thunderstorms, which were over the US Midwest into Lower Michigan and that system would move across southern Ontario into the corridor by late afternoon or early evening.

Intervention by Chief Blair and Deputy Chief Warr

Command Lead Deputy Chief Warr said in an interview that, when he returned from a meeting that Sunday evening, he looked at what was happening at Queen and Spadina on television and observed that, in the pouring rain, the public order units had the crowd blocked in on all four sides and “they couldn’t go anywhere.” He immediately called the Incident Commander and Special Operations Director into a meeting and ordered that everyone be released. He said the order went out, but the problem remained that the paperwork for the arrest process still had to be completed.

In a statement to the OIPRD, Incident Commander Superintendent Fenton stated:

At 20:38 hours we had a meeting with Deputy Warr. Present were [Special Operations documentation officer, the Investigative Chief, the Special Operations Director, Fenton's scribe], and myself. I presented a very brief update on the arrests at Queen and Spadina. Deputy Warr expressed concerns about continuing the arrests at Queen and Spadina. He instructed to have those arrested and taken to the PPC released, and to release those at the scene with the record of arrest to be completed. He expressed that we have stopped the breach of the peace, there is significant processing yet to be done, therefore release them unconditionally. I expressed a concern that they may form up again if released, and we might then be chasing them all night. Deputy Warr advised to release them from the PPC with a record of arrest. [The Special Operations Director] inquired about those under arrest at the PPC, and Deputy Warr instructed to release them. At 20:42 hours the meeting ended.

TPS Police Chief Blair told the OIPRD that, on Sunday evening, he returned to police headquarters after a meeting and, when he turned on the news, he observed a large contingent of people at Queen Street West and Spadina Avenue in the rain. He stated that he spoke to Deputy Chief Warr and said, "I think the threat of the breach of the peace has passed, summiteers have left, let that crowd go." He believed this conversation occurred around 8 pm, but could not give a precise time. Chief Blair reported that he went to his office and, when he turned on the news again, he noticed that the people were still being contained at that intersection. Chief Blair went to see Deputy Chief Warr and told him, "Those people have to get out of there; what are we doing?" Deputy Chief Warr told Chief Blair that he had given the order for the people to be released. Chief Blair asked him to follow up and make sure they were released immediately.

Chief Blair said that, as he was leaving police headquarters and passed by the duty desk, he noticed on the television screen that the crowd at Queen and

Spadina was still being contained. As a result, he went to the MICC himself, called the Incident Commander and another senior officer out of a meeting, and said, "I want those people released and I want them released unconditionally and immediately."

In an interview with the OIPRD, Chief Blair said:

My understanding on Sunday evening is that there was again an apprehension of this crowd posing a risk to the summit and the decision was made in the MICC to contain it. I also believe that the circumstance there, certainly during the rain and when the summit ended, they should have then let those people go. The reasonable apprehension that there would be a breach of the peace had passed and if there was one, it didn't survive that rain. I will tell you I was unhappy that they weren't released immediately when I first gave the direction that they were to be released, that's why I intervened directly myself.

I asked for an explanation afterwards as to why weren't they released immediately and it was again adherence to process – that was the explanation that was given to me. That in releasing them, they felt they had to take them out one at a time, complete the paperwork, and release them from the scene, as opposed to my direction, which became more clear at the end when I said, "No, immediately and unconditionally. Open the line and let those people go."

You can't detain people without the legal authority to do so, and I believe that authority had passed, and so under those circumstances there's no excuse to hold them just to fill out some paperwork, especially in such appalling conditions.

I felt very strongly that this necessitated my direct intervention. Even though I wasn't making operational decisions, I made that one.

Containment

The use of containment is an established police tactic for crowd control. The manual for the Toronto Police Service public order basic tactical course states: “In the event of an unlawful assembly, the Public Order Unit...will effectively contain, isolate and disperse individuals creating disorder and minimize the risk of personal injury and/or property damage.”

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The law relating to containment, boxing in or kettling, comes mainly from a United Kingdom case known as *Austin & another v. Commissioner of Police of the Metropolis* (2009). This case was brought by a woman who was held for seven hours in a kettle without access to toilets or water during May Day riots in London, England, in 2001. The House of Lords decision on this case was quoted in Her Majesty’s Chief of Constabulary’s report, *Adapting to Protest*, on the policing of the G20 summit in London in 2009, as follows: “The police justify the use of the tactic of containment – enclosing a large number of people gathered in a public place within police cordons – to maintain public order or public safety or as a lawful exercise of their powers under common law to prevent a breach of the peace.”

The police use of containment has been the subject of detailed legal scrutiny for compatibility with the right to liberty as defined by Article 5 of the European Convention on Human Rights. The House of Lords found that police use of containment will not infringe the right to liberty of individual members of the crowd whose freedom of movement is restricted provided the following criteria are met:

- i. The tactic is resorted to in good faith
- ii. The tactic is proportionate to the situation making the measure necessary
- iii. The tactic is enforced for no longer than is reasonably necessary.

The report continued:

At times, peaceful and disorderly protesters intermingle and make decisions regarding release of individuals from a police containment complex. Much will depend on the facts and circumstances of the operation. Nevertheless, this is foreseeable and therefore demands forward thinking to devise strategies and tactics that minimise unintended consequences for peaceful members of the crowd.⁴⁹

In another report on policing at the G20 summit in London, House of Commons Home Affairs Committee, *Policing of the G20 Protests, Eighth Report of Session 2008–09* (HC 418), the use of containment was recognized as involving a shift in power and control from the protesters to the police. It warned that it should be used sparingly and in clearly defined circumstances:

- i. The use of containment tactics should be closely linked to police intelligence
- ii. The police must have reasonable grounds to believe that the protesters being contained are liable to cause disturbances elsewhere
- iii. That innocent bystanders and non-violent protesters must be allowed to filter out
- iv. That containment should continue only for as long as absolutely necessary
- v. That the comfort of those contained must be given as much consideration as possible.

The report further recommended that the police should exhaust all possible avenues of communication before using force and should be as open as possible about their intentions at all times.

Analysis

During the Toronto G20, containment was used as a tactic on at least 10 occasions. In an interview with the OIPRD, a Toronto Police Service senior officer

⁴⁹ Her Majesty’s Chief Inspector of Constabulary, *Adapting to Protest – Part I* (April 2009), p. 8.

who has been involved in public order matters for 23 years and who served as a Public Order Tactical Group Commander on the ground for the G20 summit said:

Our job is essentially to isolate the threat, to contain that particular environment, and then to disperse a crowd. That's essentially what we train for and that's essentially what our rules of engagement have. And it's not to suggest that we don't filter through crowds, or that we don't arrest people, or that we don't arrest large numbers of people but that's always in support of some other strategy.

At 4:24 pm on Saturday, June 26, the day shift Incident Commander ordered the police to set up and box in the crowd at Queen's Park. The rationale for containing protesters at Queen's Park was fairly sound because some of the people who had caused the vandalism on Yonge Street were likely still in the crowd. Containing the crowd and dispersing the people through a filter may have resulted in the police arresting some of the vandals, had they been able to identify them.

During the Saturday evening, the night shift Incident Commander requested that protesters be boxed in at Adelaide and Bay streets, on Queen Street West in the financial district, outside the Novotel hotel on The Esplanade, and at River Street and Queen Street East.

At about 6:30 pm, at Queen Street West and Peter Street, the containment tactic was used correctly, as set out in the POU manual. The TPS public order unit Alpha Section Commander explained in an interview with the OIPRD:

I was the site commander so I had discretion, but at one point I was ordered to [make] mass arrest by the MICC, and I did not. I took up a position both on Peter and Queen and to the west of Peter, and I brought them (protesters) in, but I then filtered them. I gave them an LRAD warning, and as soon as I played that LRAD warning I had members in the crowd say, "Where would you like us to go?" So to my way of thinking that was

clearly an indication that again I had a compliant crowd, and I advised the MICC and, contrary to their instructions, I dispersed the crowd and gave them a dispersal route, and I performed what we call a filter to disperse the crowd. One individual was arrested, and that individual was completely stark naked.

Later on the Saturday evening, the Incident Command marshalled officers to set up a box in the financial area to stop a group of protesters who were marching in that area. They caught up to the protesters in front of the Novotel hotel on The Esplanade, where they boxed them in and arrested them.

The POU Bravo Section Commander said he could not recall a time in his experience in the POU where they had stopped a crowd in order to effect arrests; Novotel was the first time they boxed in a crowd and arrested everyone. He had not received any information as to whether the crowd had received an announcement or information about leaving the area before they were arrested. The only instruction that was given to the crowd after he arrived was his own, when he had asked the people if they wanted to be arrested peacefully.

At around midnight another group of protesters was heading to the Prisoner Processing Centre. Incident Command ordered that these protesters should be boxed in and arrested.

A bicycle unit police constable told the OIPRD in an interview:

We were being told that they were heading towards PPC and that they wanted us to stop them wherever we could for breach of the peace because they were already told to disperse and that they hadn't. We made our way to Queen where there was a POU unit already blocking River Street at Queen. I observed a group of people – I heard a megaphone, I heard singing, I heard chanting. There were about 20 people in this group, and when we came from the west they were already blocked off at River Street by the POU. The crowd stopped in the middle of

the street and said, “Okay, we give up.” And then they went and sat against the north building of Queen Street. At one minute after 12, [the] Inspector was on scene, and we were directed to start arresting the group for breach of the peace.

Some of the protesters from this group scattered before they were contained and made their way to the PPC. There, according to Incident Command scribe notes, the POU read the riot proclamation and told protesters to leave. Those people who didn’t leave were arrested.

At 12:24 am, Incident Command ordered people who were throwing bottles at police at Queen and Spadina to be boxed in.

On Sunday afternoon, June 27, police contained people at Queen Street West and Noble Street.

During the G20 weekend, the Toronto Mobilization Network set up a Convergence Centre at Queen and Noble streets for people from the Parkdale area and for demonstrators from outside Toronto to meet, socialize, and organize their protests. At 3 pm, Sunday afternoon, this network held a news conference regarding allegations of police brutality at the Parkdale Branch Library, one block from Queen and Noble.

At 3:11 pm, according to Incident Command scribe notes, the Outer Zone Deputy Director notified Incident Command that there were 100 Black Bloc people at Queen Street and Dovercourt Road. Police reported that the concern in that area was that “Black Bloc” protesters were boarding streetcars. Officers attended and determined that these concerns were unfounded, and they proceeded on to the Queen Street West and Noble Street area because it was part of their detail. They arrested two individuals who they believed were about to commit a breach of the peace. These individuals were preparing to board a chartered bus to Quebec at that location. Other people were also boarding the bus, and officers began asking them all for identification.

Hearing that there were arrests, people attending the Toronto Community Mobilization network news conference went to Queen and Noble to see what

was happening. Meanwhile, another officer advised senior officers that potentially dangerous substances were located on the bus.

The officers detained 41 individuals who were either on the bus or attempting to board the bus. They called for the chemical, biological, radiation, nuclear, explosives (CBRNE) team to deal with the suspected materials.

By this time, the crowd had grown and had become loud. One community response unit (CRU) officer said that, when he arrived on the scene, there were 50 to 60 people and some media standing in front of the Parkdale Community Services Office on the corner of Queen Street West and Noble Street. The officers formed a wall with their bicycles around the group, and an officer communicated to the crowd that they were being detained for investigative purposes. Complainants to the OIPRD said that, after an hour and a half of being detained, they were informed they were being detained for investigative purposes and would be processed and released if they were not causing trouble.

POU officers also arrived to assist. The CBRNE team determined, after some time examining the materials, that there were no dangerous substances on the bus. The occupants were released, and the bus departed.

Some complainants said they were detained for up to four hours in all. The detention of these individuals was linked to concerns about the possibility of dangerous chemicals on the bus. The OIPRD was unable to determine whether the containment of the parties continued after the bus had been declared safe or whether it ended once that was done. Accordingly, the OIPRD could not determine whether reasonable grounds existed that the detention was arbitrary or unlawful or both.

At 5:38 pm, the Incident Commander ordered that the people who were gathered at Queen and Spadina be boxed in.

Two OPP public order Commanders who were at Queen and Spadina told the OIPRD in interviews that containing a crowd without allowing an exit route is not a tactic that the OPP employs. One of them

stated that the complete boxing in of a group of people without having some way of allowing them to leave is not a “sound tactical move” because of the risk to the safety of individuals contained within the box. He explained that there is a risk of people panicking and/or trying aggressively to get out of the contained area. He felt that this tactic should be used only in very rare circumstances.

A London Police Service public order Commander who was also interviewed echoed the OPP commanders’ comments. He said that his training in Ontario and in Great Britain emphasized not containing, or kettling, a crowd because, when people are boxed in and have no place to move, a simple situation can easily escalate into a violent confrontation.

Toronto Police Chief Blair explained that the Toronto Police Service has never had a “kettling” policy:

I can tell you that we’ve never had a policy on this issue of kettling. I’ve never even heard the term kettling until a few days after the G20 when I read it in the newspaper. I didn’t know what they were talking about, I’d never heard the term applied, and I gather it applies to containing a crowd. But we certainly don’t have a policy with effect to it. There might be a unit specific procedure, but there’s no policy in our governance.

Let me tell you from experience and because I was public order commander for nine years. We generally try to leave a crowd a place to go, and to direct them to go there. There are some circumstances, in order to contain a significant risk, where you would simply hold it in place until you can manage the threat. But generally when we’re trying to disperse a crowd, we figure out where we want them to go and encourage them to go there.

In a statement to the OIPRD, Incident Commander Superintendent Fenton stated:

On Sunday, June 27, I was on the Major Incident Command Centre operational floor at 17:10 hours, and at 17:32 hours I assumed the role of Incident Commander, relieving Superintendent

Hugh Ferguson, shift 1 Incident Commander. Superintendent Ferguson advised me that he was monitoring a protest march at that time on Queen Street West approaching Spadina Ave. Superintendent Ferguson advised that persons in the protest had told officers that they were marching to Dufferin Grove Park, where they would meet buses and they would then be leaving town. I inquired as to the location of the park and found that it was on Dufferin Street north of College, south of Bloor Street.

In that overlap period I observed the activity on the operational floor and sought to find out where the bulk of the protest activity was occurring. It became clear to me from my observations and information received from various sources, including CCTV, radio, and activities ongoing at the operations desks, that there were a number of areas of concern. Firstly, Jimmie Simpson Park, at this location we had intelligence that protesters would gather for a protest that would move to either the Don Jail or the Prisoner Processing Centre. This protest was being referred to as “Fireworks for Prisons.” There was assessed to be a risk to officer safety at this protest, with public order and criminal activity concerns. This was a major safety concern. The Don Jail is a high-density facility, and there would be a significant risk to prisoner and prison guard security if any violence was to take place outside that facility. Further, it was unclear if this protest would in fact move to the Don Jail or the Prisoner Processing Centre. I received information from [the Intelligence Chief] that there was intelligence that an attack on the fence w[ould] occur; however, it was not clear if the fence being referenced was the PPC or the summit fence. I was aware that gasoline had been located in an alleyway behind a home in the area of the PPC on Saturday. This information was given to me by [the PPC Site Lead].

Superintendent Ferguson advised that there were two public order sections at Jimmie Simpson Park, and three public order sections at the PPC. Superintendent Ferguson advised that further units were prepared to move to the PPC

if required. Superintendent Ferguson advised that, earlier, a group of protesters / terrorists had approached Jimmie Simpson Park; however, when they observed public order units approach, they ran.

Secondly, there was an ongoing march westbound Queen Street approaching Spadina Ave. I could see a line of police bicycles stretched from the northwest corner of the intersection of Queen and Spadina Ave, ending at the southeast corner of the intersection. Therefore, the protesters had a clear path north from this location, which would be consistent with the stated destination. I was aware that, on Saturday, June 26, this is the exact location where the protest turned violent. I was aware that this location was highlighted in an anarchist video called “Mon Voyage à Toronto.” This video had been produced by a Montreal-based anarchist group known as the “Anti-Capitalist Convergence,” or CLAC, and placed on YouTube. I had previously watched this video on YouTube. It was believed that locations shown in the video were identified targets for public disorder and criminal activity.

Superintendent Ferguson advised that there were about 270 officers located to the south of the protest in the area of Queen, Wellington, Bay, Spadina. A further 150 officers [were at the] Dundas, College, Bay, Yonge area, with four RCMP sections looking after the ramps to the Gardiner Expressway.

I observed that the protesters were massing on the south side of Queen at Spadina and appeared to be trying to push south. I was watching this from an aerial video being shot by an RCMP air asset. I could hear officers calling for public order assets. Officers were saying that the crowd was becoming “active.” There were no public order [units] identified to me as being at Queen and Spadina.

Superintendent Ferguson advised that all public order assets were deployed – there were none in reserve. Superintendent Ferguson advised that there was another group of protesters west of this location on Queen. Superintendent Ferguson advised that, if the crowd of protesters break the line, they may run to and attack the fence.

Based on my observations via CCTV, listening to radio activity, observing activity at the operations desks, my knowledge of intelligence reports regarding expected activity that had a risk of violence and public order concerns, and on the direction of Deputy Warr received June 26, to make the streets safe, I set in motion, with the assistance of my command general staff, the police resources required to maintain the level of public order that existed as a result of the efforts of police officers on June 26.

In short, yes, I did order the isolation and, in time, the arrest, or the “boxing in” of the group of protesters / terrorists at Queen Street [West] and Spadina Avenue. In this statement where I talk about isolation, containment, and arrest of protesters / terrorists engaged in, or about to engage in, public disorder, the term “box” would summarize the police activity.

Based on the information from Superintendent Ferguson, shift 1 Incident Commander, that was provided to me on June 26, the public order units’ ability to address the public order concerns was limited by the rapid movement of the disorder activity. On June 26 the disorder activity was mobile through the downtown core; however, this mobility could not be matched by the POU. Mobility issues resulted in relative free reign for the terrorists to attack without opposition. Therefore the tactic of isolating, containing the movement of the terrorists / protesters was required to stop the ongoing attacks and prevent new attacks from occurring.

I cannot isolate the Queen Street and Spadina Avenue event from what had occurred the day before. The city was still hosting the G20 summit.

The same subversive plans were in place to protest the G20 summit. We know that we did not take into custody all of those that engaged in the terrorist acts suffered by the city on June 26. This was the last day of the summit, [and] therefore, the last opportunity for terrorists to achieve their stated goals. The events occurring on the streets of Toronto on June 27 were very much a continuation of the events of June 26.

From the experience of June 26, we were very aware of the danger that existed for loss of life and damage to property. The protest and disorder at Queen and Spadina formed a part of the overall event and disorder that began June 26. The arrest of those terrorist / protesters at Queen and Spadina formed part of the police response, under my command, to the disorder that was unfolding on the streets of Toronto.

The RCMP role in the containment at Queen and Spadina was not in compliance with its practices and policies; however, the Independent Police Review Director recognizes that the involvement of the RCMP was unavoidable, given the integrated security operation and the lack of clear command decisions at that location.

While it was not an OPP policy to contain protestors without ensuring that an exit route existed for those wishing to leave, and OPP POU Commanders on the ground at Queen and Spadina repeatedly questioned the MICC regarding an exit route, they nevertheless complied with orders coming from the MICC. Again, the OIPRD recognizes that their involvement was unavoidable given that security was an integrated operation.

The Toronto Police Service *After-Action Review* stated:

Starting at 6:01 pm, a number of field commanders contacted the MICC seeking clarification on the direction[s] to box and arrest the protesters at Queen Street West and Spadina Avenue. Alternative courses of action, including directing the march north on Spadina Avenue, containing the crowd and then designating a dispersal route, or funnelling the crowd through a checkpoint, were suggested. Nonetheless, the MICC directed that the intersection would be locked down and all protesters arrested once contained.

Recommendations

- If, in future, the Toronto Police Service polices a large event using the Incident Command Management System, it should ensure that officers in charge of the command system are well trained in managing large-scale protests and it should train all those working in the command system, especially regarding their roles and responsibilities.
- Police services should ensure that, before police take action to make mass arrests or arrests involving extractions from a crowd of protesters, loud and clear warnings are given and enough time allowed for protesters to comply with any police direction. Before any major protests begin, the Toronto Police Service should test its public announcement systems to ensure that public announcements can easily be heard by all who attend the event.
- With regard to the circumstances under which protesters are allowed to leave a “contained” area, the police must:
 - a) Reorganize their policies and procedures.
 - b) During any containment procedure, all officers must be authorized to use their discretion to allow access and egress, trusting their own judgement and experience when necessary.
- The use of containment tactics should also be closely linked to the intelligence information police have received. The police must have reasonable grounds to believe that the protesters being contained are actually causing a disturbance or likely to cause a disturbance elsewhere. Innocent bystanders and non-violent protesters (where they can be identified) must be allowed to filter out. Containment should continue only for as long as absolutely necessary, and the well-being of those contained must be given as much consideration as possible.
- In situations where mass arrests may be anticipated, police services should prepare a workable model for transporting, booking, holding, feeding, and administering and ensuring the health and safety for an anticipated large number of prisoners.
- The *Police Services Act* and the existing Code of Conduct regulation should be revised to expand the misconduct of “unlawful or unnecessary exercise of authority” to include an unlawful or excessive detention where no physical force was used.
- In light of the large number of arrests that did not result in a charge or resulted in the charge being withdrawn, the Toronto Police Service should consider whether it is in the public interest to retain the police records of the arrestees who were either not charged or whose charge was withdrawn. It is our understanding that TPS policy allows for records to be expunged. It is recommended that the TPS should consider exercising its discretion to expunge those records where it is not in the public interest to retain them. Further, it is recommended that the TPS should communicate that policy to the public and allow members of the public to apply to have their records expunged.
- The Toronto Police Service should develop criteria for determining when it is necessary to fingerprint and photograph persons arrested for “breach of the peace.” When the TPS does fingerprint and photograph persons detained for “breach of the peace,” it should consider how long those records should be retained. It is noted that the *Criminal Records Act* provides that a record of an absolute discharge should not be disclosed more than one year after the date of the discharge. The TPS should expunge all records relating to persons arrested for “breach of the peace” at mass protests within a similar time period unless there is good demonstrable reason made to the IPRD to retain the record.

Chapter 9: The Prisoner Processing Centre

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The Prisoner Processing Centre



Background

The Prisoner Processing Centre (PPC) was located on Eastern Avenue in Toronto's east end. This site, which included several vacant buildings formerly used as a film studio, was leased to the Toronto Police Service (TPS) during the G20 summit. The advantage of this facility, situated approximately five kilometres from the downtown "hot spots," was that it would remove prisoners transported there a sufficient distance from the protests to restore the "Queen's Peace," while still being close enough for quick transportation to the site. By the time prisoners released from the PPC could return to the downtown core, the police on the ground would have time to clear out areas of concern.

The PPC was intended to hold protesters who were arrested during the G20 and to provide an efficient way of processing large numbers of arrests. TPS took the lead in both planning and operating the PPC, and it passed on these plans and decisions to the RCMP. In formulating its operational plan, TPS used examples from previous G8 / G20 summits to estimate the number of arrests, and it decided that the facility should be able to house up to 500 prisoners at one time. Although TPS indicated that the PPC could hold more than 500 prisoners, it provided no specific number. All planning and operational decisions appear to have been based on the assumption that a maximum of 500 prisoners would be processed and housed within the facility over the course of the G20 weekend.

Based on previous G8 / G20 summits, the plans for the PPC appeared to be adequate. Both London and Genoa had far larger numbers of protesters (35,000 and above at one time), but had not exceeded 500 arrests. In London, 122 people were arrested, and in Genoa the total was 329 people. Pittsburgh, which attracted a similar number of protesters to Toronto, had 190 arrests over the course of the G20. The final total of more than 1,100 arrests during the G20 in Toronto was far beyond what had been anticipated, and this number overwhelmed both the facility and the staff. The decision to surround and arrest all protesters at the Novotel site and at Queen and Spadina had an unanticipated and cascading effect on other areas particularly the PPC.



The Prisoner Processing Centre

Planning for the PPC began in the latter part of 2009, once the federal government had confirmed that Toronto would be hosting the G20. Superintendent Farrar of the Toronto Police Service played a large role in the planning for the detention centre, and together with Staff Inspector Ruffolo was in charge of its ultimate operation. Specifically, as Unit Commanders of the PPC, they were responsible for:

- Prisoner care and control
- Prisoner transportation
- Prisoner processing
- PPC personnel – police officers and court officers
- Normal operations such as courthouse security and custody management.

The site at Eastern Avenue contained police operations other than those related to the PPC. Superintendent Farrar and Staff Inspector Ruffolo were also the Site Commanders for security for the entire Eastern Avenue site, including the:

- Detective Services Office

- Logistics
- Firearms storage
- Staging and marshalling
- Staff feeding stations
- Mass transportation of staff
- Property and evidence unit
- Video services unit
- Emergency Medical Services and Toronto Fire Department
- Rapid response investigative team
- On-site TTC personnel and vehicles.

Superintendent Farrar and Staff Inspector Ruffolo reported directly to the Major Incident Command Centre (MICC).

In accordance with the operational plan, a number of civilian and uniformed officers reported to them every day. The staff at the PPC operated on a 12-hour shift and comprised the following officials:

Civilian officers

- 75 court officers
- 5 Barrie Police Services court officers
- 4 supervisors
- 1 shift supervisor
- 1 location administrator
- 1 location administrator / planning
- 2 court officers / planning
- 1 logistic court officer
- 1 scribe
- 1 tactical dispatcher

Uniformed officers

- 12 staff sergeants
- 24 police constables.

In addition to these staff members, the Eastern Avenue site housed Detective Services personnel who reported to Staff Inspector Earl and Inspector Franks, Video and Property personnel who reported to their respective unit commanders, and Forensic Identification staff and a media spokesperson who reported to their respective services or unit commanders.

The complaints about the PPC dealt specifically with the policies and procedures in place there and the treatment of prisoners. Altogether, 12 main issues of concern were identified and consistently raised by complainants and witnesses:

- Duty counsel access
- Phone access
- Meals
- Overcrowding
- Excessive period of detainment
- Environmental conditions
- Privacy
- Prisoner property
- Medical attention
- Young offenders
- Flex cuffs (zip ties)
- Use of level 3, or “strip,” searches.

To address the issues raised by these complaints, the analysis that follows deals specifically with the areas under the control of Superintendent Farrar and Staff Inspector Ruffolo and touches on personnel in Detective Services who were involved in the processing of prisoners.

Site plan

The Prisoner Processing Centre consisted of 15 “stages” and 11 buildings lettered A through K, which were used as offices, a staging area for officers coming on and off duty, and holding areas for prisoners arrested over the course of the G20 summit. The Toronto Police Service planning document relating to prisoner processing and detention describes some of these sites in detail.

Stage 1, on the Eastern Avenue side of the complex, held the Repository for Integrated Criminalistic Imaging (RICI) / Livescan trailers and five bullpens designated for prisoners requiring transportation to court. Court Services assigned officers in charge of prisoner transportation to court. Prisoner transportation wagons were able to enter this area and pull up to a loading bay to receive prisoners from Court Services staff.

Stage 8, on the Lake Shore Boulevard East side of the complex, was designated as the “sallyport” area – the place where prisoner transportation vehicles drove inside the complex to drop off prisoners. Court Services officers were responsible for completing a prisoner tracking form and taking photos of any prisoners who did not already have a photo attached

to their “HOT sheet” (hand-off team sheet, or arrest record). Prisoners exiting the wagons in Stage 8 were all handcuffed with metal cuffs or zip ties. Restraints were not removed until they went to the booking trailers. This area contained six bullpen cells for prisoners who were waiting to be processed.

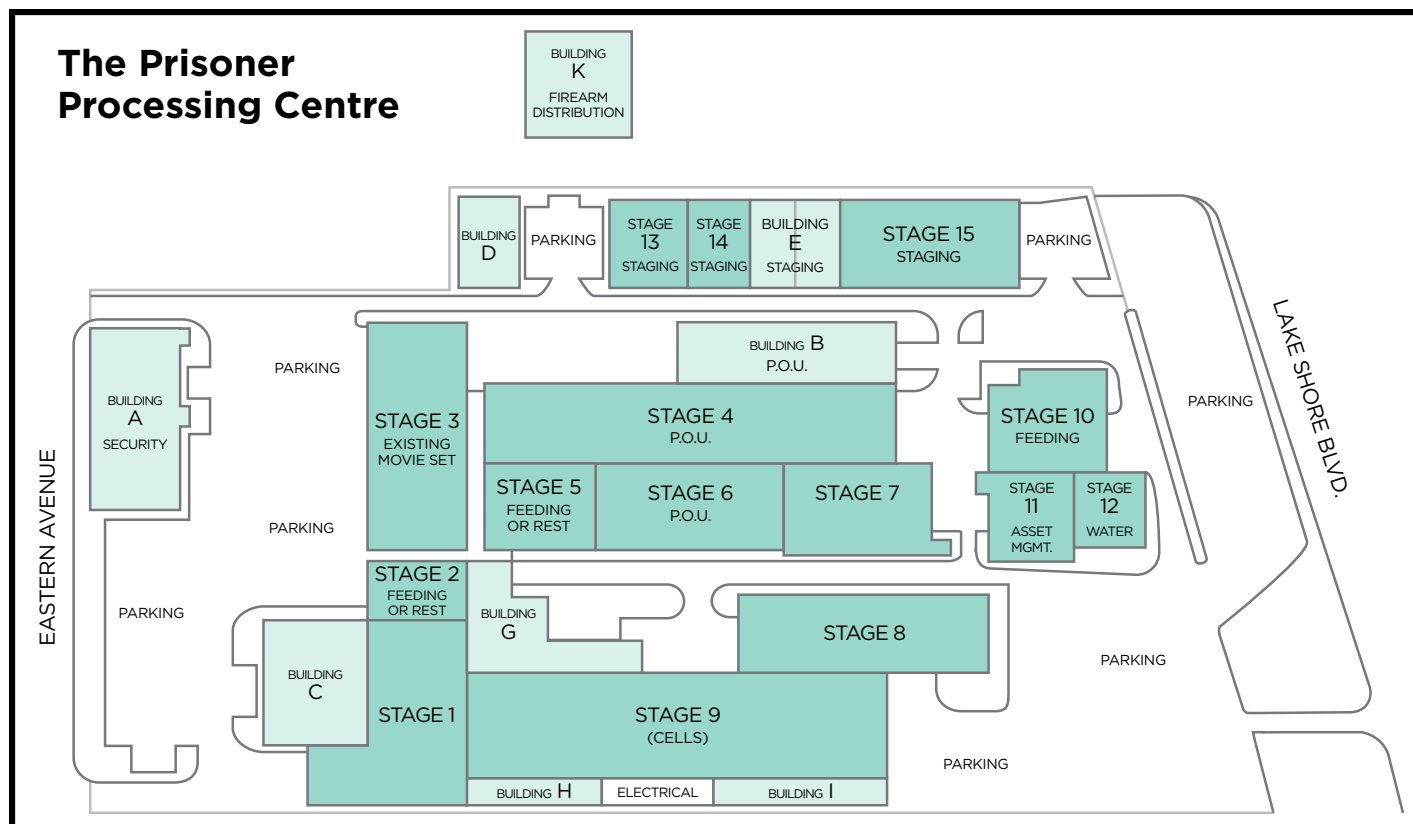
Toilet facilities were a major concern. The off-loading bullpens were in full sight of the wagons entering the sallyport. Toilets within the bullpens had their doors removed, and the open side faced the interior of the sallyport. Two of the off-loading bullpens and a “few” of the holding cells were “dry” – without any toilets at all. Prisoners in these cells had to be escorted to a washroom by court security officers.

Next to the sallyport area was a decontamination area for prisoners who may have been pepper sprayed or exposed to CS gas (2-chlorobenzalmalononitrile, or tear gas) during their arrest. It contained a tent with three shower stalls for decontamination. There was also a medical triage area staffed with EMS personnel and a physician who assessed any medical concerns expressed by prisoners located in the PPC.

Stage 9, located next to Stage 8, was used as the central booking area. It also held the cells for prisoners detained in the PPC facility. Stage 9 included the off-loading bullpens (with a capacity for 100 prisoners), 12 booking lanes, private level 2 and level 3 search areas, magnetometers and X-ray machines, a prisoner detention area (with a capacity for 500 prisoners), video remand rooms, a private area to meet counsel, a property room, and a releasing area.

The Site Command was housed in the former production offices attached to Stage 9. The investigative teams were accommodated on the second floor overlooking Stage 9.

Building C, located on the Eastern Avenue side of the complex, housed a number of administrative offices: the unit commander and support staff, the detective sergeant (Investigative Services), two location commanders and the location administrator from Court Services, the complaints coordinator, the Forensic Identification Services (FIS) staff sergeant, a media relations officer, and a dedicated IT technician. Video Services had a disclosure office there staffed



with seven officers per shift. On the second floor were personnel from Court Services, perimeter security staff, and offices for the G20 planning team.

Building G, situated on the interior of the complex next to Stage 9, housed the interpreters' offices, 12 telephone booths for prisoners, and offices for tactical dispatch staff, Toronto Fire Services, EMS, and the Ontario Ministry of Health. There was also a secure room for the belongings of PPC staff and a stockroom for stationery and office supplies.

Building H, located on the exterior side of Stage 9, housed interview rooms for defence lawyers and duty counsel.

Building I, situated on the exterior side of Stage 9 toward the Lake Shore Boulevard East end of the complex, contained the "servery" for prisoner meals and a small break room for PPC staff. Vehicles from the Property Bureau were parked in the area next to this building.

The individual cells around the perimeter of Stage 9 were designated as female, young offender, or "management concern" (for prisoners who might become violent). There were 17 individual cells in total. The remaining group cells were all designated as male adult cells. None of the booking cells in the sally-port were designated in advance of the summit.

Planning for the G20 detention centre

Planning for the G20 began at the end of 2009. The Toronto Police Service took responsibility for everything outside the Interdiction Zone, including the PPC. Given the short time and the relative lack of experience TPS had in planning such events, this task was enormous; both the plan and the detention facility had to be completed and secured within five months. TPS began by creating a high-level planning team that visited previous G20 sites and researched similar events. Previous protests in Toronto, with a few exceptions, have been relatively calm, and the crowd has either kept to a predetermined march route or remained in one location. Recent G8 and G20 summits have attracted large and often rowdy

crowds, however, and TPS was uncertain about the potential size and makeup of the protests. Ultimately it agreed on a detention centre to hold up to 500 prisoners.

TPS decided that the PPC would be a "unique entity that does not fit into the definition of a lock-up." That description allowed it to use existing policies, procedures, and regulations on the site. Superintendent Farrar explained that adequate guidelines developed by the policing standards branch of the Ministry of Community Safety and Correctional Services exist for police facilities, but that they do not apply to lockups, holding areas, or cells. By using these existing TPS policies and procedures, the planning team did not have to develop event-specific policies and procedures – a saving in both development and training time.

The G20 planning documents are clear that the safety and protection of the community was the primary concern during the summit. The PPC was intended not only to hold prisoners arrested during the G20 but also to serve as an operations centre for investigative services. By including the services on the site, the planners hoped to create a seamless operation in which the detectives had immediate access to prisoners and could charge or release them based on the information provided on the arrest record.

Detective Services reported directly to the Major Incident Command Centre, providing a direct line to the guiding centre for G20 operations. According to this plan, Court Services and booking officers would handle the prisoners and liaise with Detective Services, which would have the necessary information to make decisions about individual prisoners. In practice, however, the system broke down for many reasons.

From a logistical standpoint, the plan was very broad and did not address the specifics of how existing procedures should work within the detention facility. Although the planning committee estimated 500 prisoners to be capacity, senior staff were confused whether that figure referred to the capacity for

the PPC itself or to the number of prisoners to be processed over the entire weekend. There is a vast difference between those two interpretations.

The planning document included a broad and basic emergency management plan which addressed the possibility of a bomb threat or a fire requiring evacuation. No other possible scenarios, or instructions for dealing with them, were in place.

Training

Court and police officers received very little specific training related to the G20 summit and the PPC itself. Court Services staff participated in a few training sessions, and, before the PPC opened officially on June 18, an orientation weekend was conducted there. During the week after it opened, staff were familiarized with existing PPC policies and procedures through a series of mock exercises. Those assigned to the PPC also received an orientation handbook. In the week leading up to the summit the use of established practices within the facility were finalized. This meant that most of the training took place in the week leading up to the summit.

The abbreviated training meant that staff members were often learning on the job. Court officers received more training than other staff because they were responsible for the movement and management of prisoners, yet their training too was very general. It involved setting expectations, discussing the makeup of potential arrestees, and reiterating the existing policies and procedures that were being used. In the only session with staff sergeants on booking protesters, Superintendent Farrar said that the message was “stay in the trailer and book the prisoners.” The training seemed to rely on staff knowledge of existing policies and procedures rather than providing specific training for issues that might arise during the G20.

Specific procedural training was minimal to non-existent for those officers performing day-to-day duties in the detention centre, but it was also seriously lacking for senior officers. According to a court officer, training consisted of an online training module in two parts, “A and B,” taken on June 10 and 16, respectively. The court officers were then

given an orientation package, which addressed policies, procedures, and a profile of potential prisoners. One of the location administrators who was ultimately in charge of the night shift for all court officers indicated that he was not made aware of:

- The exact capacity of the Prisoner Processing Centre, but thought it was 500
- What plan, if any, was in place should the facility reach capacity, or even what was considered capacity
- The exact number of prisoners each cell in the detention centre was meant to hold, though he suspected it was “about 20”
- How to perform an accurate head count of prisoners without shutting down the facility, so he assumed that any count would be “approximate”, and
- Any fire or evacuation plan, and was told simply to use the other location administrator as a resource if anything happened.

This administrator further acknowledged that no thought had been given to what might happen should the facility be overwhelmed, how much time it would take to process a prisoner, or what the single individual assigned to intake would do if the number of prisoners exceeded the ability to process them.

One issue that raised particular concern was the use of flex cuffs. Although the planners, including the location administrator, ordered flex cuffs for the PPC, they arranged no training for court officers in their use, even though, in their normal duties, court officers are not familiar with these cuffs. The vast majority of prisoners at the PPC were restrained using flex cuffs, some for many hours.

To run the detention facility, the planners largely relied on the pre-existing knowledge and experience of the staff. Superintendent Farrar indicated that all booking sergeants were experienced and that he had specifically requested individuals with experience. Through interviews and analysis, the OIPRD is aware of at least two booking sergeants who had very little or no experience in booking prisoners – as they both

openly admitted. As a result of this assumption that all those assigned to the PPC were well versed with existing policies and procedures related to prisoner management, those who were not had no choice but to proceed as best they could. It is not surprising that this lack of experience on the part of some officers resulted in problems relating to the handling of young offenders, incomplete paperwork, and the appropriate grounds for continuing an arrest.

One of the experienced booking sergeants indicated confusion over whether to follow police lock-up policies or Court Services policies. He mentioned that the facility fell under the administration of Court Services, but because the two policies are very different, he sought clarification when he reported for duty at the PPC. Although this particular sergeant was the team lead for all booking sergeants, he was later moved to the release trailer at the back of the PPC. He described his role as morphing from “being in charge of on-site security to being in charge of parking passes.” These added duties took him away from his responsibilities as team lead.

Policies and procedures

The booking process

The G20 planning document indicated the following steps in booking prisoners:

- Vehicles would enter through the south door sallyport (Stage 8)
- Prisoners would be offloaded by Court Services (Stage 8)
- Prisoners would be divided into male / female groups and assessed for injuries, medical conditions, and young offender status (Stage 8)
- Property would be tagged (Stage 8)
- Prisoners would go through a metal detector before being placed in offloading cells (in some cases, however, prisoners came directly off vehicles and into offloading cells) (Stage 9)

- After the paperwork was completed, it would be cleared by the Court Services booking trailer and sent to the cell manager (with prisoner management numbers assigned)
- The cell manager would call the Court Services officer to match up each individual's HOT sheet with any property that had been tagged and to take the individual out of the offloading cell to hand over to a police officer who would take the individual to the booking trailer (Stage 9)
- The prisoner would be booked (Stage 9)
- Following booking, the prisoner would be taken to a trailer for a level 2 search, where flex cuffs would be removed (Stage 9)
- The prisoner would be returned to the booking trailer, put back on video, cleared, and taken out via an X-ray machine (Stage 9)
- The prisoner would be placed in an investigative cell separated by gender and young offender status (Stage 9)
- Any prisoner who was criminally charged, or “show caused,” would be taken to a video interview, after which a level 3 search would be conducted (Stage 9) (telephones would be available at this time for those permitted a call – Building G)
- The prisoner would be taken to be live-screened and for Repository for Integrated Criminalistic Imaging (RICI) to be completed, including photos and fingerprinting (Stage 1), and
- The prisoners who were criminally charged would be placed in a cell awaiting transport to court (Stage 1).

Prisoners who were off-loaded from the transport vehicles were meant to have a completed HOT sheet (arrest record), a photograph with the arresting officer, an armband with their control number, and any evidence of property itemized and tagged with the same control number. The court booking officer would check the paperwork to make sure it was complete and then enter the prisoner information in

the prisoner tracking system. The court officer would assign the prisoner a tracking number and a cell. The program printed out four labels with the prisoner tracking number – one label was affixed to the HOT sheet, one to the prisoner tracking form, one to the property bag, and one to the prisoner.

One court officer was assigned to book the prisoners in the prisoner tracking system. This system, an Excel-based spreadsheet, was designed specifically for the PPC. According to the TPS planning document, prisoners remained in flex cuffs until they had been booked by the staff sergeant and searched.

The prisoners were divided into male and female groups and were placed into separate holding cells awaiting the completion of the booking process. Once they were booked by the court officer, they were brought to one of 12 booking trailers to be booked by the staff sergeant, reminded of their rights, and given a level 2 pat-down search. Once the prisoner was booked, a court officer would return, collect the prisoner and the Criminal Information Processing System (CIPS) report from the staff sergeant, and bring the prisoner to a Stage 9 investigative cell. The paperwork would be delivered to Detective Services for an investigation.

Prisoners with criminal charges pending would be live-scanned, a level 3 strip search conducted, and a RIC file created in the electronic system. The prisoner would then be placed in a Stage 1 cell awaiting transport to court. The plan does not specifically mention the process for prisoners who were not facing criminal charges.

Procedures for custody management

The G20 planning document indicated the following steps for managing prisoners while in custody:

- External agencies would be involved, including Toronto Fire, Toronto Ambulance, and the Toronto Transit Commission (TTC). Toronto Fire and Toronto Ambulance would be present at the PPC as part of the emergency management plan. The TTC would be advised of any road closures to ensure that transit routes could be adjusted accordingly.

- A hospital plan was created to address injured civilians, injured prisoners within the PPC, and injured officers. Injured prisoners would be taken to Toronto East General Hospital, and injured officers to St. Joseph's Hospital. Civilians would be transported to the closest hospital.
- Meals for prisoners would be provided by Court Services staff. Prisoners would be fed every six hours.
- Health and medication was the responsibility of the parading officer, who was to assess the physical and mental condition of each prisoner and record any injuries on the record of arrest. In the event that medical attention was required, the prisoner would be taken to the doctor assigned to be present at the PPC. EMS was on site to transport prisoners to the hospital if ordered to do so by the doctor. A Court Services staff member would accompany the prisoner to the hospital.
- All medication would be stored separately and recorded in the Court Services' record of medication log. A Toronto Police Service 470 Prisoner Medication form would be completed for each prescribed medicine.

Court Services was responsible for logging property and for filling out both the medication log and the prescribed form. No medication log or medication forms were received by the OIPRD in disclosure.

Procedure for prisoner property

The property and evidence management unit (PEMU) provided three members – one for each shift – to assist with the processing of evidence and personal effects at the PPC. In addition, PEMU operated three property vehicles, placed at the PPC, for the temporary storage of property seized during an arrest which was required as evidence at a judicial proceeding.

Returnable property is property that has been removed from the prisoner but will be returned on the individual's release from custody. The following procedure was put in place at the PPC for returnable property:

- Money would be counted and itemized on camera
- Property would be placed in a plastic property bag
- Cash would be placed in a separate property bag
- All medication would be logged and placed in separate property bags with the appropriate logs and forms completed
- Applicable sections of the property bag would be completed (to track the property with the prisoner)
- Property bags would be sealed, and the detachable tag given to the prisoner
- Completed property bags would be submitted to the designated exhibit officers for temporary storage
- Property bag numbers would be recorded in the CIPS report
- Property bag numbers would be noted in the officer's memorandum book, and
- On release from custody, the property would be properly inventoried on camera and returned to the appropriate individual.

Property that was not released to an individual had a different procedure:

- Two different Toronto Police Service property forms would be completed, and a copy would be supplied to the prisoner (forms 405 and 407).
- The property would be submitted to PEMU personnel for a signature and for data entry into the PEMU computerized system. PEMU would store the property temporarily and then transport it to the PEMU storage facility before the end of their shift.

The process planned at the PPC was that all prisoners who came off vehicles with property would have their property taken before they were placed in an offloading cell. The property would be X-rayed and, once cleared, would be placed in the

designated property storage area on a shelf. Once the prisoner was ready for processing, Court Services would retrieve the appropriate HOT sheet and the associated property before bringing the individual to the booking staff sergeant. Prisoners who were criminally charged would have their property transferred with them to court. Property belonging to prisoners brought in for breach of the peace would remain at the PPC until the individual was released. Property seized for evidence was not handled by Court Services but was placed in a separate evidence room. For those prisoners arrested for breach of the peace, court officers were required to retrieve and catalogue their property on their release.

Although these procedures were in place, it seems the officers were not properly trained in the procedure, were not made aware of a contingency plan should the original process become unrealistic, or they were unable to complete the necessary steps once the mass arrests started arriving. As a result, the tracking of property became an area of concern within the PPC.

Procedure for young offenders and female prisoners

The planning document and the existing processes both indicated that the court officer driving the prisoner wagon was to alert the court officers at the PPC about the composition of the prisoners on board (the breakdown of males, females, and young offenders). According to Court Services' normal practice, in any wagon containing young offenders, those individuals would be unloaded first. Once they arrived, their paperwork would be checked, and their young offender status verified. TPS policy states that young offenders must be separated by gender and not be lodged in a cell with adults.

The PPC plan did not specifically designate the cells as male, female, or young offender. Rather, once the prisoners arrived, the cells would be divided appropriately. No cells in the offloading area had previously been designated either, but the plan was to do so according to operational requirements. Policy states that females must be segregated from the male prisoner population, as must young offenders.

The policy on young offenders further states that a special form must be completed for them and that all young offenders 16 and under require parents or guardians to be notified on their release and either they must pick them up or TPS must ensure their safe arrival home. The staff sergeant was responsible for ensuring that this policy was followed.

Roles and responsibilities

Booking staff sergeant and booking officers

The role and responsibility of the staff sergeant at the PPC were “identical” to those at a “police facility,” according to one of the team leads. Prisoners would be brought before the staff sergeant and put on camera – both audio and video. The staff sergeant would advise them of their rights to counsel and to use the phone and also inquire about any medical issues, identify any complaints, and note and assess any visible injuries. The staff sergeant would then explain the process to the prisoner and authorize a search (level 2 or 3), based on the information at hand. Under normal circumstances the prisoner would have been “paraded” before the booking sergeant by the arresting officer, who would articulate the reasons for arrest, but during the G20 this step was not possible. All assessments were based on the information made available on the HOT sheet. Staff in the booking trailers had no communication with the investigation staff at the PPC.

Under normal procedures, once the arresting officer had paraded the prisoner, the booking sergeant would decide whether the articulated reasons were sufficient to continue the arrest or whether the prisoner should be released. Because the arresting officer was not available during the G20, the booking sergeant had to rely on the information provided on the arrest record. Despite the clear lack of information provided on some of the HOT sheets, including the names of arresting officers, no prisoner was released by a booking sergeant for lack of articulated reasons for the arrest.

Police officers in the booking area used trailers within the PPC for prisoner booking purposes. A constable would receive a random prisoner from a Court Services officer and parade the prisoner in front of a staff sergeant for booking. The staff sergeant would be accompanied by a “booker,” who was also a police officer. The staff sergeant, as the “officer in charge” of the booking process, was responsible for making decisions on the level of search and for booking a prisoner in a manner consistent with TPS policy and procedure. The booker would enter the prisoner information into the computer system CIPS and assist with management of property and the appropriate paper forms.

The booking officers were not responsible for ensuring that prisoners were able to use the phone or speak with legal counsel. If prisoners specifically asked a booking officer about access to counsel or to a phone, the booking officer would reiterate their rights and remind them to ask a court officer or investigator.

The role of Investigations was to investigate prisoners in the PPC and to determine which charges, if any, should be laid against a prisoner based on the arrest information and the investigation. There appears to have been very little communication between booking and investigation officers with regard to prisoner information. The Investigations Unit was located on the second floor of the PPC in a separate area, away from the prisoner management and holding area.

Arrest teams and investigations

According to the TPS planning document, the arrest teams in the field were responsible for processing arrests as follows:

- All arrested parties would be transported by prisoner wagons or prisoner buses.
- The wagons and buses would be equipped with arrest kits.
- Arresting officers would be required to provide *sufficient information* to complete an arrest card (HOT sheet), including the facts and circumstances

that substantiated the probable cause to make the arrest, the specific date, time, and location of the arrest, names of witnesses, and any other information deemed necessary.

- Two photographs would be taken of each accused: one photo would remain with the arresting officer, and the other one would accompany the accused. The arresting officer would be identified and photographed with the arrestee – with the assigned “control number” in view.
- A wrist band with the assigned control number would be attached to each arrestee.
- A tag with the arrestee’s control number would be attached to any property or evidence associated with the arrestee.
- If members of the arrest team knew that they were arresting the parent or guardian of a minor child who was on site, they would call for the uniform team assigned to the Children’s Centre (the Child Apprehension Team) to come to pick up the child.
- Children would be taken immediately to the Toronto Children’s Aid Society (CAS) at 30 Isabella Street (Children’s Centre), without unnecessary delay by the assigned uniform team.
- An emergency child custody report would be filled in to accompany the child. The arrestee’s control number would also be placed on the report for tracking purposes.
- All G20-related arrests would be taken to the Prisoner Processing Centre at 629 Eastern Avenue. All non-G20-related arrests would be transported to assigned divisions for processing.

According to the plan, the prisoner would arrive at the PPC with completed information regarding the arrest and a photo with the arresting officer. Because the investigative team was not in the field, its ability to investigate an arrest effectively depended on the information provided on the HOT sheet. Any missing information would delay the process and impede the investigation.

Once Investigations made a decision regarding the prisoner’s status, the prisoner would be taken for a video interview and a level 3, or strip, search – if the individual had not already been strip searched during booking. It was up to Investigations to make this determination and to instruct Court Services to escort prisoners to speak with duty counsel. This procedure meant that all prisoners who were detained and processed in the PPC had to be investigated before being released. The planning document was silent, however, on the process for those arrested for a breach of the peace – which is not a criminal charge. In effect, no process existed for those prisoners to get to the Investigative site.

The criminal investigation section was responsible for assessing and documenting all criminal activities related to the G20 and for ensuring that they were thoroughly investigated. The only exception was crimes against internationally protected persons, including terrorism. Because the investigators were responsible only for those individuals who had perpetrated criminal activity, they were not concerned with those arrested for a breach of the peace. This gap meant that, on paper, no one at the PPC was responsible for the decision to detain or release an individual arrested for a breach of the peace. As a result, many of those arrested for a breach of the peace were kept well beyond the 24-hour period – they simply never made it through the entire process.

Court Services

Court Services officers were responsible for prisoner and property management, including:

- Prisoner movement / escort around the PPC (for example, medical visit, phone access, duty counsel access)
- Prisoner feeding
- Prisoner care, safety, and security
- Searches of prisoners
- Initial recording of prisoners in the sallyport area

- Intake and release photos of prisoners at the PPC
- Moving prisoner paperwork around the PPC (for example, sallyport to booking, booking to Investigations)
- Bringing prisoners to a parading constable for processing in the booking trailers
- Managing prisoner property
- Acting as “runners” to move documents around the PPC
- Fingerprinting and photographing detainees using Livescan and RIC technology
- Transferring prisoners to court.

Although court officers were responsible for escorting prisoners to duty counsel, they were not responsible for the decision to allow access to duty counsel. If a prisoner requested access to duty counsel, the court officer would merely inform Investigations of the request or inform the prisoner that it was necessary to see Investigations first.

The responsibilities of Court Services officers for prisoner management therefore involved every aspect of the procedures, from intake to release. The lack of training provided to court officers and the eventual influx of prisoners at an unexpected rate caused Court Services to become overwhelmed, leading to a number of serious procedural failures and the mismanagement of those detained within the facility. The confusion regarding policies and procedures caused problems in prisoner management and led to violations of prisoner rights.

Meals

According to the planning document, meals for detained persons would be provided by Court Services staff. Prisoners would be fed every six hours. Meals would be delivered by logistics personnel and distributed by assigned Court Services officers.

Health and medication

The TPS planning document for the G20 indicated that the parading officer was responsible for evaluating the mental and physical condition of detainees and for noting any medical conditions or injuries on the record of arrest. This plan contradicted statements made by the booking sergeants, who suggested that they were responsible for this assessment. The planning document states:

- In the event that a detainee requires medical attention, there will be an assigned doctor on site to deal with minor medical issues. EMS will also be on scene to transport prisoners to hospital if required. All hospital escorts shall be assigned by a Supervisor, and Court Services Directive CRT 03-07 shall be followed.
- If a detainee requests access to their medication, court officers shall comply with all Court Services and TPS policies and procedures.
- All medication shall be stored in a secure area and shall be recorded on a CRT 26 (Court Services Record of Medication Log) and TPS 470 (Prisoner Medication).

Areas of concern and analysis

Planning for the G20

The issues of greatest concern relating to the PPC can be traced to the planners and senior officers within TPS who did not provide adequate oversight of the G20 planning committee. It is obvious that the overall plan for the PPC was not complete or detailed enough to provide guidance to those operating the facility. The gaps in the plan were known to many of those assigned to the PPC even before the G20 weekend. It is unacceptable that the planning committee did not adequately address these issues and that the Senior Command at the PPC refused to make changes to correct these gaps when they were brought to their attention. The basic fact is simple: no contingency plan was ever formally written down. No one was able to produce any such plan, and no staff ever saw one. There was a clear unwillingness

from Senior Command to veer from the course established by the planning committee, even when it was obvious that it would not work.

One staff sergeant indicated there were bottlenecks both at the beginning and at the end of the process: one court officer processed prisoners at the front end for intake, and one staff sergeant processed prisoners being criminally charged on the back end. The staff sergeant indicated that, in his opinion, these slowdowns were identifiable before any prisoner walked through the door on June 18, but they were not addressed.

The complete lack of operational planning, policies, or procedures related to breach-of-peace arrests indicates that those planning the PPC did not consider the possibility of mass detentions where no charges were pending. Not only was there no policy or procedure for these prisoners to speak with a lawyer or access a telephone but there was no process for releasing breach-of-peace arrests. The PPC was set up in such a way that individuals who had been charged criminally had to walk through the booking area on their way to be processed – an arrangement that represented a security breach in that these individuals would be among detainees who had not yet been processed. No plan was in place that addressed this scenario. As a result, when the majority of prisoners sent to the PPC were arrested for breach of the peace, it left those in charge scrambling to create processes on the spot.

Although planning documents frequently mention that the PPC could hold 500 prisoners, or more if necessary, there does not seem to be any logistical basis for this assumption. Nowhere does the PPC planning document indicate how many prisoners could be assigned to each cell, the time required to process a single prisoner, how long a prisoner should be placed in a booking cell, or the actual size or square footage of the physical plant that would hold the prisoners. There was no reference to the maximum time a prisoner should spend in a “dry cell” without access to a toilet, the process for assigning young offenders or women to cells, the length of time a court officer would need to feed the prisoners, how best to make an accurate head count

of prisoners within the PPC, or the contingency plan for an overflow of prisoners or any other failure of general procedures.

Because there was no specific breakdown of time to complete the processes within the PPC, it is impossible to understand how the planners arrived at the number of staff required to operate the detention centre. Staffing does not appear to be based on the number of prisoners within the PPC. For example, there is no direction for increasing staff assigned to specific areas should an influx of prisoners arrive at the PPC. Although a contingency plan was mentioned by some senior staff, the OIPRD did not receive a copy of the plan, nor were specific items within the plan ever referenced. Meals were to be served every six hours, according to the planning document, but Court Services policy stated times to serve breakfast, lunch, and dinner. No thought had been given to the ability of the vendor to provide meals should the PPC reach capacity. One location administrator explained that people were not fed more frequently simply because the vendor was not able to keep up with the demand.

The PPC planning document includes an emergency management plan, but the plan itself fails to mention what should be done with the prisoners once they were evacuated from the building. It is also unclear from the plan what constituted an emergency, other than a fire or a bomb threat. The PPC was flooded with approximately six inches of water on the floor and part of the roof caved in during the time when it was close to or at capacity. That incident, however, did not trigger any portion of the emergency management plan. What is clear is that the flood was significant enough to force duty counsel to evacuate their offices.

There were inconsistencies between the plan and the practice of staff who were actually working at the PPC. The G20 plan clearly states that existing TPS policies will be used during the operation of the detention centre. During interviews with the senior court officers and commanders at the PPC, however, it appeared that there were areas where the instructions had not been made clear. The planning document states that prisoners will be fed according to the TPS

policy on prisoners in detention cells. Court Services, and even Superintendent Farrar himself, were under the impression that Court Services policy would be used. Another serious area of concern relates to the capacity of the PPC. Senior Court Services officers were under the impression that the capacity of 500 prisoners referred to the total processed over the course of the G20, while Farrar mentioned 500 prisoners at one time. Clearly there was a lack of clarity among the commanders and the people on the ground. It is also troubling that the TPS documents indicate that the PPC could “hold more than 500 prisoners” if necessary, yet a specific number was never given. In some cases 750 is mentioned; in others, 1,000. With the planners and the people operating the facility uncertain about the basic criteria, it became impossible to administer it effectively.

What is abundantly clear from the planning documents is that the planners never expected that more than 1,100 people would be arrested and processed during the course of the G20 weekend. Although the decision to arrest individuals should never be based on prepared plans, the commanders should have been aware of the effect their decision to make mass arrests would have on other areas, and they should have made contingency plans to deal with the influx. Although information that the PPC was reaching capacity was communicated to the MICC, awareness of that fact did not seem to affect either the number of people arrested for breach of the peace or the process for handling them. These prisoners continued to be delivered to the PPC, and they were detained at the facility.

Paperwork

According to the G20 planning document, the arresting officer was responsible for filling in the arrest card, or HOT sheet, at the scene. It would include name, age, and gender of the arrested individual, the arresting officer’s name, badge number, and service, the location and time of the arrest, any injuries noted, the charge, and a short description of the circumstances of the arrest. The detective in charge of investigations at the PPC would use this information to decide whether to detain or release the prisoner.

Contrary to PPC planning, arresting officers did not complete the paperwork in the field, and hand-off teams rarely had sufficient information to complete the arrest record. Often they lacked even the name of the arresting officer. The reason-for-arrest section frequently included very little information. The lack of accurate and completed paperwork once the prisoners arrived at the PPC caused problems both in processing them and in investigating the reasons for their arrest and detention. Detective Services were located at the PPC, and were therefore removed from the location and circumstances of the arrests. Given the dynamic situation on the streets, it was unreasonable to believe that public order unit (POU) officers would have the time to remain at the site of the arrest while paperwork was filled in and pictures were taken.

Paperwork completed at the PPC was both sporadic and incomplete. There was a lack of continuity and consistency in the information received through disclosure. For example, the OIPRD received three separate spreadsheets that dealt with arrested persons. One spreadsheet titled “Total Arrests” provides a number of 1,112 arrested persons; one titled “G20 Persons Arrested,” which includes the list of charges only, has a total of 1,057; and the “PPC Booking Program,” which should encompass all prisoners who were brought to the PPC, has a total of 889. The inconsistent numbers were only one of the many problems with the paperwork: one arrested person, for example, had three different entries in each spreadsheet, with the correct spelling in only one entry. These types of mistakes provide clear examples of the overall disorganization within the facility – and they contributed to the delay in preparing the OIPRD Investigative Reports and the Systemic Report.

The majority of prisoners arrived at the PPC with an incomplete HOT sheet. Many of these forms had no photo, so court officers at the PPC were required to be photographed with the prisoner after they exited the transport wagon. Staff Inspector Ruffolo estimated that at one point 60 per cent of detainees were arriving without photos. For those arrested on “obstruct” charges, the HOT sheet frequently did not contain the articulated reasons for the

arrest. Because the name of the arresting officer was missing in some cases, the officer in charge was unable to articulate the charges or continue the arrest. That did not seem to affect the decision to release the prisoner. The incomplete paperwork also made it difficult to identify officers in the event of a complaint.

Of the 330 prisoners who faced criminal charges, 292 have already had their matters dealt with: 32 pleaded guilty, 39 were completed through direct accountability (also known as diversion), 11 were subjected to peace bonds, 201 were stayed by the Crown, withdrawn, or dismissed, and 9 were listed in error. At time of writing, there are 34 outstanding cases: 26 individuals have had their matters adjourned to a later date, and eight still have outstanding warrants for their arrest.

Booking videos

A booking video is mandatory when a prisoner is brought before the officer in charge (OIC) to be booked into the CIPS system. The interview is video recorded, and a video is produced for each prisoner. The OIPRD received 604 booking videos: 528 arrested persons had no record of a booking video, and 10 were not applicable because they did not attend the PPC.

Criminal Information Processing System reports

During the G20 weekend, TPS inputted 1,071 entries into the Criminal Information Processing System (CIPS), leaving 75 arrested persons with no record in CIPS.

Many of the CIPS packages included multiple arrested persons, with no clear explanation for their consolidation. In addition, the entries into CIPS, the charges on the HOT sheets, and the verbally communicated arrest charges frequently lacked continuity. Problems arose from the lack of information recorded at the arrest location, including the correct arresting officer, the correct charges, the correct arrested person (AP) particulars, and the details surrounding the arrest. Officers filled

in charges on the HOT sheet without knowing the arresting officer – a particularly troubling practice given that many of the charges were conspiracy to commit an indictable offence. Unless there was previous intelligence, it is difficult to establish co-conspirators without knowing the identity of the arresting officer. Many charges were downgraded to breach of the peace while the prisoner was still at the PPC.

Duty counsel tracking forms

Not all the duty counsel tracking forms the OIPRD received were dated. The tracking forms that were dated indicate that 54 people saw duty counsel. One undated tracking form listed 11 names of prisoners who visited duty counsel. The forms for Monday, June 28, were apparently lost. Overall, the forms were largely incomplete and in some cases illegible. Duty counsel visits were also supposed to be tracked on the prisoner tracking form in addition to the duty counsel tracking form.

Hand-off team sheets

The OIPRD received 997 HOT sheets, or arrest reports, that were completed with a reasonable level of information included, 61 that were illegible, and six that were blank except for the arrested person's name; 82 arrested persons had no HOT sheet at all. Because the forms had been filled out by a hand-off team member, not the arresting officer, OIPRD staff had difficulty in determining how many HOT sheets included all the information required by TPS policy. This passing of responsibility presented a number of challenges in maintaining continuity and in articulating effectively the charges and circumstances of the arrest. In at least 46 instances the arresting officer was unknown – leading to entries on the HOT sheets such as “PSU arrest,” “G20 arrest squad,” and “Group arrest.” As a result, the charge included on the HOT sheet quite often was not the same as that on the CIPS report. For example, a number of “conspiracy to commit an indictable offence” charges were laid at the scene without identifying either the arresting officer or the co-conspirators, or providing the details of the offence they were conspiring to commit.

Injured persons reports

When a prisoner is booked by the officer in charge, TPS policy dictates that any injuries are noted and an injury report is completed. The first disclosure package the OIPRD received clearly revealed that information for injured persons was missing. Altogether, 800 HOT sheets indicated that no Use of Force report was required, 335 had nothing filled in, and only eight identified that a Use of Force report was required. Through disclosure, the OIPRD received 13 Use of Force reports.

In total, there were 1,117 arrested persons with no record of an injury report. The OIPRD received 13 completed injury reports and 12 incomplete injury reports. Some of the information that was missing from the injury reports is critical to the effectiveness of the report, and its absence is contrary to TPS policy 15-02, Injury and Illness Reporting. It was clear that one of the complainants to the OIPRD had sustained serious injuries that required treatment at a hospital, yet essential information was missing from this person's injury report and arrest record. The injury report did not include information such as the physician's name. Other examples of missing information include the circumstances of the injury, the cause of the injury, a description of the illness or injury, the name and signature of the officer completing the form, the name and signature of the officer in charge, the name and signature of the unit commander, whether or not treatment was received, and the synopsis. Many of the descriptions were broad and not helpful in explaining how the injury occurred. The OIPRD received one injury report that read: "The accused was involved in an altercation during the G20 protest. During the protest a riot ensued and the accused received his injuries."

Level 3 search of person templates

A level 3 search, or strip search, may be authorized during the booking process by the officer in charge. When this search is conducted, TPS policy stipulates that a "search of person" template should be completed indicating who authorized the search and why it was deemed necessary.

Records indicate that at least 245 level 3 searches were performed at the PPC and that 887 prisoners had no record of a level 3 search. The 10 arrested persons who were not taken to the PPC are not included in either number. Of those who received a level 3 search, 185 were male and 60 were female. The OIPRD received only 59 search-of-person templates, and not the 245 required under TPS policy.

Medical attention tracking form

The "medical occurrences at the PPC" log records 28 visits to the medical trailer. Given that the estimate suggests that more than 1,000 people went through the PPC over the course of the G20 weekend, it is unlikely that only 28 individuals (less than 3 per cent of the prisoners) required medical attention. The incomplete state of the paperwork makes it impossible, however, to determine how many prisoners received medical attention.

Medication form (TPS 470) and medication log

In disclosure, the OIPRD did not receive any medication forms or any medication log, yet it is aware of numerous individuals who reported having prescription medication and who requested access to the medication at the PPC. A separate medication form was supposed to be completed for every prescription medication in the possession of a prisoner, and the medication was to be recorded in the medication log. The medication form, the log, and the prisoner tracking form should all have been updated every time a prisoner received the prescribed medication.

Photographs

All arrested persons are supposed to have their pictures taken with the officer who arrests them. However, as the prisoners arrived at the PPC, only 619 had colour photographs of sufficient quality, two had colour photographs of poor image quality, 37 had black-and-white photographs of sufficient quality, and 38 had black-and-white photographs of poor image quality. A total of 447 arrested persons had no record of an arrest photograph. The court

officers at the PPC were therefore required to be photographed with these prisoners after they exited the transport wagon. This procedure increased delays in the processing of prisoners, but resulted in a total of only 90 colour intake photographs of sufficient quality, seven black-and-white photographs of sufficient quality, and 10 black-and-white photographs of poor image quality. The remaining 1,025 prisoners had no record of an intake photograph. The 10 complainants who were arrested but did not attend the PPC are not included in these totals. These calculations show that, of the 447 persons who did not have an arrest photo, only 107 had a supplemental intake photo taken.

After viewing all the photographs received in disclosure, it would appear that 880 detainees had no visible injuries, 219 had no photographs (so no determination could be made), and 43 had visible injuries. A total of 34 HOT sheets indicated injuries, but only five had injury reports – and three of those were incomplete. None of the HOT sheets indicated that a Use of Force report was required.

Prisoner booking log program

The prisoner booking log program, an Excel-based spreadsheet, was created so Court Services could record prisoners arriving at the PPC before they were booked by a staff sergeant. The information labels were:

- Prisoner name
- Sex
- Date of birth
- Classification
- Medical conditions
- Special considerations
- Contaminated
- Wagon in
- PPC time in

- Holds
- PPC date out
- PPC time out
- How out
- Bag number
- Reason for detention
- Date of arrest
- Location of arrest
- Arresting officers
- TPS use of force
- TPS 105 (illness and injury report)
- Remarks.

The program provided to the OIPRD during disclosure was incomplete in numerous areas and contained undocumented dates and times for prisoner releases as well as missing or blank fields in the property bag number field. For example, many prisoners were listed as “PPC date out” June 26 or June 27, and in 29 instances no arresting officer was noted. Furthermore, there was no column for “PPC date in.” Without any record of the date the prisoner arrived at the PPC, tracking for 24 hours on a breach of the peace was nearly impossible.

Prisoner tracking form

Prisoner tracking forms were to be completed for all prisoners – to track and record their movement between cells, their visits (for example, with duty counsel or to the medical trailer), as well as prisoner searches and feeding times. The forms were essentially a summary of what each prisoner did while in custody, and they would permit Court Services to track down a prisoner’s location at any particular time. Court Services spreadsheets held the names of 886 prisoners who entered the PPC. Of those prisoners, the OIPRD received a total of 397

prisoner tracking forms. Court Services supervisors were responsible for ensuring that these forms were complete.

Property forms

All prisoners, according to the operational plan, were to receive a receipt for any property that was removed during their arrest. The complainants the OIPRD interviewed were unanimous in stating that they were never given a property receipt. At minimum, a prisoner should have received a tag with the following information:

- Property was received on release, or
- Property was not received on release and must be obtained at a later date.

Repository for Integrated Criminalistic Imaging

TPS policy stipulated that the booking officers at the PPC should use a computer mugshot system that ran on a Windows operating system. This system, Repository for Integrated Criminalistic Imaging, or RICl, is used by the police services for regular operations as they process prisoners: it fingerprints and captures their physical attributes electronically, photographs them, and loads this information into the database. The photograph is sometimes referred to as a “mugshot.” Among the materials received by the OIPRD were 262 RICl photos and 870 entries with no record; 10 entries were not applicable because these individuals did not attend the PPC. Of the total number of people arrested during the G20, 326 prisoners faced criminal charges. That meant that the proper procedure was not followed for 64 of those prisoners because, at the very least, no photograph was included in their RICl.

Rights to counsel records

According to the TPS planning document, when individuals were booked before the officer in charge, the parading officer would inform those prisoners of their rights under the Charter. In the records received by the OIPRD, there were 946 instances where

rights to counsel were provided, and 197 (including a double entry) that had no record of receiving their rights to counsel.

Young offender notices

The OIPRD did not receive any “YCJA [*Youth Criminal Justice Act*] notice to parent, guardian or other adult” forms from the Toronto Police Service in disclosure. TPS policy requires that these forms be completed when a young offender is released from police custody. Of the 886 prisoners logged into the Court Services booking program, 30 were noted as young offenders.

Training

Training for the PPC personnel involved an orientation weekend at the detention facility. Police officers and court officers assigned there received an orientation package and went through mock exercises to practise the established processes. Superintendent Farrar mentioned in his interview that the mock exercises went well, but that it was virtually impossible to re-create the actual flow of prisoners once the G20 began. Although the mock exercises may have been effective at familiarizing the staff with PPC processes, ultimately the training did not prepare those working at the PPC for what eventually occurred. Effective planning and training should prepare for a worst-case scenario and have backup plans in place to avoid a complete breakdown in the system. Superintendent Farrar mentioned that a contingency plan to deal with the possibility of the PPC reaching capacity was in place, but no one could provide a copy of the plan and both the supervisors and the team leads indicated that they had never seen the plan. Furthermore, there did not appear to be a contingency plan to deal with mass arrests arriving at the PPC to be processed all at once. This mass arrival eventually led to a complete breakdown in all sections of the PPC.

According to the location administrators, the “majority” of court officers were present at the orientation weekend and received the package. The weekend included a tour of the facility, a description of prisoner flow, advice to personnel on their areas

of responsibility, followed by a question and answer period. On Friday, June 18, when the PPC became officially operational, the officers did some “mock exercises.” One of the team leads for booking indicated that police officers were “trickling in” on the days after the PPC opened. This staggered arrival meant that many of the officers would not have been present for the orientation weekend or the “dry runs.”

Training was minimal at best, and it is of great concern that the location administrator stated that only a “majority” of court officers attended the orientation weekend. Obviously, some of the court officers received no training at all before arriving at the PPC. Furthermore, some of the policies contained in the PPC training manual contradicted the directions from Senior Command: for example, the PPC manual stated that prisoners should be fed every six hours, while Senior Command instructed Court Services to use the Court Services policy, which had specific times for each of the three daily meals. In some cases Senior Command was uncertain about the policy or procedure – prisoner access to telephones providing a clear example. The policy stated that reasonable access would be permitted, but Senior Command varied on how the policy should be carried out – or even if access to a telephone was required at all. This ambivalence confused Court Services officers on the ground, and the majority of prisoners arrested for breach of the peace received no access to a phone.

One of the staff sergeants indicated that he does not recall ever receiving a training manual and that he was told of his assignment only a day or two before reporting to the PPC. It seems that a number of assignments were made just before the PPC became operational, including assigning responsibility for site security to Superintendent Farrar. The conclusion that must be made is that the planning committee overlooked certain logistical issues and was forced to arrange for them at the last minute.

Superintendent Farrar stated: “We asked for staff sergeants that had recent and relevant booking experience, and that they would bring their own personal booker along.” Clearly that was not the case because the OIPRD knows of at least two

staff sergeants who had little to no experience in booking prisoners. It was a near impossible task for those sergeants to adhere to booking policies and procedures that they had not been trained in and with which they were not familiar.

Prisoner arrests and processing

Beginning on Saturday, June 26, the Major Incident Command Centre began giving orders for mass arrests of protesters. This decision greatly affected the PPC, causing a complete breakdown of all areas from processing to prisoner management. According to one of the location administrators, although the MICC did give advance notice of mass arrests, it was only “20 minutes to a half hour” before the arrival of the prisoners. No information about the numbers of prisoners was provided – merely that they were en route to the PPC. Clearly the time and information provided were not adequate to prepare for the handling of mass arrests. It should have been evident that a backlog would occur and that steps should have been taken to address the problem immediately. The status quo should not have been an option, and a decision should have been made to redirect breach-of-peace arrests away from the PPC or to bring in additional Court Services officers or police officers to assist with the processing and handling of prisoners.

The mass arrests affected the PPC in a number of ways. To begin, although the sallyport could hold more than one prisoner wagon, the process in place required that the wagons be accepted one vehicle at a time. The location administrators needed to know how many vehicles were en route because the actual number affected how quickly they should unload the wagons and place the prisoners in cells waiting to be processed. Wagons also needed to be freed up quickly to return to the site of the protests in the event of further arrests. The short notice and the lack of any real information, such as numbers of arrests, meant that Court Services was scrambling to accommodate the wagons rather than having the opportunity to prepare ahead of time. The confusion that resulted stemmed from poor contingency planning by the G20 Senior Command and the lack of training it provided to PPC staff.

In addition, the mass arrests on the streets caused a breakdown in the processes at the street level which in turn affected the prisoners once they arrived at the PPC. Because paperwork was not appropriately completed before the prisoners' arrival at the PPC, Court Services officers were forced to attempt to complete the paperwork themselves. This additional responsibility caused further backlogs in the system.

Policies and procedures

As each group of prisoners exited the transport vehicles, they were supposed to be divided into male / female, and young offender (YO) groups. Cells were to be designated for young offenders under 16 and under 18 years of age. In practice, this plan became an issue. None of the booking cells was designated ahead of time as male / female or young offender, and, as prisoners came into the PPC, Court Services designated the booking cells according to the gender and age of the individuals they received. Because of the overcrowding, however, young offenders were often mixed in with adults. It also became very difficult to move and manage the flow of prisoners through the booking process. A great deal of movement was required to ensure that males and females were separated. Once the influx of arrestees began to arrive, the court officer in charge of prisoner management had a very difficult task trying, simultaneously, to designate cells and to process prisoners.

Had the booking cells been designated ahead of time, some juggling may have been required if the numbers differed from what had been anticipated, but the planned arrangement would have made handling the influx of prisoners much easier. Furthermore, more court officers could have been assigned to process arrestees as they arrived by assigning blocks and setting up the prisoner processing system on different sheets using blocks of cells. It would have greatly sped up the process when the prisoners arrived and avoided the foreseeable bottleneck of all prisoners having to go through one court officer to be processed before being sent on to booking. It would also have kept people out of the holding cells for lengthy periods; some holding cells did not contain toilets.

Within Stage 9, which contained the main investigative cells, only the 17 single cells around the edge were designated as "Female, Young Offender or Management Concern." Clearly these cells were not sufficient for the number arrested, and they became a huge prisoner management issue. The remaining cells had all been designated as male adult cells. Once it became evident that the prisoner ratio of male to female was a little less than 3 to 1, and that there were far more young offenders than expected, court officers were forced to move prisoners around to create space. That led to some cells being over capacity while others had only a few prisoners. It also meant that male and female cells were sometimes adjacent to each other, causing a privacy issue as male and female court officers patrolling through the corridors could see prisoners of the opposite sex using toilet facilities. This situation not only caused a privacy concern for prisoners but contradicted TPS policy.

A contributing factor to the delay in releasing prisoners can be attributed to the prisoner bracelets. Court officers used the arrest number (which corresponded to the HOT sheet) to locate a prisoner in the PPC. This number also corresponded with the bracelet the arresting officer in the field put on the particular prisoner.

If prisoners removed their bracelets or forgot the number that was on them, they would not know they were being called by a court officer when officers did call out these numbers. The OIPRD had an opportunity to examine the bracelets that were used for the G20. They were made of a paper that resembled a "sticker," did not appear to be durable, and could easily be torn or removed. Obviously, the stickers recording the arrest number that were also placed on prisoners were not a reliable tracking method and could, moreover, have simply fallen off rather than been removed.

Prisoner property

The two location administrators acknowledged that there were problems with prisoner property and handling. One of them indicated that these issues resulted from the influx of prisoners. It became

impossible to keep track of all the property brought to the detention facility and to store it in the area of the PPC set aside for prisoner property. Eventually, property was “all over the place,” and the court officers began to use the sallyport section as they tried to organize the property more efficiently and to assign it to the correct prisoner.

Some of the bags were quite large and took up a great deal of space, and many came in with no names on them. That meant that a court officer had to attempt to match the number on the various pieces of property to a detainee, using the paper bracelet with the prisoner number. Many of the prisoners had already removed the bracelet with the booking number, making it virtually impossible to match the prisoner to the property. This confusion tied up a great deal of the court officers’ time and delayed the release of prisoners.

Both location administrators pointed out that, “in a perfect world, property should have come to the PPC in a bag clearly labelled with: prisoner name, arresting officer’s name, date and time of arrest and a list of the contents in the bag.” That procedure was in fact laid out in the TPS planning document. The administrators felt that the volatile situation in the streets and the large number of arrests caused a breakdown in some of the procedures. As a result, some property bags came in with no information on them. In addition, the heavy rain on Sunday, June 27, meant that some of the bags that were properly filled in were not readable on arrival at the PPC and could not be tracked to a specific prisoner. Responsibility for completing the property paperwork was therefore downloaded onto the court officers at the PPC, who were already overwhelmed by the influx of prisoners.

The location administrators indicated that, when problems became apparent, they did not recall any new orders from command regarding the handling of prisoner property. This task is a normal function of Court Services, they said, and a policy already existed. It seems clear that the existing policies had not been adhered to before the prisoners arrived at the PPC, and the downloading of responsibility for prisoner property onto the court officers was,

in fact, not a normal Court Services function. In normal conditions, Court Services were responsible for logging and tracking prisoner property that was accompanied by properly completed paperwork. No procedure or policy was in place to deal with property bags that did not come with completed paperwork.

Property that arrived at the PPC with no corresponding information to track it to the prisoner other than a prisoner ID bracelet (which may or may not have been on the prisoner) was clearly an issue that was not planned for or handled effectively for a number of reasons, including the unanticipated arrival of mass arrests. Property was strewn about the sallyport in an attempt to organize and match it to the appropriate prisoner. This confusion not only slowed down booking when prisoners arrived at the PPC but ultimately slowed down the release of prisoners as court officers searched through stacks of property lining the walls, trying to find the appropriate property bag. Once the court officers had organized the property in alphabetical order against the wall in the sallyport, the retrieval of property went more smoothly. However, that did not happen until the evening of Sunday, June 27.

Numerous complainants indicated that property was lost or not properly accounted for when they left the PPC. A staff sergeant corroborated this complaint by stating that he personally went and retrieved a woman’s property when she did not receive it on release. He commented that her car keys “and everything were there” and that the woman was from out of town. In addition, all complainants at the PPC indicated that they received no tag or paperwork regarding their property, as required by the TPS planning document. Disclosure provided to the OIPRD did not include any forms related to property, despite the clear requirement in the planning document for a form for the property bag and a separate form for any medication the prisoner might have. The only conclusion that can be made is that this paperwork was either not completed or lost.

Young offenders

The specific concerns regarding young offenders were that:

- They were placed in the general population with adults
- Parents or guardians were not notified on their release, contrary to TPS policy
- Appropriate forms were not completed.

The TPS policy on young offenders – the policy used during the G20 – clearly states that they are to be segregated from adults at all times. Furthermore, it says that a parent, adult relative, adult friend, or spouse should be notified without delay and requested to attend the facility. The officer in charge is responsible for ensuring that a *Youth Criminal Justice Act* (YCJA) parent notification form is completed and served – at the facility if possible. The OIPRD received no such forms in disclosure, despite the fact that there were young offenders at the PPC. TPS policy also stated that there should be a separate designated area for young offenders, to prevent detention with the adult population.

According to the planning document, prisoners were to be sorted on arrival at the PPC before being placed in the holding cells. Anyone who appeared to be a young offender, or who identified as a young offender, should be segregated from the adult population. Superintendent Farrar was unable to identify the area of the PPC designated for young offenders, but indicated that he had no knowledge of any young offenders being incarcerated with adults and that his directions were clear that the TPS policy should be followed. Staff Inspector Ruffolo also stated that he was not aware of any segregation issues at the PPC.

The location administrators indicated that they did the best they could to keep the young offenders away from adult males and females and that they were not aware of any instances where the young offenders were mistakenly placed with the general population of adults. They acknowledged, however, that no cell had a specific designation before the

arrival of prisoners. The decision to designate a cell was done after prisoners came into the PPC. If the majority were males – more male cells would be designated than for either females or young offenders.

In practice, however, young offenders were placed in adult cells. The information gathered in the OIPRD review indicates that this placement occurred on a number of occasions. One young offender indicated that he was put in a cell with adults, and several adult prisoners stated that their cell contained a young offender. The information received by the OIPRD indicated that the individuals in question had identified themselves as young offenders to the staff, but that they were not moved to or placed in a segregated cell.

In one particular incident, because of the HOT sheet information, the booking staff sergeant was aware of the complainant's young offender status. The OIPRD investigators viewed the complainant's booking video, where he announced that he was a young offender and requested a phone call. The booking staff sergeant acknowledged the complainant's young offender status and advised him that he would arrange for his (the complainant's) parents to be contacted. Despite the fact the complainant had been clearly identified as a young offender, he was placed among the adult population while he was at the PPC. The complainant stated that he requested use of the phone several times to contact his parents, but his request was not granted. When the complainant's parents were interviewed by the OIPRD investigators, they stated that they were not contacted by the police at any time while the complainant was incarcerated or when he was released.

Throughout the disclosure process, the OIPRD was never provided with any completed YCJA notice to parent, guardian, or other adult forms from the Toronto Police Service.

Finding: During the G20, the handling of young offenders at the Prisoner Processing Centre was problematic and of concern. Any future planning

exercise for similar events must explicitly address the issue of young offenders and how best to comply with the *Youth Criminal Justice Act*.

Communication

Communications from Superintendent Farrar and Staff Inspector Ruffolo were received on a daily basis through management meetings. Because the commanders were the main contact with the MICC, they were required to filter necessary orders and information to the staff on the floor. The booking sergeants and location administrators would then brief supervisors and other staff accordingly.

Senior Command held management meetings on an ongoing basis at the PPC. During the operational phase of the PPC, information was distributed from command to line staff (court officers and police officers) by way of shift briefings. A staff sergeant served as the liaison and provided briefings (from the PPC management meetings) to the other staff sergeants and police officers stationed in the PPC. A location administrator (from the PPC management meetings) used a Court Services supervisor as a liaison who would then provide briefings to the court officers stationed in the PPC.

Morning meetings were supposed to take place with representatives from all areas of the PPC. When most of the problems began to occur on Saturday, June 26, the meetings were cancelled. Thereafter, there was no opportunity to discuss problems occurring on the floor among officers from the different areas. There was little to no contact whatsoever between prisoner management and Investigations during normal business operations. The little contact that did occur concerned questions from Court Services officers regarding requests from prisoners or orders from Investigations about certain prisoners. There were never any discussions about the handling or releasing of prisoners. In fact, there were no phones in the booking trailers.

The interaction plan between Court Services staff and the PPC Investigations Unit involved a number of steps. Runners took the paperwork from the booking sergeant to the second floor, where they gave it to

the investigations teams. After Investigations had reviewed the paperwork, someone would “physically come downstairs with the paperwork and ask for the individual.” Court Services would then track down the prisoner and escort this person to the interview room. According to the TPS plan, all interviews were to take place in an interview room.

As a result, investigations officers were of the opinion that only prisoners who were being investigated and charged criminally were their responsibility. Court Services and the booking sergeants believed that no prisoner could speak with a lawyer or use the phone without Investigations clearing it first. The booking sergeants indicated that they were responsible for informing prisoners of their rights but not for ensuring they were able to exercise those rights. In fact, there was no phone in the booking trailers to contact any other area of the PPC. Neither party clarified the process with the other, causing a gap in the procedures. As a result, most of the prisoners detained on a breach of the peace were never given a phone call or access to a lawyer, and many were detained beyond 24 hours.

Finding: In future, processes must be put into place to ensure that, regardless of changes to prisoner flow or capacity at a detention centre, there is ongoing communication among different areas of responsibility. This will allow problems to be identified and solved, ensuring a smooth process. In the crisis situation during the G20, cancelling management meetings altogether contributed to the confusion and overall inefficiencies at the Prisoner Processing Centre.

Leadership response to problems within the PPC

On June 26, 27, and 28, most Court Services officers and booking officers were asked to put in a double shift. Unfortunately, this effort did not alleviate the problems that arose at the PPC.

The role of the court officer, which was already process and paperwork heavy in the G20 plan, became even more cumbersome when these officers were required to complete paperwork that

was meant to be completed in the field. In these circumstances, court officers had to be assigned to take pictures, photocopy, complete property logging and tracking, and fill in missing information regarding prisoner property on the accompanying HOT sheet.

The prisoner tracking system was not properly thought out and, as a result, ended up failing. It was unrealistic on the part of planners to assume that paper bracelets and stickers placed on prisoners would act as an appropriate tracking mechanism. One location administrator indicated that the prisoner tracking system would have worked well except for the lack of cooperation by prisoners who either removed or misplaced their wristband and sticker. The purpose of the stickers and wristband was never explained to the prisoners, and it became evident only when court officers began calling for prisoners by their numbers. At this point the prisoners in the detention centre realized that, if their sticker and wristband were gone, there was nothing tracking them to their prisoner number. Furthermore, some people came in without identification of any kind and did not give their actual name during the booking process. In effect, then, individuals who had not supplied their real name or who did not have a tracking number were effectively lost in the system. Whether or not an accurate name is given, Court Services is responsible for keeping track of individual prisoners. Given that neither the bracelet nor the sticker was durable, it should have been evident to the planners that there was a very real possibility that they would be removed either on purpose or accidentally. The planners should also have realized that many of the protesters would not be inclined to cooperate with the authorities and, not having experience within the court system, would have little appreciation of the importance of the prisoner tracking number.

To further complicate the situation, cells had not been designated ahead of time. Once the PPC became overwhelmed with detainees, court officers were forced to move prisoners around to accommodate the new prisoners coming in. TPS policy states males, females, and young offenders must be housed in separate cells, and the TPS plan called for those charged with criminal activity

to be kept separate from the breach-of-peace arrests. In the rush of arrivals, however, due to time constraints and the constraints of the system itself, court officers were shuffling prisoners around but not appropriately logging changes in the prisoner tracking system. Some officers attempted to keep track of prisoner movement manually on the prisoner tracking form, but this was inconsistent and time consuming. Court Services was simply not able to track the movement or location of prisoners and, as a result, officers resorted to walking through the detention centre, calling out prisoner numbers, in an attempt to track people down. When it was determined that many prisoners no longer had a prisoner number because the sticker and the wristband were gone, the court officers began calling out names.

One staff sergeant highlighted some of the flaws that existed in the plan before the PPC became operational:

- Only one computer was available at intake for Court Services staff to log prisoners. Senior staff had been alerted to this issue before the detention centre opened.
- Given the original plan, prisoners being held for court had to be escorted back through the PPC cell area to the booking trailers after they had been booked and searched. This procedure presented a security breach, and Senior Command was aware of the situation in advance. The staff sergeant chose to rectify it by converting one of the Livescan / RIC trailers to a booking trailer, so the court custody prisoners would be kept separate from the holding area for the breach-of-peace prisoners.

It is clear that problems which were identified before the PPC became operational were not addressed by senior management. The court booking process, in particular, led to the ultimate breakdown of the prisoner booking process. This problem was not addressed until late in the evening of Sunday, June 27. As a result, some prisoners were kept in dry cells for hours with no access to toilets, young offenders were placed into cells with adults, women were

obliged to use toilets in full view of male prisoners and officers, many prisoners had no cell at all and sat on the floor of the sallyport for several hours, and there were general problems in keeping track of prisoners.

In response to the issue with the booking program, one of the location administrators indicated that they never expected capacity at the Prisoner Processing Centre to exceed the volume of work that could be done by one person. However, the program itself was an Excel-based spreadsheet that would not allow more than one person at a time to enter information. Even when it became evident that mass arrests were taking place, the supervisors could not add more Court Services officers to the booking team. As a location administrator acknowledged, there was no contingency plan should the number of people entering the facility exceed the capacity for the one booking officer. Finally, a second computer was brought in late on Sunday evening or Monday morning – well past the time it was needed.

The location administrator was unable to provide an average time needed to book a prisoner because, although he had seen the booking program, he was not familiar with it. He indicated that a number of factors would have to be considered in making an assessment of the processing time, such as the typing skills of the booking officer, the level of cooperation from the prisoner, and whether the HOT sheet was legible or complete.

The location administrator stressed that all arrestees were supposed to arrive at the PPC with a photo taken at the time they were arrested, but many of them came with no photos. Court Services officers were forced to take over this function and photograph prisoners as they exited the buses, in order to match photos with HOT sheets and property. The location administrator also acknowledges that there were times when a property bag containing money was left sealed, rather than opening it on camera, counting the money, and placing it in a separate property bag as required by policy. TPS policy states that money should be counted on the prisoner's release, a proper

form indicating the amount filled in, and the form signed by the officer. In most cases during the G20 weekend, this process was not followed.

At a critical point during that weekend, the decision to release prisoners rested with the Major Incident Command Centre. Although the TPS plan designated the Senior Command as being in charge of the entire operation, there was no point in having the MICC control prisoner movement within the detention facility. The Incident Commander could not have been aware of timing, prisoner movement, or the way the process was working. Superintendent Farrar, as the officer in charge of the PPC, or Staff Inspector Ruffolo should have ultimately been making the decision to release prisoners. By waiting for the MICC to give an order to release, prisoners were detained beyond the 24-hour period for breach of the peace and, in addition, the facility was well over capacity. It does not seem reasonable under these circumstances that the PPC was waiting for instructions from the MICC to release prisoners. The process became needlessly bureaucratic, and the leaders did not adapt to the circumstances. These decisions contributed to the failures at the detention centre.

Although Superintendent Farrar and Staff Inspector Ruffolo did refine the process throughout the weekend, the changes came slowly and ultimately too late. It is also evident that some of the major changes were implemented by team leads on their own initiative rather than by PPC command. The process of releasing individuals one at a time for breach of the peace was never reasonable, given the estimate for a maximum of 500 persons arrested, and that would have become clear very quickly once the mass arrests started on Saturday, June 26. It took until the Sunday evening before the PPC began to release groups of people arrested on breach charges. By this point, officers at the facility had lost track of many prisoners, had failed to release within 24 hours, had denied prisoners phone calls or rights to counsel, and contributed to numerous other egregious breaches.

It wasn't until the evening of June 27 that Staff Inspector Ruffolo addressed the problems with prisoner processing by bringing in a second

computer and setting up another lane for prisoner processing. Given that the plan involved 12 booking trailers, it was entirely unreasonable to have one court officer responsible for prisoner tracking. All arrested individuals had to be processed by the court officer in order to move on to the booking portion of the process. It should have been obvious that a bottleneck would occur. In addition, the decision to use Excel as the program for prisoner processing was unwise because it allowed only one person at a time to use the system. Although the failure in this portion of the process was brought to the attention of Senior Command well in advance of the G20 weekend, no one there addressed it until the system had essentially ceased to work. By then, it was too late to correct anything.

Although Superintendent Farrar stated that he informed the MICC that the PPC had reached capacity, he did not do so in a timely fashion, nor did his report alleviate the problems at the PPC. In fact, it is unclear whether the Toronto Police Service has actual figures for the number of people who were processed over the G20 weekend: very little of the paperwork was completed, and some individuals were brought to the PPC but eventually released without ever being processed. Given the volume of individuals being arrested and the laborious process involved in tracking prisoners, Superintendent Farrar should have directed that breach-of-peace arrestees be diverted to a division much earlier.

Finding: Although it is prudent to have one overall commander in circumstances such as the G20 weekend, the on-site senior manager must be given authority to exercise discretion to alleviate all situations that become problematic or of concern.

Access to a lawyer

Through disclosure of duty counsel logs, the OIPRD was able to ascertain that, between Wednesday, June 23, and Monday, June 28, 65 prisoners were seen by the duty counsel over the course of the G20. The majority were seen on the Saturday and Sunday – a total of 48. One duty counsel log for 10 prisoners was undated, and the logs for June 28 were lost. Court officers were responsible for

completing the logs, but the location administrators were unable to account for the missing paperwork. Of the 65 prisoners who saw duty counsel, only 33 of them were facing criminal charges and 32 had been arrested for breach of the peace.

The vast majority of complainants who were detained at the PPC reported being denied access to a lawyer. The documents the OIPRD obtained through disclosure show that only six per cent of the detainees had access. Of the 1,057 at the PPC for which the OIPRD received a list of charges, 269 were facing criminal charges, while 788 were detained for a breach of the peace. What is clear from the investigation is that even those detained on criminal charges were not given access to a lawyer. (The earlier figure given in this section of 326 criminal charges is for the total number of cases related to the G20, including those who were arrested after the G20 ended.) That means that only 33 of the 269 prisoners facing criminal charges at the PPC were granted access to counsel at the PPC.

Access to duty counsel was limited at best. Of the more than 1,000 people who were processed through the PPC, only 65 had access to duty counsel. There was a total lack of communication between the booking sergeant and the Investigative services. Once prisoners were booked, the staff sergeant informed them of their rights to counsel, but the staff sergeants stated they were not responsible for ensuring that prisoners were able to access those rights. There does not appear to have been any provisions or plan in place at the PPC for prisoners who had been arrested for breach of the peace to get access to duty counsel.

Staff Inspector Ruffolo was under the impression that, if a prisoner requested access to a lawyer, the request would be forwarded to a staff sergeant, who would act on that request. Once Court Services officers received permission from the supervisor or staff sergeant, they would take the prisoner to duty counsel. Both location administrators from Court Services indicated that all requests to see duty counsel were forwarded to the investigative office. Only those authorized by Investigations were

permitted access to counsel. Nobody was removed from a cell without permission from the supervisor or from Investigations.

Senior Command had differing views of the process regarding access to duty counsel which, in turn, caused confusion on an operational level. When duty counsel themselves expressed concern that prisoners were not getting access to a lawyer, they were told it was a “staffing issue.” When duty counsel lawyers offered to go to the cells to speak with prisoners, they were told by Court Services officers that this access was not possible.

Legal Aid Ontario assigned seven duty counsel in total to the PPC. These counsel reported to the OIPRD investigators that they repeatedly asked court officers to bring them prisoners, so they could consult with the arrested persons and provide advice. Catherine Henderson from Legal Aid Ontario reported that they “were lucky if they saw one prisoner per hour.” Duty counsel informed court officers of their concerns and requested an explanation as to why prisoners were not being brought to see them, but they were never given an explanation.

The Canadian Charter of Rights and Freedoms states:

Legal Rights

Arrest or detention

10. Everyone has the right on arrest or detention

- (a) to be informed promptly of the reasons therefore;
- (b) to retain and instruct counsel without delay and to be informed of that right; and
- (c) to have the validity of the detention determined by way of habeas corpus and to be released if the detention is not lawful.

According to the Toronto Police Service booking program spreadsheet and arrest records provided to the OIPRD:

Totals: 1,072 persons arrested did not see duty counsel
65 prisoners – did see duty counsel

3 prisoners – unsure if they saw duty counsel

Totals: 377 prisoners – did not request to see duty counsel or lawyer

513 prisoners – requested to see duty counsel or lawyer

253 prisoners – no record of requesting / refusing duty counsel or lawyer.

These statistics are very telling and concerning. At a bare minimum, 513 prisoners requested to see duty counsel or a lawyer. Records clearly show that only 65 prisoners were able to see duty counsel at the PPC.

The duty counsel who were assigned to the PPC made it clear in interviews with the OIPRD that there was a serious breakdown in the process with regard to having prisoners brought to see them. They reported to the OIPRD investigators: “We had nothing to do, we had nothing to do for hours on end and we were asking the officers, like many times, can you bring us clients? And, we could hear people yelling, I think it was on the Sunday when they had arrested a lot, they were shaking the cages and you know chanting and there was certainly enough people” (who wished to see duty counsel).

The most concerning aspect of the duty counsel issue was the response Superintendent Farrar gave to the OIPRD investigators when they asked him about his understanding of a prisoner’s right to see duty counsel on arrest. He indicated that prisoners had no right to see counsel if they had not been charged criminally. In his understanding, those detained for a breach of the peace had no right to speak with a lawyer.

Finding: Based on the number of people arrested and the number of people who had access to duty counsel, it is evident that prisoners, contrary to the Charter, were denied access to counsel. The influx of prisoners, lack of Court Services staff, and unclear policies and procedures all contributed to this ultimate breach of rights.

Overcrowding

After the OIPRD completed its investigations – conducting numerous interviews and reviewing disclosure – staff were still unable to determine precisely how many people had been detained in the Prisoner Processing Centre. The Court Services booking log indicates that 886 prisoners were booked into the PPC. The spreadsheet entitled “G20 Arrested Persons” lists 1,057, and a total of 1,071 CIPS reports were received. Given that none of these numbers match and that prisoners who were part of the mass release on Sunday, June 27, were not processed in the booking log, it is impossible to provide an exact number in this Report.

PPC command attempted to conduct manual head counts of prisoners, but that was not a reliable method of accounting for prisoners. In effect, PPC command had no knowledge of the exact number of prisoners within the facility at any given time. OIPRD research has identified a number of individuals who had paperwork from the PPC but were not included in the booking log. A review of the footage from the closed-circuit television cameras within the PPC clearly showed that overcrowding was an issue from the early hours of June 27 and throughout the day.

It can be concluded that the PPC was overcrowded. An estimated 1,100 people went through the facility over the course of the G20. Toronto Police Service acknowledges this figure in their “After Action” report. Part of the problem can be attributed to the massive influx of detainees between Saturday night, June 26, and Sunday afternoon, June 27. The lack of planning and direction also caused confusion. No specific numbers were ever provided to Court Services to indicate the capacity of an individual cell, and Superintendent Farrar acknowledged that no such indicator existed. In his opinion, overcrowding was a “subjective term,” and the custody management officers were responsible for determining the numbers they could handle while ensuring the safety and security of staff and prisoners. Superintendent Farrar further acknowledged that, because the numbers were fluid, no exact headcount had been made. Because

of all these uncertainties, Court Services was at an extreme disadvantage in deciding on appropriate management for the prisoners.

The overcrowding caused a number of problems, including delays in processing and release, detainment in “dry cells” for hours with no access to toilets, and the placement of young offenders in cells with adults.

Access to telephones

The PPC operational plan stipulated that there would be a “private area for prisoners to have reasonable access to telephones.” The TPS operational plan stated that “reasonable access to a phone” would be provided. It does not mention that any specific circumstances would have to be met to qualify for a phone call. What is at issue in this Report is that this policy was not communicated to the prisoners and that “reasonable access” was not defined.

The OIPRD investigation determined that the planners had not thought out the process for access to a telephone, nor was it properly communicated to supervisors within the PPC. Most of the prisoners in the PPC were not given the opportunity for a phone call, including prisoners who were held beyond 24 hours with no charges.

The explanations Senior Command provided on this issue were inconsistent and contrary to the policy. Superintendent Farrar did not feel that prisoners were entitled to a phone call at all if they were not criminally charged. All those detained on a breach of the peace were not charged criminally, so, in his view, they did not merit a phone call. One of the booking sergeants was of the opinion that case law suggested that everyone in police custody was entitled to a phone call.

Staff Inspector Ruffolo insisted that prisoners were given access to phones, but only “when it was safe, and we have the personnel to do it.” He admitted that on the night of Saturday, June 26, when approximately 400 prisoners were delivered to the PPC, it would have been very difficult to allow

prisoners access to phones. Ruffolo indicated that, once things settled down, the prisoners should have been escorted to phones as requested.

Unfortunately, Court Services were not familiar with the policy or with the process required for a prisoner to access a phone. Both location administrators felt that all requests for a phone call would have to go through investigative services and be approved by officers there. One location administrator added that, if the call was cleared by investigations, the prisoner “probably” could get a phone call, but then indicated “I don’t think they would get it...it’s not part of our policy.” Both location administrators said that, unless the call was approved by Investigations, the prisoner would not be allowed access to the phones.

There were clearly conflicting opinions among senior staff as to both the policy and the procedure for phone access. It is concerning that Superintendent Farrar, who was in overall command, did not feel that access to a phone was necessary for prisoners arrested for a breach of the peace. The operational plan stated that prisoners should have “reasonable access to a phone,” but it did not specify that the prisoner had to be criminally charged.

In response to the OIPRD investigators, Superintendent Farrar stated: “Where in the jurisprudence does it say that a person, upon asking for a phone call, must be provided one? Where does it say that?” He continued, regarding the PPC policy on phone calls: “You’re entitled to certain phone calls in certain situations. And our policy, service policy, and my policy, unit-specific policy, speak to those situations.” He further clarified his position by stating: “So here’s the scenario – what happens if the complaint is ‘They didn’t release me because I had to line up to get to the phone?’ That’s the other end of that complaint, which is ‘You didn’t release me fast enough because I wanted to make the phone call.’ Now if somebody has an individual safety or security concern, obviously, we’d have to address that from a judgement perspective. So the reverse of that also, equally holds true. If I hold everybody to get them to phone somebody, then I’m extending their detention because my processes are slowing the release point.”

When questioned further and asked if a staff sergeant was responsible for making sure that prisoners had access to phones to call duty counsel or their own lawyer, Superintendent Farrar responded: “I think that’s where you need to check the jurisprudence on that matter. I’m not trying to equivocate here, but the fact is that we wanted to release people expeditiously on breach of the peace.”

One of the duty counsel lawyers indicated that, on touring the Prisoner Processing Centre before it opened, the officer giving the tour told the group that there was a plan for the phone booths: “apart from our live and in-person duty counsel,” he said, “if there was too much demand,” then people who were arrested could be taken to these phone booths to contact duty counsel or their own lawyer. This plan indicates that, contrary to the policy, the only access prisoners were to have to phones was to contact a lawyer.

The OIPRD has established that no clear policy or provision existed to provide prisoners with access to telephones, other than to obtain legal advice. What is clear from the investigation, and from the disclosures provided by TPS, is that very few people brought in on a breach-of-peace arrest were afforded a phone call – despite the very lengthy detentions some of them served. This denial of access to telephones was clearly not in keeping with the policy of “reasonable access.”

Based on the situation within the PPC, it is likely that the phones were rarely used for two reasons: inadequate staffing and unclear directions to court officers on policy. The process that was communicated to court officers was complicated and required approvals from investigative services. As investigative services was mainly concerned with prisoners charged criminally, this process left a void for those detained on breach of the peace.

Superintendent Farrar’s explanation that prisoners detained on a breach of the peace could not have access to a phone because it would cause further delay in their release was not reasonable. The OIPRD investigation showed that a number of detainees held for more than 24 hours did not have access to

a phone. It is entirely reasonable to suggest that, at some point during their lengthy detention, they should have been afforded a phone call.

Duty counsel indicated that the majority of people brought to their office had no idea why they had been arrested or what they were charged with. It is unacceptable that Superintendent Farrar felt that phone calls were not necessary because these people were there only for a breach of the peace.

Finding: The OIPRD has concluded that access to phones was denied to prisoners and, in particular, to those detained for a breach of the peace. This denial was in direct violation of the PPC operational plan, which stated that prisoners would have “reasonable access” to a telephone.

Environmental conditions

Complainants consistently reported that temperatures in the Prisoner Processing Centre were cold throughout the weekend of the G20. These reports are corroborated by court and police officers and duty counsel at the facility. The OIPRD investigation indicated that there was no malfunction of the heating and cooling system at the PPC.

Superintendent Farrar stated that he was not aware of any problems with the air conditioning or of any complaints regarding the temperature. Staff Inspector Ruffolo agreed with him, saying that it was hot at times. This discrepancy is perhaps explained by the fact that the staff were moving about performing their duties, while the prisoners were not, so felt cold. Duty counsel at the facility indicated that they were frequently cold, so brought sweaters with them to work. One duty counsel mentioned that prisoners were often wearing shorts and T-shirts or tank tops, and were not dressed appropriately for the air-conditioned facility.

A stock of sweaters and jumpsuits was available to prisoners, but the process was complicated. The prisoner needed to make the request for additional clothing to a court officer. That court officer would then communicate the request to the supervisor. The supervisor would consider the request before

indicating to the court officer whether it had been approved. If the request was approved, the supervisor would tell the court officer what item to provide the prisoner – for example, a sweater or a T-shirt. The court officer would then retrieve the item from storage and deliver it to the prisoner.

The OIPRD review of closed-circuit television footage shows that some prisoners were wearing orange track suits, indicating that these items were handed out. Given the large number of prisoners within the facility and the temperatures outside (22–24°C), any adjustment to the air-conditioning system could have caused further problems, including extreme heat.

Given the issues with processing and prisoner management, and the time-consuming process to request additional clothing, it is entirely possible that prisoners who did not specifically ask for clothing were not handed clothing when they said simply that they were cold. Court Services staff were already overwhelmed with the processing and management of mass arrests, and they would have been busy with feeding, moving, and processing prisoners.

It is unclear why the process to get an item of clothing required so many levels of approval. The system was needlessly cumbersome and time-consuming. When an unidentified “correctional superintendent” contacted the PPC to offer supplies, on hearing media reports that supplies were running low, Staff Inspector Ruffolo went to the supply area and verified that it was “well stocked.” It did not occur to Senior Command to ask why media reports stated that supplies were running low.

Many complainants also indicated that other supplies, such as toilet paper and feminine personal hygiene items, were not handed out or restocked. The OIPRD was unable to verify these accounts, but it is quite possible that, when the PPC became overwhelmed with prisoners, the ability of staff to restock cells or accommodate individual requests was severely limited.

Emergency management

The emergency management plan was broad in scope and not complete. It did not cover what should be done during a major disturbance inside or outside the facility. One of the two location administrators acknowledges that he never saw the plan and was told to request assistance from his counterpart, who had seen the plan, should an emergency occur. Clearly, even Senior Command had no training on the plan, and there were no practice drills on evacuations or procedures during an emergency.

The OIPRD investigation concluded that there was a significant flood at the Prisoner Processing Centre during the G20 weekend. Duty counsel lawyers reported that their offices were flooded “up to their ankles” and the ceiling in the hall “looked as though it would cave in.” The closed-circuit television footage showed that wires from electronic equipment were on the floors of those offices, and they would have been covered in water. When the lawyers requested assistance, they were informed by PPC command that the water could be cleaned up with a mop and to “govern themselves accordingly.” Despite the flood, prisoners were still brought barefoot through the water into the offices. Eventually the fire department was sent in to clean up the water, and an email was sent to duty counsel apologizing for the inconvenience.

The location administrator on duty acknowledged that there were a number of floods on Sunday, June 27. The server room where the property was kept had a pipe “spewing” out water, the duty counsel area and the hall were flooded with “4 to 5 inches of water,” and the roof leaked in a number of places.

The emergency management plan did not cover what should be done in the event of a flood. However, PPC command should have considered the floods on June 27 to be at least a minor emergency and put some plan into action. The immediate response to duty counsel was unacceptable and dismissive of the situation in which they were placed. To continue bringing barefoot prisoners into these offices through ankle-deep water risked injury both to the court officer and the prisoner. Prisoners were

restrained during movement outside the cells, and the potential for them to slip and fall was high. It was fortunate that no one was injured.

Finding: Considering the conditions within the Prisoner Processing Centre – the overcrowding, lack of food and water, lack of access to toilets, and the additional duties placed on the staff – it is remarkable that no serious incident occurred. The OIPRD investigation uncovered only one incident where a prisoner attempted to kick in the door to a cell. No other major incidents occurred, and there were no serious injuries to prisoners or staff. Both prisoners and staff within the facility should be acknowledged for their patience under these circumstances.

Access to toilets and privacy

Several small cells in the Prisoner Processing Centre did not contain toilets and were referred to as “dry cells.” They were meant to be used only for short periods, as the prisoners placed in them were booked and then moved on to the investigative cells. Superintendent Farrar explained that the time to process a detainee was expected to be no longer than half an hour. This timeline is not mentioned anywhere in the actual planning documents; rather, it was an estimate of the time it would normally take to process a prisoner, and it was not made known to any court officers at the detention centre or described in any training or process documents.

Once the PPC was overwhelmed by prisoners, some people ended up spending hours in these dry cells. In addition to their other duties, the court officers had, therefore, to escort those prisoners to a cell with a toilet as needed. Complainants indicated that, once they informed a Court Services officer they needed to use a toilet, the normal wait time was between one and two hours. Although it is most likely that staffing and prisoner processing problems led to the extended delay, it was still unreasonable to expect detainees to wait up to two hours to use a toilet. The extended period prisoners spent in dry cells without access to toilets ultimately became a human rights issue.

Several “porta potties” had been placed along the wall of the sallyport for prisoners after they exited the buses. For safety reasons, as is standard practice in all detention facilities, the doors had been removed from all the toilets within the PPC. The issue in this case was that the toilets were in full view of people exiting the vehicles in the sallyport.

Superintendent Farrar stated that this lack of privacy was not an issue for male prisoners. Both male and female prisoners, however, complained that Court Services officers, police officers, and detainees could all see members of the opposite sex using the toilet. This complaint is confirmed by Court Services officers who said that they attempted to block the view by standing in front of the porta potties.

Despite the claim from Court Services that the issue was solved by its female officers “blocking the view of others,” it cannot be true: there were too many accounts from people indicating that they had a full view of female prisoners using the toilet. Even if the statement were entirely true, it is unacceptable that arrangements at the PPC required court officers to block the view of women using toilets. Furthermore, it does not address the issue that young offenders of both sexes could be seen using the toilet by adult detainees. The numerous reports that male officers were consistently in a position to see female prisoners using the toilet also indicate a violation of TPS policy. Clearly, the set-up and planning for the PPC caused privacy issues within the facility that were never addressed by Senior Command.

Access to food and water

The PPC operational plan stated: “Prisoners will be fed every six hours. The meals will consist of a sandwich and a bottle of water. The meals will be purchased through Pegasus Restaurant. Logistics will deliver the meals to the PPC for distribution.”

The operational plan contradicts the existing Toronto Police Service policy that Court Services was told to follow while at the Prisoner Processing Centre. The TPS policy directs court officers to

Provide meals during, or close to, the assigned meal hours:

- Breakfast 07:00 to 09:00
- Lunch 11:00 to 13:30
- Dinner 17:30 to 20:00.

The Toronto Police Service After-Action Review described the issues with food and water as follows:

Prisoners were given food and water at all stages of their detention. At first, feeding was tracked on the prisoner tracking form. During the weekend, the large volume of prisoners along with the difficulties experienced with the tracking forms made it difficult to record each prisoner’s feeding. Court officers regularly fed and gave water to prisoners en masse.

Since CIPS was not used by court officers in the PPC, there was no central tracking system that provided real time information on the location of a prisoner. Prisoners were tracked in their respective zones, but once the prisoner moved into a new zone, tracking stopped in the previous zone and started in the new one. The lack of a central tracking system was problematic, especially when prisoners were moved between zones.

The PPC prisoner tracking sheets provided in disclosure do not correspond with the PPC operational plan or the existing TPS policy. The Toronto Police Service After-Action Review indicated that, initially, prisoner meals were tracked on the prisoner tracking form, but the OIPRD investigators did not find that to be the case. The prisoner tracking forms were the responsibility of Court Services supervisors, and instructions at the bottom of the form stated that they were to be given to one of the two team leads for the booking staff sergeants. The team leads, however, were not aware that their names were on the form, nor did they know what they were supposed to do with it. As things turned out, they did not receive any forms.

When the OIPRD reviewed the prisoner tracking forms, very few of them were thoroughly filled in, making it difficult to determine the feeding schedule. Even when it was noted that the prisoner

had been fed, no date was given and only one or two times were noted, despite a lengthy detention. Moreover, there were inconsistencies in the information provided on the forms right from the beginning. Some of the prisoners who arrived early in the week have forms that reflect very little critical information regarding their stay in the PPC. The data are so inconsistent that they cannot be counted on as accurate.

The OIPRD received a total of 397 prisoner tracking forms. Based on the 886 prisoners logged into the Court Services booking program, 489 prisoner tracking forms were missing. The Toronto Police Service was not able to explain why the forms were not completed, but it seems likely, considering the lack of completed paperwork in all areas, that staff were an issue.

Complainants and duty counsel reported that food and water was not being handed out regularly – and that some people were not fed at all. They unanimously described the meal as a cheese sandwich on white bread with water in Dixie cups. Detainees indicated that there were often not enough cups for all the people in the cell, and they were forced to pass the cups around. In the closed-circuit footage, cups were evident, but not bottles of water. Most of the detainees interviewed by the OIPRD said that they had been fed once or twice, but not consistently throughout their stay. Some of the people who were never officially booked into the PPC reported that they did not receive any food or water.

When interviewed, Superintendent Farrar and Staff Inspector Ruffolo described a very different situation. Superintendent Farrar responded that juice, fruit, and a variety of sandwiches were available. That is surprising, given that the operational plan described lunch as a bottle of water and a sandwich. Staff Inspector Ruffolo agreed with this description of meals, saying that “the diet was increased from sandwiches to fruits and other foods being made available, tetra boxes and that.”

The location administrator also described the meals as cheese sandwiches or some variation of meats, juice, and water. He did acknowledge that there were

a lot of cheese sandwiches. He reiterated that fruit or other alternatives were available to those who had allergies or other medical conditions. The OIPRD investigators could find no evidence that fruit or juice was provided to prisoners.

When questioned about complaints regarding the lack of food and water offered to prisoners, Superintendent Farrar, Staff Inspector Ruffolo, and the location administrators all responded that they were provided on a consistent basis. Staff Inspector Ruffolo, for instance, when asked about the feeding schedule replied, “Carts were going by every two or three hours with food.”

To ascertain a specific feeding schedule, the OIPRD reviewed the closed-circuit footage in the PPC, specifically looking for instances of prisoners being fed, but found no evidence that they were provided with food and water every two to three hours. In fact, the feeding carts referred to by Staff Inspector Ruffolo were not purchased until Sunday, June 27, and were not delivered to the PPC until late that afternoon or early evening.

In interviews, one of the location administrators explained that he gave the order for meals to “keep coming until we say stop bringing them. The problem was,” he continued, that “the vendor could only produce X number of meals within two or three hours, and they were maxed out. So I think every three hours we got a delivery of meals, fresh meals, but the limitation was on their end, not ours.”

Although the vendor may have contributed to the lack of availability of food and water, it is unreasonable to put the blame on the supplier. It is the responsibility of those awarding the contract, in this case the Toronto Police Service, to make sure that the vendor is able to provide the service required. Clearly, the vendor was not in a position to provide meals for the PPC when it was at capacity – but that was the fault not of the vendor but of the Toronto Police Service for awarding the contract in the first place.

Access to medication and doctors

The PPC operational plan states:

- A doctor will be assigned to the PPC beginning on Friday June 18th until Monday June 28th from 07:00–19:00 hours. If circumstances dictate those hours will be extended
- If a detainee requests access to their medication court officers shall comply with all Court Services and TPS policies and procedures
- All medication shall be stored in a secure area and shall be recorded on a CRT 26 (Court Services Record of Medication Log) and TPS 470 (Prisoner Medication form).

The operational plan indicated that prisoners were to be triaged on their arrival in the sallyport area, and, if it was determined that any of them required medical attention, the prisoner would be escorted to the medical trailer.

According to TPS policy:

When a person sustains any injury or illness [, TPS] shall:

- Deal with any immediate medical requirements
- Immediately notify the officer in charge (OIC)
- Submit a TPS 105 (injury / illness report) to the OIC prior to the end of duty.

The OIC shall:

- Ensure appropriate medical attention is given
- Ensure a TPS 105 is completed
- Ensure a copy of the TPS 105 injury / illness report accompanies the prisoner if transported to lock-up or court
- Ensure the completed TPS 105 is submitted to the unit commander prior to the completion of tour of duty.

Persons in Custody:

When receiving a request for access to prescribed medication from a person in custody [, TPS] shall ensure:

- The patient's name on the medication container label matches the person
- There is only one type of pill in the container
- The container label and contents do not appear tampered with
- The label is legible
- The expiry date on the medication container has not passed
- The medication is dispensed in accordance with the directions and warning labels on the container.

Out of more than 1,100 people arrested, 47 detainees are recorded as being seen by medical staff at the PPC. The OIPRD received no medication log or medication forms in disclosure. It is unclear whether the paperwork was never actually completed or whether numerous individuals were never taken to see the physician or did not receive their medication. Considering the number of people in the facility, it does not seem reasonable that so few people required medical treatment. It is important to highlight that medical treatment was not solely for those injured during an arrest but was also for those who required medication or had a pre-existing medical condition that required supervision. Given that individuals were meant to be assessed on their arrival at the PPC and that a serious backlog occurred, it is not surprising that staff were overwhelmed in the sallyport area.

From disclosure, the OIPRD was able to confirm that, although a number of detainees had visible injuries, they did not see a doctor. Our investigators interviewed a number of complainants who requested medical treatment but were denied. More than one detainee with visible facial injuries has no record of receiving medical attention. The OIPRD viewed at least one booking video where the detainee inquired about an injury and was told,

“You’re fine.” That individual obviously had not seen a doctor before being booked, contrary to the outlined procedure.

Duty counsel confirmed that clients who were brought to see them reported that other prisoners were being denied medical attention and medication. In addition, the requests that were processed were not done in a timely manner.

Prisoners who were brought in on Sunday, June 27, and never fully processed faced a number of obstacles. OIPRD knows of one individual who, though a diabetic, did not receive medication, medical attention, or food and water during his time in the PPC. This detainee clearly stated to court officers that he was diabetic and that he was concerned he might become ill without food, water, or medication.

Given that paperwork in general was inaccurate and incomplete, the accuracy of the medical occurrence report should be questioned. OIPRD knows of at least one instance where an individual received medical attention but was not listed on the medical occurrence report. In addition, witnesses reported constant lines of people sitting in chairs and waiting outside the medical trailer, but the medical log in no way reflects that situation. The diverging information – 47 listed on the medical log, descriptions of “constant lines” outside the medical trailer, and information from complainants and duty counsel that access was denied – makes it very difficult to determine what happened.

Considering the circumstances within the Prisoner Processing Centre on Saturday night, June 26, and on Sunday, June 27, it is entirely reasonable to conclude that the numerous reports of medication and medical attention not being received are accurate. To follow the plan, Court Services staff would have had to properly record and bag all medication separately, log the request for access to medication, and get permission from a supervisor to provide a prisoner with medication. For someone in a cell to receive medical attention, Court Services would have had to handcuff and escort the individual to the medical trailer. To remove a prisoner from a

cell required a supervisor’s permission. It has been established that the PPC faced staffing problems that weekend, and these medical procedures had not been well thought out, given the other responsibilities and time constraints facing court officers. However, denying medication and medical attention to those in custody is not the solution to an unwieldy process.

It was a failure in both planning and leadership that this problem was never addressed over the course of the weekend. Fortunately, no serious injuries resulted, but it is evident that certain individuals were neglected and did not receive medical attention when they should have. This neglect is contrary to TPS policy, which states that individuals in custody are to be assessed approximately every half hour and that the officer in charge must be notified of any change in a detainee’s condition and if medication or medical attention is required.

Excessive detention (over 24 hours)

Both the Criminal Code and Canadian case law are consistent in their directions regarding detainment without charge. An individual who is arrested but not charged must be released within 24 hours. Criminal law regarding detainment of individuals states:

“Pursuant to section 515 any person arrested **must** be brought before a court within 24 hours of such an arrest.” The jurisprudence regarding detention of an individual on breach of the peace, as in *R. v. Lefebvre* (1982),⁵⁰ states:

“Detentions for breach of the peace must be necessary for the maintenance of the public peace. A lengthy detention is not permitted. At most, a person arrested for breach of the peace can be held for twenty-four hours without being charged.”

The OIPRD determined that a number of detainees were held for more than 24 hours, with no charges laid and no access to a lawyer, and that they were not brought before a justice of the peace or judge to seek approval for their continued detention. Because of improper paperwork, it was an almost impossible task to determine the exact numbers of people who were detained beyond the 24-hour period. A number

50 CCC (3d) 241 at 244 (BC Co. Ct), aff’d (1984), 15 CCC (3d) 503 (BCCA)

of detainees were listed as leaving the PPC on “June 27 or 28.” As a result, OIPRD could not discover how long they were actually detained. We can say with absolute certainty, however, that 14 prisoners were held beyond 24 hours without being brought before a justice of the peace or a judge.

When Superintendent Farrar was questioned about detention beyond 24 hours, he responded: “I think you need to research that legal aspect... Well, I think that’s something that you probably need to review the legal jurisprudence on the 24 hours, because it doesn’t exist in the Criminal Code.” Obviously Superintendent Farrar was mistaken in this belief. What is particularly concerning is that those detainees who were held for a breach of the peace were kept well past the time that peace had been restored in the city. According to Superintendent Farrar, the ability to release the breach-of-peace arrests was not restored to him until the morning of June 27. Yet he did not begin releasing breach-of-peace arrests who had already been processed and were within the investigation cells, even though he had been given permission to do so by the Major Incident Command Centre. According to policy, the breach-of-peace arrests who were not processed had to be booked and the paperwork completed before they could be released.

Contrary to his statement indicating that there was no need to release detainees within 24 hours, in the meeting on June 27 at 9 am, Superintendent Farrar indicated to staff that they should “try to adhere to the 24-hour release rule for breaches.” However, at 11:30 am he contradicted this order by stating, according to the scribe notes, “want only 6 of the B of P arrests that are coming up to the 24 hr mark to be released” – because a peaceful protest was arriving at the PPC on Eastern Avenue. There is no explanation of why, more than two hours after he received permission to release breach-of-peace arrests, he had not done so.

In an OIPRD interview, Superintendent Farrar was asked to explain the words in the scribe notes which indicated that he ordered breach-of-peace arrests to be detained longer than 24 hours. He did not deny that he issued these orders and responded

that his actions were for the safety of the “custodies” and the community surrounding the PPC. What is surprising about this statement is that the protest was described as “peaceful,” so it is not clear how releasing prisoners posed a risk. His statements are also contrary to the law, which states that those arrested for breach of the peace must be released once the peace is restored, and that they must not be kept longer than 24 hours without being brought before a justice of the peace or a judge.

The TPS planning documents show that the Prisoner Processing Centre was set up for video remand, to allow prisoners there to be brought before a judge or a justice of the peace via a video link. The first time the use of video remand was discussed was at the meeting on Monday morning, June 28. The PPC began using video remand that afternoon. It is not clear why the technology was not used or discussed before then, given the conditions at the facility the previous afternoon. The OIPRD has determined that Crown counsel, duty counsel, judges, and justices of the peace were on call from 7 am until 11 pm for the course of the G20. No explanation was provided to address this gap.

Even though the MICC granted permission for releases at 9 am on Sunday, June 27, mass releases did not begin until that evening, at 7 pm. Staff Inspector Ruffolo, who was in charge on the night shift, sought permission from the MICC to begin mass releases of prisoners without fully processing them. He assigned all available officers to assist in releasing breach-of-peace arrests, after a vetting by a criminal investigator and taking group photos of all detainees to be released. It is not clear why there was a 10-hour gap between the original permission to release from the MICC and the request for mass releases.

Numbers held in excess of 24 hours

The poor planning and mismanagement of prisoner information resulted in at least 14 prisoners being held for more than 24 hours for a breach of the peace. The exact number could not be determined because of the uncertainty of the data entered into the PPC

Booking Program. This program contained 886 entries: 568 of them were for breach of the peace (though the arrest records spreadsheet the OIPRD received indicated 699 breach-of-peace arrests). Of the 568 breach-of-peace entries, 395 of them stated the “time out” of the PPC as “June 27 or 28,” “Not Noted on Paperwork,” or “Unknown No Paperwork Not on CIPS.” The booking program includes only the time in and the date of arrest (which were not always the same day), but lacks any field for “date in” to the PPC. There were a number of other irregularities in the booking data, including instances in which the time in to the PPC was after the prisoner’s release time. For example, one prisoner was recorded as entering the PPC 30 minutes after release. Another prisoner was recorded as released from the PPC 10 minutes before his arrival at the PPC. His arrest record at the PPC stated that the “charge” was breach of the peace, whereas his HOT sheet recorded “possession of gasoline.” There were also a few entries where the time of arrest was the same as the time of booking into the PPC, which is not possible when travel time from the place of arrest and booking time are taken into account. Among the 14 prisoners that the OIPRD knows were arrested for breach of the peace and held for more than 24 hours is one individual who was arrested on June 26 at 11:20 pm and not released until June 28 at 10 am, and another who was arrested on June 23 at 2:45 pm and not released until June 27 at 10:15 pm. It is clear from these examples that planning and execution fell short, resulting in prisoners being held beyond the 24-hour period legally specified for a breach of the peace.

Contributing factors

A number of contributing factors led to the continued detention of detainees not facing criminal charges. As demonstrated by the paperwork, the tracking of prisoner movement was inadequate, and Court Services was not able to ascertain with accuracy when some detainees left or arrived. On the night of Saturday, June 26, the PPC became overwhelmed with an influx of arrests, and a backlog occurred at the booking point. Staff Inspector Ruffolo noted that the issues continued into Sunday, with one court officer responsible for all booking and 60 per cent of prisoners arriving with incomplete

HOT sheets – which Court Services were then required to complete. Staff Inspector Ruffolo ordered that a second computer be brought in to speed up the process, but the computer was not operational until Sunday evening.

In its report, the Toronto Police Service After-Action Review described the Court Services booking process as follows:

The information being collected was too much for one person to gather efficiently. As it took a significant amount of time to gather the information, a bottleneck occurred at this position. Arrests continued through Sunday and the Court Services pre-booking officer was unable to relieve the bottleneck until the arrests slowed Sunday evening. The bottleneck had a direct impact on the timely release of prisoners. A second pre-booking officer was added by Court Services on Sunday evening in an attempt to relieve the backlog of paperwork that still needed to be entered.

Although the After-Action Review acknowledged that a bottleneck occurred, it does not allude to the fact that the potential for a bottleneck was brought to the attention of Senior Command well in advance of the G20 weekend, and that no corrective action was taken. Furthermore, the appropriate paperwork was never completed.

Another factor in the slowdown of prisoner booking was that the majority of detainees arrived without a photograph attached to their HOT sheet, as required by the G20 operational plan. On the evening of Saturday, June 26, Court Services had one camera to complete all missing photographs. Prisoners had to be brought one at a time for their photo, then one at a time to the Court Services booking officer. Staff Inspector Ruffolo had additional cameras brought in the following evening to expedite the process.

Prisoner ID bracelets and stickers caused further slowdowns in the release process. The identification number on the bracelet and sticker was used to locate the prisoner within the PPC. The number corresponded to that on the prisoner’s HOT sheet (the arrest record) and property bag. Prisoners

who no longer had a bracelet or sticker would not have known their identification number when court officers called it out. Court officers would also have had to search through the various property bags to locate the correct bag for the prisoner on release.

Level 2 or 3 searches

Level 2 and 3 searches were performed on prisoners as determined by the officer in charge (OIC) during the booking process. The prisoner was first brought before the OIC, then taken for the search, and again brought back before the OIC at the conclusion. The OIC not only made the decision on which search would be performed but also had to articulate the reasons why a level 3 search was required rather than a level 2 search. The OIC had to demonstrate that the search was necessary and reasonable under the circumstances and not simply justify it as “standard procedure.”

As described in the Toronto Police Service policy, a level 2 search is commonly called a “general search.” It is performed over the clothing of the individual, but may involve the removal of a jacket or other item that is obstructing the search, such as socks, shoes, or extra layers of clothing. A level 3 search is referred to as a “strip search” and may involve the removal of all clothing, though sometimes undergarments can remain on the prisoner. The officer will then visually inspect the body of the individual. Because level 3 searches involve the partial or complete nudity of the individual, there must be articulated reasons for the search, and a “search of person” template must be completed.

During a search, items were removed from pockets, and those items which might be used as weapons or for personal injury were confiscated. Examples of such items would be belts, shoelaces, and bras with under-wire. These items would then be placed in a property bag and returned upon release – with the exception of contraband items or items entered into evidence. Searches were to be conducted by officers or court officers of the same sex as the prisoner. Level 3 searches required that two officers be present and must be conducted in a private room off-camera.

In December 2001 the Supreme Court of Canada issued a ruling *R. vs. Golden*, which became the case law for strip searches in Canada. A majority of the Supreme Court ruled that “[s]trip searches are inherently humiliating and degrading for detainees regardless of the manner in which they are carried out and for this reason they cannot be carried out simply as a matter of routine policy.” The majority held that the police required reasonable grounds to believe that a strip search was necessary in the circumstances, and went on to direct new restrictions controlling the manner in which such searches were conducted.

At the Prisoner Processing Centre, 245 prisoners were strip searched. However, the OIPRD received paperwork for only 59 of those searches. No explanation has been given for the missing forms. It is impossible, given the lack of paperwork, to accurately determine if all 245 prisoners met the standards required to conduct a strip search. OIPRD investigations did not uncover any instances where an individual was not strip-searched in private or was strip-searched by a member of the opposite sex.

Finding: Given that the majority of prisoners were detained for breach of the peace, it is troubling that 245 prisoners were subjected to level 3 strip searches and that no paperwork is available to justify the use of this extremely intrusive action. In future, there must be documentation to support the use of level 3 strip searches.

Flex cuffs

Flex cuffs, or “zip ties,” are two narrow plastic ties looped together to form a wrist restraint. They are generally used by public order unit officers when they are arresting people in a dynamic situation. Once the person is handed over to be taken to a facility, the flex cuffs are replaced with regular metal cuffs.

Because flex cuffs do not “lock” into a fixed position when placed on a prisoner’s wrists, they can continue to tighten on a prisoner’s wrists until they are removed. The only way to loosen flex cuffs is to cut them off. A pair of metal handcuffs, or products such

as the “ASP” plastic wrist restraint, can be locked on a prisoner’s wrist to reduce the potential for the restraint to tighten and cause unnecessary pain or injury to the detainee.

If flex cuffs are applied too tightly, they have the potential to injure a prisoner. If the flex cuffs are applied too loosely, a prisoner can remove them – and, potentially, present a flight risk or assault risk to the officers and the public. The court officers at the PPC did not receive specific training in the use of flex cuffs, and many of them would never have received the training previously.

The OIPRD questioned why the use of flex cuffs was approved for the PPC, given that the court officers would have little to no experience in using them. Superintendent Farrar explained that he did not know who approved the use of flex cuffs at the PPC. He stated: “Who approved them? Off the top of my head, I don’t know.” Flex cuffs are part of the “use of force” options for the TPS “in the Public Order context,” and court officers who work in conjunction with the public order unit are issued with them. Because the court officers within the PPC were not working in conjunction with the public order unit, it is unclear why they would have been asked to use this device. One Location Administrator stated that court officers were trained in the use of flex cuffs, as part of their use of force training. He explained: “A number of the older court officers, including myself, we were trained many, many years ago on how to use flex cuffs but the newer officers would not have received training on flex cuffs.”

It is clear that no consistent training was provided to court officers in the intended usage, safe application, and removal of flex cuffs inside the PPC. This lack of training posed a potential risk to prisoners and staff.

The use of flex cuffs may very well be necessary for officer safety during mass arrests and in dynamic field situations. However, their use in a controlled, institutional setting appears to have been unnecessary: all court officers are issued with metal cuffs as part of their uniform, and metal handcuffs could well have been used at the PPC for the purpose of restraining prisoners. PPC planning and

command should have examined the use of flex cuffs further and, if necessary, considered the purchase of extra handcuffs for the facility, or at least the more economical ASP restraints produced for law enforcement use. Because flex cuffs are less expensive than metal cuffs, it is possible that the decision to use them at the PPC was a cost-saving measure.

Another concern about the flex cuffs was that their loose ends appear to have presented a safety hazard: they were very long and, if not trimmed, seem to have protruded 20–30 centimetres from a prisoner’s wrist. However, trimming the ends of the flex cuffs also presented a potential hazard because the cut edges would have been sharp. In the closed-circuit television footage, the long ends of the flex cuffs can be clearly seen on prisoners within the facility.

Every court officer is issued with a pair of metal handcuffs, and those cuffs could have addressed any of the overflow issues that occurred. It is unclear why court officers would use flex cuffs for prisoner movement within the PPC cell area(s) after a prisoner had been searched. For officer and prisoner safety, prisoners who were brought to the PPC in flex cuffs should immediately on arrival have been switched to metal handcuffs. Given that prisoner movement in large volumes can safely be accomplished at courts, jails, detention centres, and police stations using metal handcuffs, it is unclear why the PPC felt the need to use flex cuffs when transferring prisoners around the PPC.

When OIPRD investigators asked Superintendent Farrar to describe what happened when a prisoner arrived in flex cuffs, he stated: “If they came off the wagons or the buses with the flex cuffs to the rear...[w]e would cut those off and put them at the front, put them into a temporary holding until such time we can search. Once they’re appropriately searched, then we take the flex cuffs off.” When asked further to explain the rationale for reapplying the flex cuffs once prisoners arrived at the PPC, he replied:

It was only in those very limited number of times when they came off and one of two things happened: the flex cuffs went to the back or the flex cuffs to the front are too tight. So, it’s

all about safety and comfort of the custody. It didn't happen a lot, but it happened a few times, and we'd just reapply the flex cuffs to the front and make sure they were appropriately effective, but comfortable at the same time.

Staff Inspector Ruffolo was also asked the same question. He responded: "I'm not aware of any situations where they [flex cuffs] were removed and reapplied." He continued: "I don't even know if we have any flex cuffs there, I'm not familiar if we had them or not. I know we had handcuffs, but like the metal ones, but flex cuffs, I can't, I don't think we had them, but I can't comment on that."

It is unusual that Staff Inspector Ruffolo did not realize that flex cuffs were being used at the PPC, yet his counterpart, Superintendent Farrar, was aware that they were in use. One location administrator stated, "Back in December of 2009... I can't remember if I ordered one thousand or two thousand flex cuffs so that's the process how which we obtained them."

Although it was contrary to procedure, prisoners were seen in the investigative area wearing flex cuffs after they had been booked. Superintendent Farrar confirmed that the flex cuffs were not always removed once the prisoner was within the investigative cell area of the PPC. He stated: "Not necessarily so because in certain times, we were experiencing surge issues and a couple – a number of situations, they were, actually, brought off and secured in here in a pre-hold. So, they're actually in there in the main area with flex cuffs on waiting to be searched." He went on to explain that arrested persons are handcuffed during transportation for the safety of themselves, other prisoners, and officers. Court Services practice is to transport prisoners "cuffed in the front unless extenuating circumstance exist." He concluded: "Once the determination to remove restraints is made by the OIC, then the person in custody is searched and restraints are removed."

When Staff Inspector Ruffolo was asked if prisoners were kept in flex cuffs, following the booking process, when they were taken to the investigative cell area, he stated: "Not, not following the booking, no, and absolutely not. Not to my knowledge, because following the booking then they get property X-rayed here, searched and, and the cuffs come off."

OIPRD discovered through interviews with detainees that they were in flex cuffs anywhere between two and 21 hours. Many of them remained in flex cuffs for the entire duration of their stay in the PPC, and certainly after they had been booked, searched, and X-rayed.

The following paragraph is an excerpt from section 8 of the Toronto Police Service After-Action Review:

The majority of prisoners arrested were handcuffed in flex cuffs by arresting officers. It was intended that the flex cuffs would be removed by court officers and steel handcuffs placed on prisoners with their hands to the front for transportation to the PPC. *This did not always occur due to a shortage of steel cuffs.* Further, the changing of handcuffs slowed the loading process. The result was that some prisoners remained in flex cuffs, some of those with their hands behind their back during transportation to the PPC. However, when prisoner transport vehicles arrived at the PPC, prisoners were placed in flex cuffs to the front until they were paraded before a staff sergeant at which time the cuffs were removed.

The closed-circuit television footage shows one individual who, in the booking video, is wearing metal handcuffs as he is initially being paraded in front of a staff sergeant. The prisoner is then taken from the trailer to be searched by court officers. On his return to the booking trailer, after his search, he can clearly be seen wearing flex cuffs. Although this example is clearly not applicable to the experience of every prisoner, it indicates that flex cuffs were in use by court officers at the PPC, contrary to the statement in the Toronto Police Service After-Action Review.

In conclusion, given that Superintendent Farrar did not know who authorized flex cuffs for the detention centre, their use in that contained facility appears to indicate a problem with planning and communication at the Toronto Police Service along with a troubling disregard for prisoner and officer safety.

Finding: The use of flex cuffs should be discontinued or, alternatively, be used only in immediate situations of mass arrest in the field during dynamic situations. They should be applied only for short duration and be replaced by ASP restraints or by regular metal handcuffs.

Francophone complainants

A common theme arose from French-speaking complainants that they had been unduly profiled and targeted throughout the G20 summit. Additional evidence received by the OIPRD for the systemic review was considered to determine whether there was a pattern with regard to francophone protesters. Officer interviews revealed that significant intelligence had been gathered surrounding protest groups from Quebec. The officer interviews and arrest record information also revealed a pattern of focusing on French-speaking individuals. It appeared that officers believed that protesters from Quebec were disproportionately involved with Black Bloc tactics.

Of the 1,072 arrested during the G20, 193 were from Quebec, and 114 detainees from Quebec were strip searched. Because the paperwork was incomplete, the OIPRD cannot accurately determine if there was justification for all the strip searches conducted. However, we were concerned that some of the paperwork included questionable grounds for a strip search, such as “out of province.”

Recommendations

- Police services should develop specific procedures for the processing of prisoners that reflect the circumstances, depth, and scope of large or extraordinary events; they should not use existing procedures that are meant for everyday scenarios. In the case of the Prisoner Processing Centre, it is clear that the existing procedures failed.
 - a) Recognizing that extraordinary events may lead to mass arrests in the future, police services should develop policies and procedures to deal with mass arrests, especially policies and procedures to track prisoners and their belongings.
 - b) In situations of mass arrest, police services should develop better methods to ensure that existing policies are followed – particularly the policies that protect the rights and dignity of the prisoners, such as access to counsel, reasonable use of a telephone, and conditions governing strip searches.
- Any prisoner detention facility set up specifically for a large protest event must have emergency management plans created by policing entities to provide specific instructions on what constitutes an emergency and what steps should be taken in each scenario. Every person staffing such a facility must be trained on the emergency procedures, and appropriate run-throughs should be conducted to ensure the safety and security of staff and detainees.
- The planning for any detention facility should include specific benchmarks or timelines for procedures. Such benchmarks should include the length of time before prisoners must be fed and the length of time physical restraints can be used.
- The planning for any detention facility should also specify what the physical plant should be and what the capacity is for each cell as well as designation of male, female, and youth cells.
- The Toronto Police Service and all other Ontario police services must provide refresher training on its policies regarding use of level 3 or “strip” searches to ensure that its policies are followed.
- In light of the diverse nature of Toronto, the Toronto Police Service (TPS) should expect that persons with diverse needs may attend large-scale protests. The TPS should ensure that reasonable accommodations, as required by the Human Rights Code, are included in the planning process. For example, the TPS should have a contingency plan for providing interpretation services within a reasonable time for persons who do not speak English.
- Police services should discontinue the use of flex cuffs, or, in the alternative, only use them in dynamic situations, such as mass arrests, and then only for a short time, replacing them with regular metal handcuffs as soon as possible. In all cases, handcuffs should be removed from prisoners who have been searched and lodged in cells unless there is good reason to continue their use.
- Police services involved in policing large events and protests should develop a process for consistent note-taking and record-keeping to ensure any issues of police conduct can be reviewed.

Part Three: Aftermath and Reflections



Chapter 10: The G20, The Public, and the Media

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Security passes and accreditation

Given the scale of the security operations for the G20 summit, it was inevitable that the accreditation regulations would have a significant impact on the people who lived or worked inside the secured zones and on anyone who wanted to move around inside these areas. The police needed first to identify and then grant access to all these people who were entitled to enter the security zones during the summit. As a result, a system of accreditation was put in place which used a series of credentials, such as badges or passes, to control individual access to the secure areas. Different security zones required different levels of accreditation.

The Summit Management Office (SMO) was responsible for organizing this process. Its accreditation unit established the processes and protocols required to conduct the security background checks and provided recommendations based on a risk-assessment model. After examining the recommendations, the SMO then gave the final approval. Individuals who were granted accreditation were provided with the kind of pass or badge that reflected their particular need for access to the restricted zones.

The Communications teams

The Community Relations Group

The media and the public would, obviously, have to be kept informed about the plans decided on by the Integrated Security Unit (ISU), particularly on the way the security regulations would affect everyone who lived or worked in the vicinity of the summit. To that end, the ISU established the Community Relations Group (CRG), a team with two main goals: to provide ongoing communications to the public and, as an outreach group, to address community concerns. The CRG, which comprised members of the Toronto Police Service (TPS) and the RCMP, was directed specifically to build relationships

between the police and the community in order to facilitate communications regarding the G20. Effective communications were seen as a key factor in the success of the summit, and the CRG was the essential link in providing an open dialogue with the communities, demonstrators, major partners, stakeholders, and other interested parties involved in it. By developing these relationships, the police intended to foster a safe and positive environment for protesters, minimize disruptions to businesses and the general public, and, simultaneously, provide the required security for the summit.

The CRG set up two smaller teams: the CRG-Business / Residents Outreach Team was responsible for communicating with the residents and businesses in the downtown area which were affected by the security for the G20 summit; and the CRG-Activist / Protester Outreach Team was responsible for approaching individuals and organizations that intended to hold protests or demonstrations related to the G20 summit and for assisting them in exercising their right to protest. In particular, this second team would be brought into action during the summit week of June 18 to 27 at the request of the Incident Commander or any site commander if needed:

- To provide assistance and advice to individuals and organizations that had indicated a willingness to work cooperatively with the police – in particular, to assist those who wished to protest peacefully and who did not want to become involved in events or actions that might become violent and unlawful, and
- To attend events and demonstrations as they were taking place and to act as intermediaries between event organizers / protesters and the police command as appropriate, keeping in mind the primacy of the local commander's operational authority and the need to guarantee officer safety.

Public Affairs and Communications Team

The Public Affairs and Communications Team (PACT) was engaged to facilitate communications among the police, the public, and the media. PACT was an integrated unit, headed by an executive team comprised of representatives from all the partner agencies, and it was given responsibility for all communications and media relations before and during the summit. The Toronto Police Service was one of the members of PACT, and developed a public information plan outlining its role in forming public messages and in responding to public inquiries.

PACT arranged a variety of means that would be used for communicating with the public, including pamphlets, media releases, town-hall meetings, newspaper ads, news conferences, and the Internet. These communications would cover almost every aspect of the summit for which the police were responsible – protests, traffic, accreditation, the security zones, the location of closed-circuit television security cameras, arrests related to G20 investigations, and the specialized police units to be deployed during the summit.

PACT also decided to use social media and networking sites extensively throughout the G20 for communicating with the public. Although initially launched as a one-way conduit for conveying points of contact, approved messages, and announcements to the public, PACT also responded to questions from the public in real-time or in near real-time. This

direct messaging was intended to clarify and correct information available to the public. According to the RCMP's *After Action Report*, the use of social media was very effective and should certainly be an essential component of any similar events in future.

Designated speech area for protesters

In an effort to ensure that protesters could “see and be seen,” and to ensure that they could send their message to summit delegates while having the least possible impact on security plans, the Integrated Security Unit proposed a “designated speech area” for the protesters. This area would be appropriately staffed with police officers who were responsible for ensuring the safety of protesters while being equally cognizant of the safety and security of the surrounding neighbourhood. The Toronto Police Service did not fully endorse this idea for a specifically designated speech area for the summit, arguing that it would support peaceful protests wherever they might take place.

The RCMP acknowledged that protesters would want to be situated immediately outside the G20 summit venue, but security concerns precluded this option. As a result, the ISU worked with the City of Toronto to identify the northern section of Queen's Park as the designated speech area. (Initially, the area was to be situated at Trinity-Bellwoods Park, but because of local community concerns about potential violent protests in the surrounding area, it was relocated to north Queen's Park.) Given that the distance from Queen's Park to the Metro Toronto Convention Centre (MTCC) was over 2 kilometres, the RCMP proposed equipping the designated speech area and the MTCC with audio-visual equipment so that people at either location could see one another. Ultimately, no such equipment was ever set up.

Issues and analysis

Accreditation for residents and businesses

There were several issues and concerns regarding the accreditation process for the G20 summit. The most important, perhaps, is that the public did not have sufficient information about the need for accreditation. In the months before the event, the accreditation process was presented as an easy and optional process for citizens who needed to enter the security zone. ISU outreach presentations stated: “Registration may be as simple as giving your name, a place you work and a place you live.” Accredited individuals would be given a card to show at the gates, along with photo ID. Other information indicated that accreditation would be voluntary, but that anyone who chose to forgo the process would face delays at the gates. Ultimately, the information provided to the public did not accurately reflect the importance of accreditation or the consequences of failing to obtain it.⁵¹

Public communications

The Office of the Independent Police Review Director (OIPRD) did not receive any complaints about the public communications process, but the systemic review revealed that there were some communications shortfalls in reaching out to the public in general, and, in particular, to the peaceful protesters. These shortfalls are set out below.

The media climate

Deficiencies in the communications with peaceful protesters cannot be examined in a vacuum. Public attitudes toward the G20 summit were formed to a large extent by the media coverage, which conveyed an overall sense of trepidation. Media reports emphasized the security measures that were being implemented and their cost, which was reported to be more than \$1 billion – far more than for previous summits. The media ran stories about private security firms being contracted to provide airport-style

screening and other services.⁵² It described police surveillance, airspace restrictions, the issuance of a U.S. travel alert warning against travel to Toronto, and the expectation during the summit of major traffic disruptions. More than 5,000 police officers were expected to patrol downtown Toronto.⁵³

A demonstration of police preparedness held for the media at the beginning of June was followed by media reports of police dogs and formations of police on horseback, on bicycles, and in riot gear.⁵⁴ The demonstration was described by one television news broadcast as “part of an attempt to deter anyone from trying something during the G8 and G20 summits.”⁵⁵ In addition, the media ran dramatic stories on the potential use of the long-range acoustic device (LRAD), which could apparently cause hearing damage.

Leading up to the summit, the media reported a number of threatening incidents in Toronto, including the theft of police uniforms and the arrest of a man for the possession of explosives. Incidents outside Toronto were also covered, such as the firebombing of a bank in Ottawa and the suspicious sale in the town of Lincoln, Ontario, of a large quantity of the kind of fertilizer used for making bombs. Violent protests were anticipated. A spokesperson for one of the protest groups could make no promises “that all the demonstrations would be as peaceful as they have been so far.”⁵⁶ There was a general expectation that protesters would use Black Bloc tactics – dressing in dark clothing and hiding their faces in order to disrupt protests and vandalize property.

52 K. Wallace, “‘Airport-style’ screening set for G20 Summit” *National Post* (1 June 2010), online: National Post <<http://news.nationalpost.com/2010/06/01/%E2%80%98airport-style%E2%80%99-screening-set-for-g20-Summit/>>.

53 S. Agrell, “Police practise for G20 Summit by simulating hostage taking” *The Globe and Mail* (19 April 2010), online: The Globe and Mail <<http://www.theglobeandmail.com/news/national/toronto/police-practice-for-g20-Summit-by-simulating-hostage-taking/article1538873/>>.

54 J. Yang, “A glimpse behind the G20 security curtain” *Toronto Star* (3 June 2010), online: The Star <<http://www.thestar.com/news/gta/torontog20Summit/article/818700--a-glimpse-behind-the-g20-security-curtain>>.

55 *Global National*, (3 June 2010) Global Television.

56 “Protests continue in Toronto as G20 nears” *CBC News* (22 June 2010), online: CBC <<http://www.cbc.ca/news/canada/toronto/story/2010/06/22/g20-tuesdayprotestors.html>>
See also: M. Gee, “Why the G20 protesters won’t condemn violence” *The Globe and Mail* (23 June 2010), online: The Globe and Mail <<http://www.theglobeandmail.com/news/world/g8-g20/opinion/why-the-g20-protesters-wont-condemn-violence/article1615422/>>.

51 Young, Jennifer. “G20 Security to be Massive” *Toronto Star* (23 March 2010).

Some anarchist groups had threatened to target people who appeared to work for large corporations. In response, the media reported that the police had advised people heading to the city core to “dress down.”

Communications with peaceful protesters

The breadth of information the ISU was responsible for communicating was extensive, and, despite the time constraints in preparing for the G20, commendable efforts were made to communicate effectively with the public. There were, however, significant shortcomings.

Lack of a central resource or repository of information for protesters

The information that was distributed in printed form about the role the police would have in assisting peaceful protests was small in quantity and scattered among various documents. A pamphlet developed by the ISU titled “G20: Integrated Security Unit” contained the following passage:

Demonstrators

The Integrated Security Unit recognizes and supports the guaranteed rights and freedoms as stated in the Canadian Charter of Rights and Freedoms including the freedoms of opinion, expression and peaceful assembly.

We believe most groups will want to express themselves in a peaceful and responsible manner however we are preparing for any eventuality. Any interaction police have with demonstrators will be measured, balanced and appropriate to the circumstances at hand. Demonstrations that result in criminal behaviour will not be tolerated and specific charges will be applicable to anyone committing criminal offences.

These two paragraphs warned demonstrators that the police would respond to any criminal behaviour but provided little information to the public about the role the ISU was willing to play in supporting peaceful protests. Notably absent

was any reference to the Community Relations Group and its responsibilities under the TPS public information plan.

An ISU document titled “Message to the Community” provided more information to the public about its role in supporting protesters. It identified north Queen’s Park as a designated speech area and expressed the hope that those wishing to protest would take advantage of this space to send their message to the summit delegates. It said that the designated speech area would be appropriately staffed with police to ensure the safety of those who attended to protest. As well, it indicated that the ISU was working with groups that wished to march to and from this location and confirmed its support of peaceful protests wherever they might occur. Much more detailed information would, however, have been helpful.

The summer 2010 edition of *Our Toronto*, the City of Toronto newsletter, included a three-page article on the G20 summit and what to expect during that weekend.⁵⁷ It covered a range of issues, such as the security zones and the impact of the summit on traffic, the TTC, the operations of Union Station, and area parking. It also included the same information on protests that had been provided in the “G20: Integrated Security Unit” pamphlet, with an additional reference to the designated speech area and the plan (which was not carried out) to televise activities at the park and transmit the images to the delegates at the Convention Centre. The public was invited to send security-related questions to the Community Relations Group, but no reference was made to the CRG’s role in facilitating protests.

The ISU website (the address for which was included in all the printed materials) gave additional information on a range of issues related to the policing of the G20 summit, but even there the potential of the medium was not used well to disseminate information about the role of the police in facilitating protests. The website listed 10 questions and answers related to the right to protest, gave a few brief paragraphs on the CRG’s

⁵⁷ “What to expect during the G20 — June 26 & 27, 2010” *Our Toronto* (Summer 2010) 14, online: Toronto <http://www.toronto.ca/ourtoronto/summer2010/pdf/ourtoronto_summer2010_english.pdf>

role in ensuring that the views of the community were considered in planning for security during the summit, and included a section titled “Information to Demonstrators,” which reprinted section 2 of the Canadian Charter of Rights and Freedoms and a list of provisions from the Criminal Code. The one reference to the designated speech area did not even provide its location. The website did, however, encourage protesters to contact the CRG in order to work with the police in planning their protest, but it gave no information on what this cooperation would entail.

In general, the media environment in which the Integrated Security Unit was operating was overwhelmingly focused on the efforts by the police to prevent any criminal activity associated with protests – and to deal with the likelihood of that occurring. In this context, it became even more challenging to carry out effective communications regarding the policing of peaceful protest. Not surprisingly, the message that the police were willing to work with peaceful protesters was not widely received, and neither were some of the CRG’s outreach efforts. In a media environment where the police and the protesters were portrayed as readying themselves for confrontation, much more should have been done to emphasize the role of the police in supporting peaceful protests and keeping them safe. Although it would be naive to believe that improved police communications and outreach would have prevented those individuals intent on engaging in criminal activity from doing what they did, these same police efforts could have been used to encourage a healthier trust relationship between peaceful protesters and the police in the lead-up to the summit.

Nothing challenged public trust more than the passage of Regulation 233/10, which applied the *Public Works Protection Act* to the summit’s inner security zone. This Act, which had been passed in 1939 to protect public buildings against sabotage during the Second World War, gave the police powers to search, identify, and question people in the area of the fence covered by the Act. The regulation was passed hurriedly by the Ontario government at the request of the Toronto Police Service without

any public input or publicity. When word of this law finally leaked out on June 25, on the eve of the summit, the media referred to it as a “secret law.”

The request for the regulation required the signature of TPS Chief Blair, who later told the OIPRD that he signed it in May 2010 at the request of officials, although he felt it was “not necessary but couldn’t hurt.” The problem was compounded when Chief Blair told a news conference as the summit began that the law gave police the authority to search and ask identification from anyone within five metres of the outer security fence and to arrest anyone for refusing to comply. Chief Blair was conveying a mistaken interpretation of the law that was prevalent within the Toronto Police Service. When informed of the mistake shortly after speaking to the media, Blair ordered that a correction be sent immediately to his officers. However, he did not hold a news conference to inform the media and the public of the change. Only after the summit did the Chief admit publicly that his interpretation was a mistake.

Poor use of social media

Social media were used to disseminate information to the public, but they were no substitute for a robust communications plan. For example, on June 20, 2010, the Toronto Police Service uploaded a video onto YouTube in which two members of the Community Relations Group gave a brief description of the group’s role during the G20 summit. The following day, TPS uploaded an interview with a police officer about the way the police were facilitating peaceful protest groups. On June 25 the TPS also uploaded a video of two police officers discussing the role that the CRG had played the previous day in facilitating a peaceful protest by First Nations groups. These videos were certainly informative, but their usefulness was diminished by the fact that the ISU website did not have any link to them. In any case, with only a few exceptions, such YouTube items do not attract significant audiences.

The TPS Facebook site was updated with photographs of police officers facilitating a number of G20 summit protests. This site also provided contact information for the CRG, emphasizing that

the police would accommodate lawful peaceful protests connected to the G20 summit. The police used Twitter too, though not in any significant degree, to communicate with protesters. Some Twitter messages did, however, advise the public that certain areas of the city should be avoided for safety reasons. The ability to transmit real-time messages through Twitter was a potentially powerful tool that could have been used by the police for communicating with protesters not only during the planning stages of a protest but also during the protest itself. The way in which social media services were used by the police certainly helped to augment the printed information available regarding peaceful protests.

Yet social media was just one element of the TPS communications strategy. While a person consuming all the available police communications may have been able to piece together an understanding of the role of the CRG, the disjointed manner in which the information was conveyed, and the absence of any one place in which the role of the police in facilitating peaceful protest was fully explained, made it challenging for most people to know what the police were willing to do to assist peaceful protesters.

The failure of the designated speech area

The failure to establish the audio-visual equipment at the designated speech area in north Queen's Park resulted from the inability of the Toronto Police Service and the RCMP to work effectively together on the project. The RCMP explained that, because the designated speech area was inside the Outer Zone, it fell within the exclusive jurisdiction of the TPS and, therefore, its own role was simply advisory. The TPS, for its part, explained that the designated speech area was a novel idea advanced by the RCMP and that it was established only at the Mounties' suggestion. The TPS, in contrast, had always considered the entire city as a free-speech area. Apparently the TPS did not have the capacity to establish the audio-visual link without the support from the RCMP, and the reason there was no audio-visual link to the summit was simply that no RCMP support was ever received. There is no evidence, however, that this link would have defused the street protests or halted the sporadic violence.

The media

The media, both domestic and international, are a vital component of summit meetings such as the G8 and the G20. There would be little point in global leaders getting together in one location if no one wrote about or broadcast the meetings, photographed the participants, or blogged about the event.

In recent years, the media have expanded exponentially in numbers, technologies, and capabilities. Where two decades ago there were a few hundred print reporters at such a meeting, a dozen television networks, two or three news agencies, and a handful of photographers, today the media corps consists of a cast of thousands. Potential threats against media participants have also increased. Security officials must make critical decisions on accreditation for media organizations and their representatives and on how best to handle the information flow.

Some organizations, including police services, are having a difficult time adapting to the new media environment. Both the RCMP and the Toronto Police Service made some use of the social media in the lead-up to the G20, but they failed to recognize or exploit the full potential of new media journalists.

Accreditation

The process for accreditation for the media at the G20 closely resembled the process for individuals who needed access to the security zone because they lived or worked in the area. Major media outlets were accredited through the Summit Management Office (SMO), and smaller, or "secondary," media obtained their identification from the Alternative Media Centre – a media association in Canada with offices in Vancouver, Toronto, and Montreal.

Media accreditation at events such as the G20 typically gives journalists access to a media centre and the right to circulate to some extent in the secure area. It also serves as identification at any protests or demonstrations outside the official event.

The media centre

The Direct Energy Centre (DEC), a large convention building on the grounds of the Canadian National Exhibition just west of the downtown core, was designated as the G8/G20 Summits Media Centre. The international media worked first out of Huntsville for the G8 meetings, and then out of the DEC in Toronto for the G20. The journalists were transported from their hotels to the DEC every day of the summit meetings. The DEC provided facilities for all members of the media, which numbered between 5,000 and 6,000 people. The site included an area of restricted access, providing a secure working environment for the international media.

The media climate

Unfortunately, in the climate of suspicion and confrontation that prevailed, the police, the protesters, and the media all seem to have been wary and apprehensive of each other even before the summit began. The lack of communications between the police and journalists persisted throughout the G20 meetings. The news leading up to the summit conveyed a sense of trepidation, and subsequent media reports did nothing to quell this fear as they focused less on the G20 meetings and more on the street battles between the police and the protesters. This emphasis arguably resulted in a loss of public confidence in policing in general and in the Toronto Police Service in particular.

Some journalists were wary not only of the police but of hard-core protesters as well. The *Toronto Star* circulated a “tip sheet” to its reporters which described “how to get through a protest with minimal pain or injury.” The tips included this advice: get a gas mask (to offer relief from tear gas), keep a bandana soaked in vinegar in a sealed bag at all times (as backup to the gas mask), bring a helmet (to protect against rocks thrown by hard-core protesters), and strike a balance in the way you dress (to guard against the riot police treating you like a protester or protesters targeting you as main-stream media).⁵⁸

⁵⁸ “Getting ready to cover the G20,” a ‘Protest Tip Sheet’ given to reporters covering the G20, from InsideToronto.com.

The majority of journalists who were arrested represented the non-traditional media. However, two photographers from the *National Post* newspaper in Toronto were also arrested, held in jail for 24 hours, and reported on release that their equipment had been mishandled. They were attempting to photograph clashes between police and demonstrators, and they were charged with failing to comply with a police order to disperse.

One arrest that received much publicity involved a freelance journalist who worked for a number of publications, including Britain’s *Guardian* newspaper. His arrest outside the Novotel hotel on The Esplanade was witnessed by a high-profile TV host in Toronto, who spread the news on the Internet. He reported that the journalist was punched by police while being arrested. The TV host, who had SMO accreditation, was allowed to leave, but the other journalist was arrested and taken to the Prisoner Processing Centre on Eastern Avenue, where he was held.

Issues and analysis

Police and security forces in all countries that host global summits have no choice but to rise to the challenges our world presents today: not only must they investigate and accredit thousands of media representatives in the lead-up to the meetings, but they must also recognize that, with almost every journalist, protester, and observer holding a camera of some sort, their behaviour is liable to be recorded at all times. They must accept that, even under tremendous pressure, they may be held accountable for their actions.

In their training, the police must be made aware that they are now operating in a digital age. Almost everyone has a camera or a mobile phone, and everyone takes photos. Except in Quebec, which has some restrictions, there are no laws in the rest of Canada against taking pictures in public places. In addition, the Toronto Police Service has video cameras positioned around the city. All police officers should heed the role a video camera played in the tragic case of Robert Dziekanski, a Polish immigrant who died on October 14, 2007, after being

hit five times by taser guns held by RCMP officers at Vancouver Airport. Details of the incident came to light after Paul Pritchard, the man who recorded the video, went to court and complained that the police had taken possession of his video and refused to return it to him. As soon as the judge ordered its release, Pritchard gave the video to the press. The ensuing publicity led to a public inquiry and charges against some of the officers.

During the G20 in Toronto, the police did not seem to have a clear understanding of the various levels of accreditation for the media – or of the content that the media and the public without any accreditation were entitled to report on and document. It seems that accreditation from the Alternative Media Centre (AMC) was not recognized by police, even though its credentials were included in the accreditation process. In the incident outside the Novotel hotel, protesters were boxed in and an order was given that only media members with the G20 lanyard were to be released. All others were to be arrested. This order, which came from the higher ranks, failed to recognize that those members of the media accredited by the AMC had been granted accreditation as journalists, videographers, and photographers, but at a lower level of access. This lack of understanding filtered down to the officers on the street and resulted in the arrest of a journalist accredited through the AMC.

Equally important, the police need to be much more knowledgeable about what members of the media and the public are entitled to film and document. Before the G20, the police were not provided with the appropriate training to understand that the media and any member of the public were at liberty to record (by photograph, audio, or videotape) events that were taking place in non-secure zones, provided this recording did not obstruct the officers in the execution of their duties. This misunderstanding led not only to strained relations between the police and the public but to detentions, searches, and arrests, some of which appear to have involved aggressive and excessive force. Some media personnel were detained or arrested and told not to return to that particular protest. Others were

traumatized by the way they were treated. They complained they could not, as a result, report on a subsequent day's events.

Complaints from the media

The OIPRD has received 15 complaints from the media. Four of the complaints came from members of the media who had been accredited by the Summit Management Office, five from members of the media who had been accredited by the Alternate Media Centre, and the remaining six complaints were from members of the media who appear not to have been accredited by any organization.

In broad strokes, while the complaints seem to reflect a lack of understanding by the police of the approved accreditation system, they also appear to reflect possible misunderstandings of the media's entitlement to report and film events. These various misunderstandings created situations in which members of the media were detained and had their possessions searched. In several instances the situation escalated and the detention led to the arrest of members of the media, with allegations of excessive force being used on occasion to make those arrests as well as damage done to computers, cameras, and video cameras.

The overwhelming majority of the media who reported on the G20 summit acted responsibly and appropriately. A few, however, did not. Although freedom of expression is one of the most entrenched and strongly defended rights in the Canadian Charter of Rights and Freedoms, it is, like all other rights, not absolute. The media must appreciate that, in some circumstances, they may unduly inflame a situation or create a danger to themselves, the police, or the public simply by the way they set out to get to a story or to videotape an incident. If and when that occurs, they are required to follow police orders, regardless of whether they feel they are warranted. Additionally, in the appropriate circumstances, members of the media may be properly subjected to lawful detentions and searches by the police. The fact that they are journalists does not of itself insulate them or provide them with a blanket immunity.

Recommendations

- Major events require robust communication plans. Police services in Ontario should work with the IPRD to develop plans for improved communications. The public's support for security measures is crucial to their success. Police services should develop a detailed public communications plan for major protests that includes the police's role in facilitating peaceful protest.
- Police chiefs and command leads should proactively communicate with the public through traditional media such as television, radio, and newspapers, as well as through non-traditional means such as social media, to address situations, to explain measures being taken, and to seek the public's cooperation. Protesters should be made aware of likely police action so that they can make informed decisions.
- Police services involved in large events or protests should make a greater effort to communicate policing plans to protests groups at an earlier stage of planning. As much as possible, police should develop communication strategies for protest groups that are reluctant to communicate or respond to police. Such attempts by police would go a long way to build trust and better relations.
- The police have a very public role. Officers must recognize that the public will take photographs and video recordings of them performing their duties, especially at events such as protests. The police must recognize the public's right to do so without being subject to detention, search, or confiscation and destruction of property. Disciplinary action specific to this issue should be developed. The Ontario Association of Police Chiefs and the Government of Ontario should consider whether any amendment to the Code of Conduct regulation is required to effect this change.
- In this day and age we understand that surveillance cameras, including closed-circuit television cameras, are used on the streets daily and more so during major public events or protests. Police services or municipal bodies that put up these cameras have a duty to inform people that they are under surveillance. They must ensure that there is visible notice to the public that they are being filmed. This requirement includes signs on or near the cameras.
- Police services should be aware that large-scale events are likely to attract the attention of traditional and non-traditional media. Policies should be developed regarding criteria for media accreditation. These policies should be public documents and involve the media in their creation. Police services planning for security at large events should ensure that accreditation of all media (including new media and non-traditional media) is handled by one office. The accreditation, once issued, should be respected by police. That said, media personnel must be aware that they are subject to police action if they obstruct or hinder officers in performing their duties.

Chapter 11: Training

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The G20 training largely focused on preparing officers to respond to threats and civil unrest. Training primarily examined policing procedures and tactics and legal authorities for enforcing the rule of law and maintaining public order. Little time, attention, and consideration was directed at Charter rights pertaining to freedom of assembly, freedom of association, or freedom of expression, and practically no attention was given to human rights considerations. As a result, a number of themes and issues emerged from the OIPRD's review and analysis of G20 training materials.

ISU training

The Integrated Services Unit (ISU) training plan was directed at high-level personnel and summit commanders. Therefore, it was separate from the provincial and municipal training of ground officers. ISU training provided an orientation for officers and situational awareness and instruction related to the size of the security detail or the requirements that needed to be met. The ISU explained that most officers were already trained in the necessary policing skills and required only information about the environment in which they were working.

Training at the ISU level included:

- Pinnacle Training I
- Pinnacle Training II
- Pinnacle Training III
- Trillium Guardian
- ISU Tactical Training.

The aim of Pinnacle Training I was to conduct an ISU plan rehearsal, concentrating on command and control, inter-operability, and jurisdictional issues.

Pinnacle Training II provided individual and collective training for the G8 and G20 commanders. The objectives of Pinnacle Training III were to confirm security plans, command structures, processes, and operations. Trillium Guardian focused primarily on security and emergency management frameworks. About 65 organizations – representing federal, provincial, and municipal departments, as well as members of the Greater Toronto Airports Authority, the Summits Management Office, the ISU and the Government Partners Public Affairs Group – participated in ISU training.

TPS training

The Toronto Police College designed the G20 training curriculum for G20 officers from the Toronto Police Service. As part of the OIPRD's systemic review, TPS disclosed copies of G20 training materials, including:

- G20 Face-to-Face Training
- G20 Online Training: Module A
- G20 Online Training: Module B

- Ontario Provincial Statutes and Special Investigations Unit for Out-of-Province G20 Officers
- LRAD Operator Training
- LRAD Training for the Public Safety and Emergency Management Unit.

Toronto police officers were required to complete three training components. Specifically, two online (Training Modules A and B) were accessible through the Canadian Police Knowledge Network (CPKN), and one in-class (face-to-face) training day was held at the Toronto Police College. The online components were to be completed before the face-to-face training began. In total, Toronto police officers received approximately 15 hours of training. Officers from other Ontario municipal services were invited, but not required to attend the face-to-face training in Toronto. All police officers participating in the G20 summit from outside services were required to complete the five hours of online training in Modules A and B. Some police services provided additional G20 training. Police officers from outside Ontario were also required to complete online training in Modules A and B as well as one-and-a-half hours of training in the course on Ontario Provincial Statutes and Special Investigations Unit for Out-of-Province G20 Officers.

Module A — online training (all services)

This course was designed as a basic overview of required skills for all officers deployed to the G20 summit. Officers received instruction on issues that may affect public and officer safety. The course's training standards stated that Module A was approved by various Toronto Police College individuals on April 20, 2010, and given final approval on June 8, 2010. This training was mandatory for members of all police services posted to the G20 summit and included online presentations, videos, and interactive elements. It lasted approximately two-and-a-half hours. Officers examined crowd management theories; CBRNE (chemical, biological, radiological, nuclear, explosives) response; IMS (incident management system) theory /

nomenclature; protocols for dealing with bomb threats; gas mask application; and the principles and application of LRAD (long-range acoustic devices). On completion of each topic, officers were assessed through interactive exercises and an online test, each test generally including about 10 questions.

The training appeared to present a comprehensive discourse on the possible dangers and risks that could be present at the G20 summit. The potential threats were the primary focus of this segment of instruction. Training provided a couple of examples of peaceful demonstrations, but mainly focused on the issues of non-peaceful protests. The section on crowd management outlined the academic theory of crowds, the composition of crowds, and the various forms of a crowd. The need for this type of training, however, is unclear. Although the learning standards indicated that crowd management theory would include information on how to deal with crowd issues appropriately, it is questionable whether it was necessary, especially for training that is only two-and-a-half hours. Instruction time may have been better allocated to more practical elements, such as ways to positively interact with the public and promote peaceful demonstrations. Training would have benefited from a discussion of methods officers can use to support protestors. No material was included on how the police can support, encourage, or direct peaceful demonstrations.

Although the training highlighted the importance of police responsibilities and recognized the protection of people's rights as one of the three primary police responsibilities, rights to peaceful assembly were not reflected in the instruction and did not make up one-third of the training. Specifically, Module A included only three slides on the Charter of Rights and Freedoms. Attention was focused on using Criminal Code provisions to apply force and maintain public order. There was no discussion of how police can facilitate peaceful protests or the right to assemble.

Module B — online training (all services)

This course was designed as a basic overview of required skills for all officers deployed to the G20 summit. Officers received instruction on issues that might affect public and officer safety. This course was mandatory for members of all police services and was delivered through online presentations, videos, and interactive elements. It lasted approximately two-and-a-half hours. The course training standards for Module B were approved by various Toronto Police College individuals on May 1, 2010, and given final approval on June 8, 2010. On completion of each topic, officers were assessed through interactive exercises and an online test, each test generally including about 10 questions. To better prepare themselves for this summit, officers from participating police agencies examined public order incidents, investigative detention law, search incident to arrest, arrest processes, gate management and radio usage protocols.

With the exception of breach of the peace, the training appeared to present an accurate analysis of the legal parameters of Criminal Code provisions, including riot and unlawful assemblies. It also covered current Canadian jurisprudence related to investigative detentions and search and seizure. The training component on breach of the peace appeared to take a broader interpretative understanding of what qualifies as a breach of the peace by including actions toward an individual. The training stated that “Case law has defined a breach of the Peace as *acts or actions resulting in actual or threatened harm to someone*.” The definition of breach of the peace in the training materials focuses on acts that threatened harm to an individual. This is a skewed meaning from the perspective of Canadian jurisprudence, which focuses on the level of the disturbance to the public. In case law, the concept of “breach of the peace” involves some disturbance or threat or tumultuous and riotous activity. The threat is to the general public and, as a result, requires a substantive threat rather than a particular threat to an individual. The common law also provides a police officer with the power to arrest a person in order to prevent an apprehended breach of the peace – if the officer honestly and reasonably believes there is a

real risk of imminent harm. The concept described in the training can be misleading and may have caused officers to misdirect their authority. The concept of *acts or actions resulting in actual or threatened harm to someone* appears to be more appropriately within the realm of criminal assault.

The segment on investigative detention provided a high level of the legal parameters as well as a discussion of the limitations of police powers. The training, however, did not provide practical examples or indicate how officers should apply the law under the general circumstances of the G20. In this regard, it included a discussion of sections 7, 8, and 9 of the Charter and the lawfulness of investigative detentions. Similarly, the training on search and seizure was an accurate summary of the current status of the law and highlighted the limitations on police powers. However, it may have benefited from more examples on the appropriate scope of powers. There was no instruction on the practical application of these principles. This oversight may have caused uncertainty among officers on the streets during the G20. As a result, there may have been a risk that police would have used a wide degree of discretion in applying the law. A more substantive discussion on Charter rights would have been appropriate for G20 training. With the exception of sections 7, 8, and 9, Module B did not include an extensive discussion of the Charter. Module B included some training on the practical elements of the G20; for example, it provided information on the OIPRD and media relations. Unfortunately there was no discussion on freedom of the press, and the level of outreach to community groups is unclear. It is also worth noting that many of the images included in the training depicted unlawful assemblies and violent crowds.

Face-to-face training (TPS only)

The G20 face-to-face training was a one-day program for front-line officers of the Toronto Police Service. It took place at the Toronto Police College and aimed to incorporate and reinforce the online e-learning modules that were completed by all police officers assigned to front-line policing duties for the G20 summit. The program’s standards indicated that training was to provide officers with the knowledge

and skills to make sound judgments and decisions and to give officers a chance to use their newly issued gas masks and helmets. The emphasis of this program was to make sure that officers could, and would, respond professionally and confidently during the G20 while maintaining public safety.

The course examined crowd management protocols, CBRN response, operational considerations, and practical gas mask application in concert with defensive and front-line tactics. Evaluation consisted of instructor assessment of officer capabilities with issued gas masks and helmets during practical exercises, as well as of competence and confidence. One hour of training was dedicated to the examination of the articulation and the legal formation of reasonable grounds and the Charter. Another hour was dedicated to operational considerations, including prisoner management, access zones, memo books, and the *Public Works Protection Act* (PWPA). Notable topics throughout the training included arrests and detentions; ancillary powers doctrine; crowd control and crowd management; weapons, strategies, and characteristics of Black Bloc protests; and professionalism and duties of the police officer.

The training appeared to present an accurate summary of the legal parameters surrounding police powers. There was, however, limited discussion of Charter rights in the face-to-face training. Specific Charter rights were only briefly mentioned; the focus appeared to be on providing officers with the ability to provide justification for actions. The training did not appear to offer a balanced view of protesters or the important role of peaceful assembly in Canada. The videos were of only violent protests, and most references were made to anarchists in the crowds. No training was provided on how to facilitate peaceful protests. Rather, the focus appeared to be on suppressing the escalation of crowd activities and on controlling access. The presentation did not provide officers with sufficient training on public or citizen engagement. It simply reminded officers to be polite, avoid arguments, and place safety of the public as a primary goal. There were limited examples of ways to respond appropriately to the public, and there did not appear to be a process that

developed response skills or approaches. Greater attention could have also been given to issues of diversity and accommodation.

The training on the PWPA was also limited. It outlined the main concepts of the Act, but failed to explain how and when it should be applied at the G20. Greater clarity was needed to explain the scope and application of the Act and connect it to the summit. The definition of “public works” in section 1 of the Act is very broad. It includes “any railway, canal, highway, bridge, power works,” and “any provincial and any municipal public building.” It also includes “other building, place or work designated a public work.” Given that it is a provincial statute, it does not refer to municipal roads or streets. Under the PWPA, powers are provided to *appointed guards* to protect or restrict people seeking access to the public work. The appropriate legal application of the PWPA is ambiguous. It is unclear whether any public building can be considered to be a public work with a “guard” or police officer restricting access, or whether municipal roads, such as University Avenue, could be caught under the purview of the PWPA. The notes included in the training indicated that the legislation was enacted to create an authority to control access to *designated places*. However, the training screenshots did not explain the proper application of the PWPA. As a result, it is possible that police may have used too broad an application of the PWPA. Since the training took place before the Ontario Regulation 233/10 (designating the security perimeter as a public work) was made public, training did not refer to the regulation or its parameters. Given that the PWPA regulation was not covered in the online or face-to-face training for officers, it would have been prudent for TPS to arrange a mandatory training segment once the regulation was filed. This training could have avoided any confusion about the application and use of the PWPA and the regulation.

Ontario Provincial Statutes and Special Investigations Unit for Out-of-Province Officers

This course was designed as a basic overview of provincial statutes, laws, and protocols for all officers from outside Ontario deployed to the G20 summit. To better prepare for the summit, officers received instruction on provincial statutes such as the *Provincial Offences Act*, the *Public Works Protection Act*, the *Trespass to Property Act*, the *Liquor Licence Act*, the *Mental Health Act*, the *Highway Traffic Act*, and also on the Special Investigations Unit. This training was mandatory for all police officers who worked outside the province of Ontario and were assigned to the G8 and/or G20 summit. The delivery of the training was through online presentations, videos, and interactive elements. It lasted approximately one-and-a-half hours. On completion of each topic, officers were assessed through their performance on an online test.

The training consisted of five-minute segments or approximately four slides on each topic and statute listed. The information provided a general overview of the pertinent sections of the acts. In many ways, it was superficial and simplistic. Once again, the training did not provide practical examples or indicate how officers should apply the law in the circumstances of the G20. Training surrounding the PWPA could have been stronger given that the Act had a potentially significant role in policing the G20 summit. In addition, the training on the *Mental Health Act* did not discuss the sensitive issues that may arise with some individuals. Furthermore, there was no reference to the Ontario Human Rights Code or the *Accessibility for Ontarians with Disabilities Act, 2005*, which may also raise issues in the policing of large protests.

LRAD operator training (sergeants and higher ranking officers)

The course was intended for police officers holding the rank of sergeant and above or those identified by the Toronto Police Service as an operator assigned to the public order unit, emergency task force, or marine unit. It is the role of an LRAD operator to understand the complexity of the device and have a good working knowledge of its deployment, and be aware of safety concerns for both operator and public.

The training consisted of one 90-minute classroom seminar of lectures, group work demonstrations, and practical exercises. The course required students to demonstrate the safe, competent, and efficient deployment of the LRAD and to be aware of all guidelines, rules, and procedures. At the end of the training, officers were evaluated on their ability to assemble both the LRAD 300X and the 100X, as well as on a written examination on the safe use and deployment of the device. To become a qualified operator, officers require a minimum grade of 75 per cent on the written examination.

Public Order Unit and Emergency Management Unit

The public order basic tactical course on public safety and emergency management training was held on April 19–29, 2010. This training focused on strong tactical means of crowd control and use of force weapons available to police. It may or may not have been specifically directed at the G20; the materials provided to the OIPRD do not state who was required to participate in this training. Although the protection of members of lawful assemblies is noted as a goal, this topic did not form a large part of the training. The training primarily addressed practical aspects of using gas masks, less lethal weapons, other types of weaponry, and the LRAD.

Methodology

The same overall training may not have been received by all officers working during the G20 weekend. The majority of officers were from the Toronto Police Service. Despite the number of other services present at the G20, there was a minimal amount of common training. Officers participating in the G20 summit from outside services were required to complete only the five hours of online training in Modules A and B, although some police services provided additional G20 training. In future, training should provide uniform information and guidance on the appropriate application of police authority to all officers involved.

The training methodology may also warrant further examination. The one-day face-to-face training for Toronto officers and the five hours of online training for all officers may not have been sufficient to adequately prepare officers to deal with the conflicting demands and complexity of issues involved in the G20. Although it is recognized that officers deal with public order authorities on a daily basis, the circumstances of the G20 were distinct. The intersection between public order authorities and Charter and human rights may demand more specialized and in-depth training, something that may have been difficult to achieve in 15 hours. In addition, the methodology was limited. Based on the review of materials provided, the training did not help the officer to develop skills, nor did it provide practical examples or indicate how officers should apply the law in the circumstances of the G20.

Training for events such as the G20 should include practical exercises for officers or situational role-plays to actually develop practical interpersonal skills. It is questionable whether the training sessions and online training employed was sufficient to fully develop the required skills and knowledge for policing the G20.

Content

The interplay of public order with Charter and human rights may demand more specialized and in-depth training. The training received primarily centred on preparing officers for the potential security threats and risks involved in policing the G20. This is an important priority. Equally important was the goal of maintaining and preserving the civil rights of citizens to assemble, protest, and express themselves. One of the six objectives for TPS was to facilitate conditions for peaceful protest. This goal, however, was not reflected in the training materials. Training should also have examined ways to promote peaceful demonstrations. There was no discussion of how police can support or facilitate peaceful protests or of the right to assemble. In addition, training should have also included a more thorough discussion of other provincial statutes, such as the PWWA, the *Mental Health Act*, the Ontario Human Rights Code, and the *Accessibility for Ontarians with Disabilities Act*, 2005, for all officers working the G20 summit.

Style and tone

For operations of this size, training frameworks must encompass consideration of the rights, as well as the challenges, of peaceful protests. This will assist the police in making sure that the choice of operational tactics is appropriate and in proportion to the situation. Most of the video images included in the training demonstrated very violent interactions between protesters and the police. Demonstrations were in effect defined by disorderly conduct. The only positive reference to protests was in Module B. In the section on Use of Force Regulation, the module referred to a police demonstration in 1993 that was noted as a peaceful protest which allowed officers to voice their concerns. The training subsequently discussed the violent student demonstrations in 1996 and the aftermath of the Ontario Coalition against Poverty demonstration in 2000. Throughout the training screenshots, protesters were mainly referred to as anarchists, and there appeared to be an underlying distrust of protesters' intentions and actions. Training should aim to provide a more balanced approach and tone.

Recommendations

- Police services should review and revise specific training regarding the policing of large protests and applicable police powers. This training should be implemented as part of the general continuing education of officers. The training should include a clear understanding of parameters of a legal protest and the rights of protesters. Although police must train and be prepared for possible violence, training should not depict all protesters as violent and confrontational.
- Police services should provide practical training to equip officers with the skills to facilitate peaceful protest, including de-escalating potentially violent situations and communicating effectively in challenging situations. That should be the police officers' primary goal.
- Following large events and protests, police services should debrief officers and discuss what worked or did not work, areas of concern, or best practices. This feedback will help to improve policies and training plans for future events.

Chapter 12: The Review Process

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The OIPRD's G20 systemic review committee

The Independent Police Review Director (IPRD) established a G20 Systemic Review Committee with a structure that included a project lead, senior and junior counsel, information manager, report writing team lead, administrative assistant, and representatives from the OIPRD's communication, business operations, and investigative units. The committee was intended to ensure that the review process and the final Report were fair and objective and produced meaningful recommendations that could be used by any police service during large protests.

The Systemic Review Committee met approximately every two weeks beginning in September 2010 to plan and discuss the development of the systemic review. The committee led the review by:

- Screening and reviewing complaints related to the G20
- Reviewing patterns / groups of complaints
- Developing work plans and determining next steps
- Responding to each complainant in a consistent manner, including allegations of unlawful searches and arrests, improper detention, and issues related to the temporary holding facility during the G20
- Liaising with various police services
- Coordinating and reviewing stakeholder submissions
- Developing disclosure requests
- Reviewing and analyzing disclosure documents
- Working with the G20 conduct investigative teams
- Gathering and sharing relevant information
- Developing common findings and recommendations to address issues of a systemic nature for the overall improvement of police practices, and for ensuring accountability and transparency in dealing with the public, and
- Preparing the review Report in an objective, informed manner so that it provides for “lessons learned” in moving forward.

The G20 team reviewed and discussed all relevant information: disclosure from police, public submissions, and submissions from interested parties, including complainants. In this way the team developed an overall picture of the G20, from initial planning to the completion of the review.

Review methodology

From the outset, it was recognized that the elements of planning and implementation of the G20 were very complicated. The OIPRD took the necessary time to ensure that it had an accurate understanding of the public complaints, the events throughout the summit weekend and the policing practices and processes. The team gathered, reviewed, and analyzed a vast amount of information, including individual complaint investigations, disclosure from numerous police services, and officer and witness

interviews, along with stakeholder submissions and information that is publicly available, in order to identify issues arising from policing during the G20.

The Director personally conducted more than 50 interviews for the systemic review. Most of these interviews involved senior police officers from the services involved in providing G20 summit security. The information uncovered from the complaints was also used to inform the overall systemic review. The investigations of G20 conduct complaints helped the team plan the larger G20 systemic review. It should be noted, however, that the investigative, interview, and disclosure process of individual conduct complaints was separate and distinct from the investigative, interview, and disclosure of the systemic review.

Each complaint was investigated separately and the results reported to the appropriate individuals. Interviews for both conduct investigations and the systemic review have taken place throughout Ontario and outside the province. Investigators and the Director have conducted interviews in Montreal, Ottawa, London, Barrie, Orillia, Hamilton, Durham, Peel, York Region and Toronto. In many instances the interviews required repeat travel to the locations. Representatives of other outside services travelled to Toronto to be interviewed. In addition to the complaints made to the OIPRD directly, for the purposes of the systemic review, the OIPRD requested summaries of the complaints made to the Ontario Ombudsman.

The OIPRD also ensured that it had information relating to the interaction and integration of all the police services and agencies involved in the summit. As a result, the review team sought and collected a great deal of background information pertaining to the planning and implementation of the G20 involving federal authorities, such as the RCMP.

It should be noted that the OIPRD did not investigate or inquire into the management, administration, or practices of the RCMP. The OIPRD does not have a role in oversight of the RCMP; nor does the OIPRD have any authority to deal with issues of conduct in relation to the RCMP. The organization with

jurisdiction over the RCMP is the Commission for Public Complaints against the RCMP (CPC), which has also initiated a review of the G20. The OIPRD interviewed several members of the RCMP in order to review and gather information for the purposes of background and to gain insight into the specific interaction between individual members of outside forces and Ontario's provincial and municipal police services.

Issues were identified in relation to the large-scale incidents: Queen's Park, arrests at the University of Toronto, Queen and Spadina, searches at Allan Gardens, the Prisoner Processing Centre (PPC), and arrests outside the Novotel hotel on The Esplanade. General recommendations and issues were also identified in other policing areas, such as planning and communications. In addition to the information uncovered during the course of the investigations, the OIPRD gathered disclosure from numerous police services across the province and Canada and conducted systemic interviews of both police and witnesses to provide a balanced and informed opinion of the events that transpired.

The Complaints

The complaints to the OIPRD about the policing of the G20 summit and the results of the investigations into these complaints formed the foundation for the systemic review. The OIPRD received 356 complaints, of which 73 were not pursued on the grounds established under section 60 of the *Police Services Act*. Of the remaining 283 complaints, 237 were exclusively complaints about police conduct and 46 were about both conduct and policies and services of the respective police service. Of the total complaints received, 22 were withdrawn.

The decision to either retain or refer a conduct complaint for investigation by the appropriate police service was based on whether the OIPRD or the police service would be more effective in investigating the particular complaint. In addition, a complaint identified as involving a larger systemic issue was retained for investigation by the OIPRD.

The OIPRD investigated 207 complaints involving the G20 summit and referred 76 to the relevant police service for investigation.

Issues and themes

The common themes found in the complaints were allegations of unlawful searches, unlawful arrests, and improper detention, as well as issues related to the temporary holding facility (Prisoner Processing Centre) used to detain people arrested during the G20. Among the various policing incidents of that weekend, the following garnered significant attention:

- The mass arrests that took place at Queen's Park after those who participated in the violent protest earlier in the day had blended in with peaceful protesters gathered at that location.
- The containment and mass arrest of hundreds of protesters on The Esplanade on the night of June 26, 2010.
- The arrest of over a hundred individuals, mostly from Quebec, who were asleep in a gymnasium at the University of Toronto on the morning of June 27, 2010.
- The forceful dispersal of over a hundred protesters in front of the Prisoner Processing Centre on the afternoon of June 27, 2010.
- The detention of hundreds of individuals during a severe thunderstorm at the intersection of Queen Street and Spadina Avenue on the evening of June 27, 2010.
- The disorganized operation of the Prisoner Processing Centre during the G20 summit weekend, with many detainees alleging, among other serious deficiencies, that the police failed to grant them reasonable access to counsel, medical attention, food, water, and toilet facilities.

Investigations of conduct

The 207 complaints about police conduct investigated by the OIPRD were grouped according to issues and geographic location. Complaints arising from the G20 summit were not investigated any differently from other complaints. However, as many of the police actions during the summit affected so many individuals in the same manner, complaints with common elements or that related to the same incident were investigated together, and many complainants were sent the same final investigative report.

A dedicated team was assembled to investigate. A Major Case Management Model was adopted to facilitate the investigation of complaints. This model is one often used in large or complex investigations. It provides accountability; clear goals and objectives; planning; allocation of resources; and control over the direction, speed, and flow of the investigation.

Investigators were divided into teams, and each team had complaints dealing with a specific area or theme. The investigative teams were grouped as follows:

- 1 Queen's Park and the University of Toronto
- 2 Queen and Spadina
- 3 Novotel hotel and The Esplanade
- 4 Allan Gardens
- 5 Prisoner Processing Centre.

In total, investigators completed more than 600 interviews. Many of them required travel, which added to scheduling difficulties and increased the time spent on the interviews. As the investigators spoke with civilians and officers, they uncovered information that led to further disclosure requests and more interviews.

Systemic submissions

The OIPRD was determined to ensure that the issues were investigated thoroughly and in a way that is accountable, transparent, efficient, and fair to the individual, the public and the police. The OIPRD also recognized that the public right to participate

was important and wanted to ensure that key stakeholders were able to express their thoughts and opinions about policing during the G20 summit. The OIPRD decided to invite a cross-section of community and police stakeholders to provide submissions for the review. This ensured that the OIPRD received a broad spectrum of opinions in a focused and timely manner.

The OIPRD asked numerous community groups and police organizations to provide submissions regarding the G20. Specifically, the Director asked stakeholders their views on the policing practices employed during the G20 summit. The OIPRD received 16 responses to its request. Six community groups or organizations, seven police services and three groups from the legal profession responded. Submissions were requested by December 20, 2010, but the OIPRD accepted some late submissions. These responses were used to supplement the information the OIPRD obtained through other sources.

Common themes

Public communication and consultation: before, during, after

Many submissions discussed the lack of communication with the public about the scale and extent of policing and the police powers. In addition, submissions expressed the opinion that little information was provided to the public on how policing would actually be implemented and that there was little to no communication on the *Public Works Protection Act* legislation or the new regulation. In future, some submissions suggested, the police should communicate with and educate the public about upcoming events. Communications strategies should focus on police-community relations and require ongoing routine communication. The public should be informed of police roles and responsibilities when events require the active involvement of various security bodies. Submissions also suggested that the Government of Ontario should improve consultation requirements applicable to the adoption of regulations.

Policy, training, and accountability

The submissions received by the OIPRD also consistently highlighted the importance of policy development, training, and police accountability. It was suggested that police should adopt and implement principles that will ensure the protection of rights. Police policies and training should ensure that the right to peaceful protest is protected. In addition, submissions also noted that police misconduct and incivility should be reported to the public, and addressed.

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Policing public events and supporting the right to protest

A few submissions also suggested that a legislative framework was required to govern public order policing operations. Some suggested public authorities should adopt policies and bylaws to guide and support protests and protect Charter rights. A framework for policing public events should also include public discussions and input.

Protection of Charter rights: investigations, detentions, and arrests

Most of the submissions discussed concerns over police actions and potential Charter violations. Concerns were raised about police actions before and during the G20 summit and centred on respecting a person's right to counsel and the right not to be arbitrarily detained, searched or arrested.

Challenges of large events and public order policing

Submissions received also highlighted the challenges that arise in policing events that involve a large number of protesters and internationally protected persons. Submissions discussed the potential for serious security risks and the need to protect the general public. Many situations that could have escalated into extreme violence were defused during the G20 summit. Submissions noted the complex organizational command structure and the multiple-level decision-making process of police services involved in the G20.

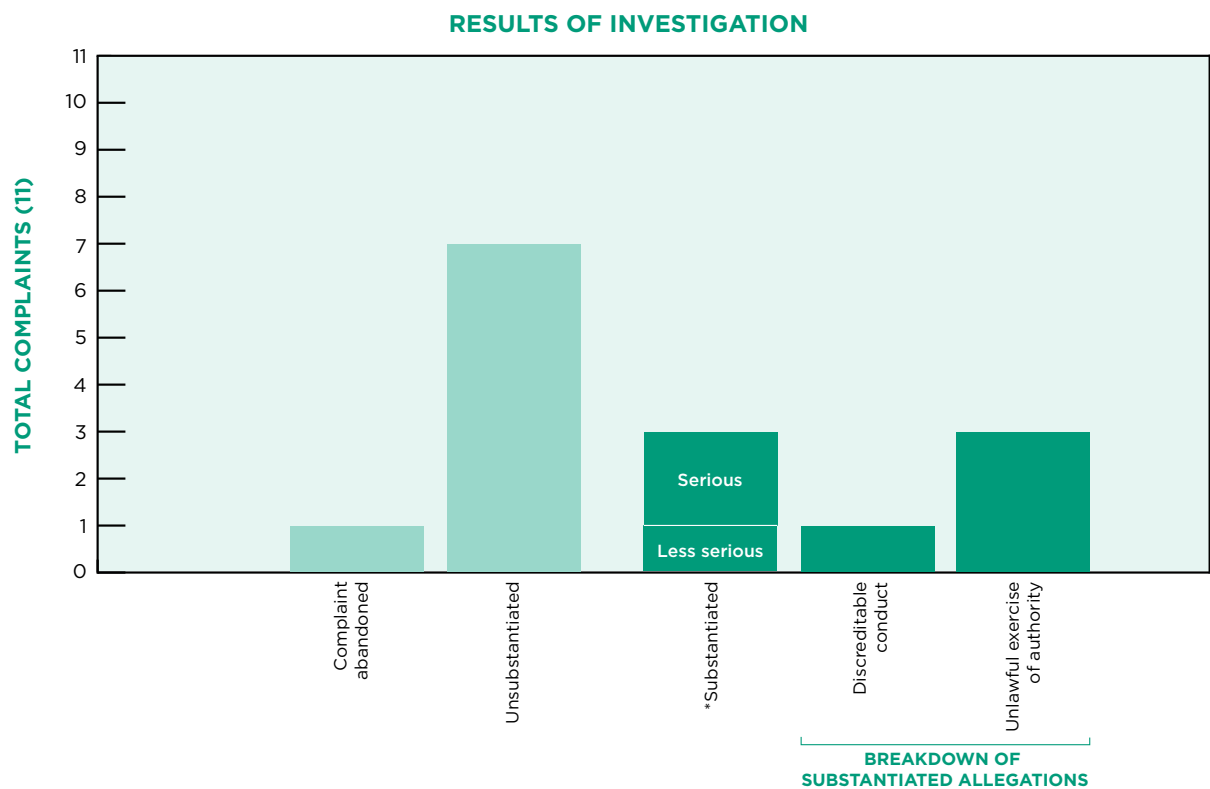
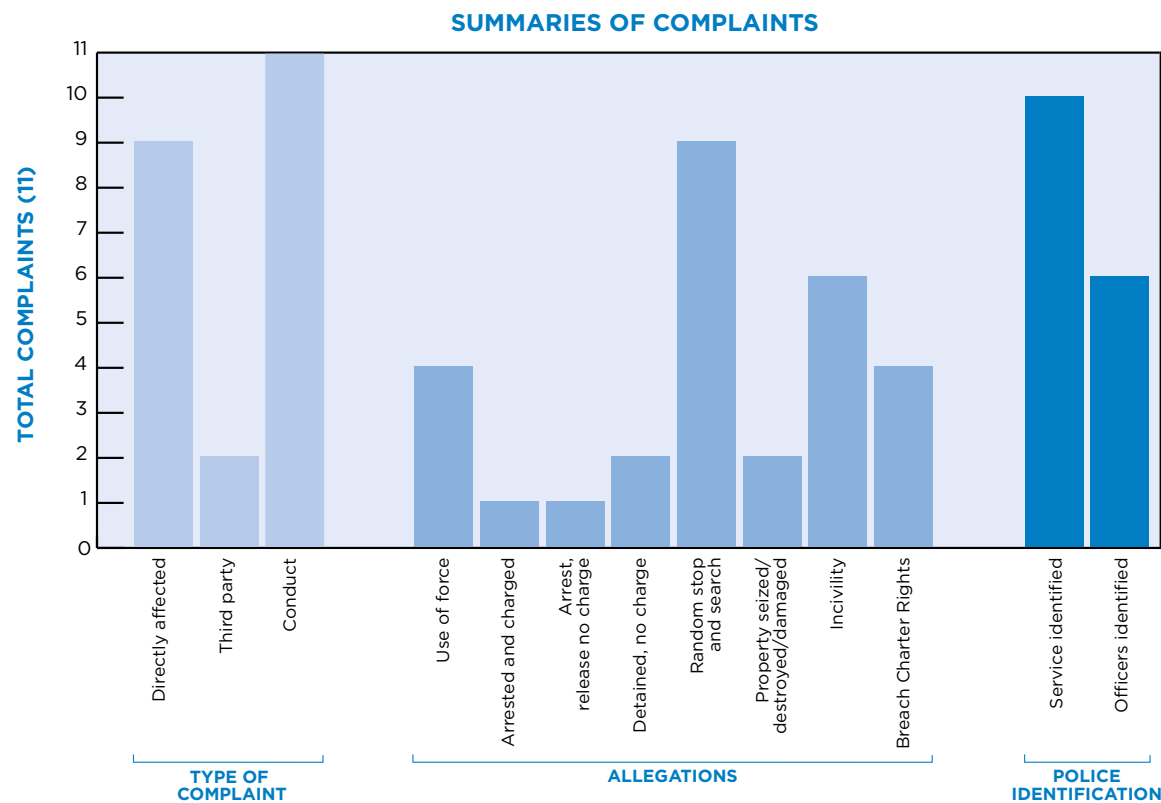
Appendices



Appendix 1: G20 Complaint Statistics

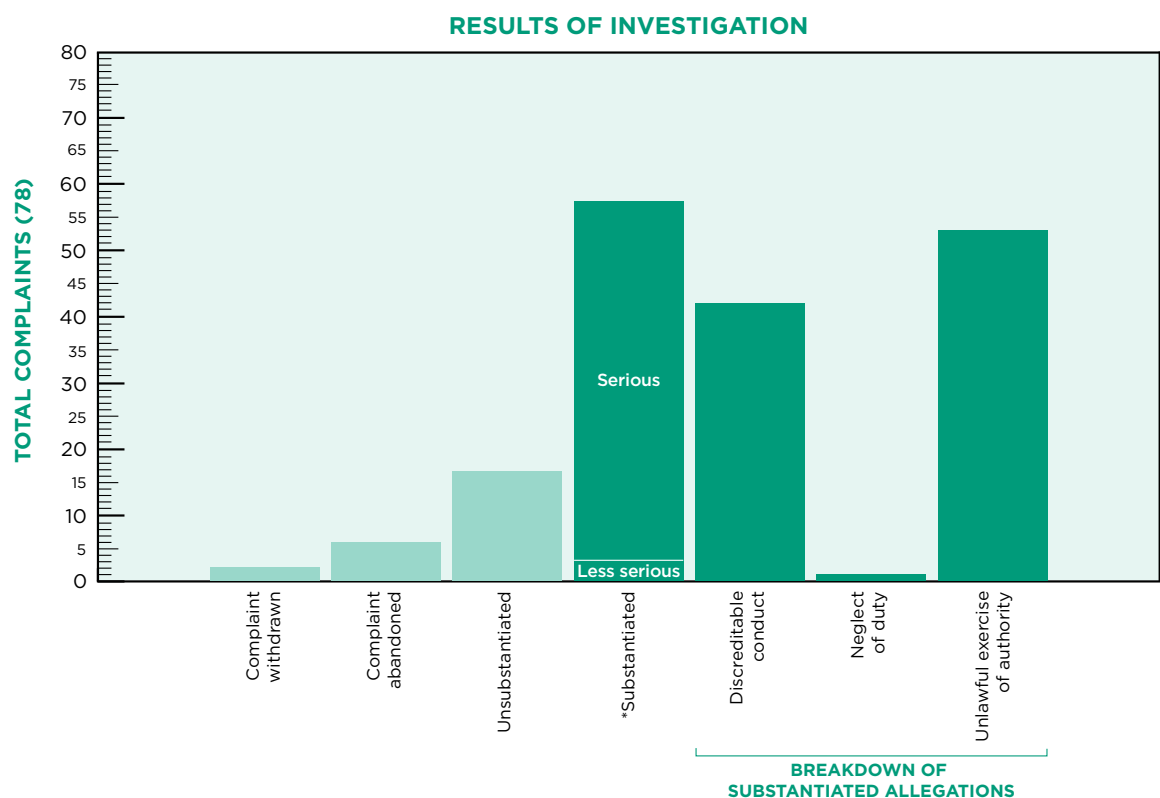
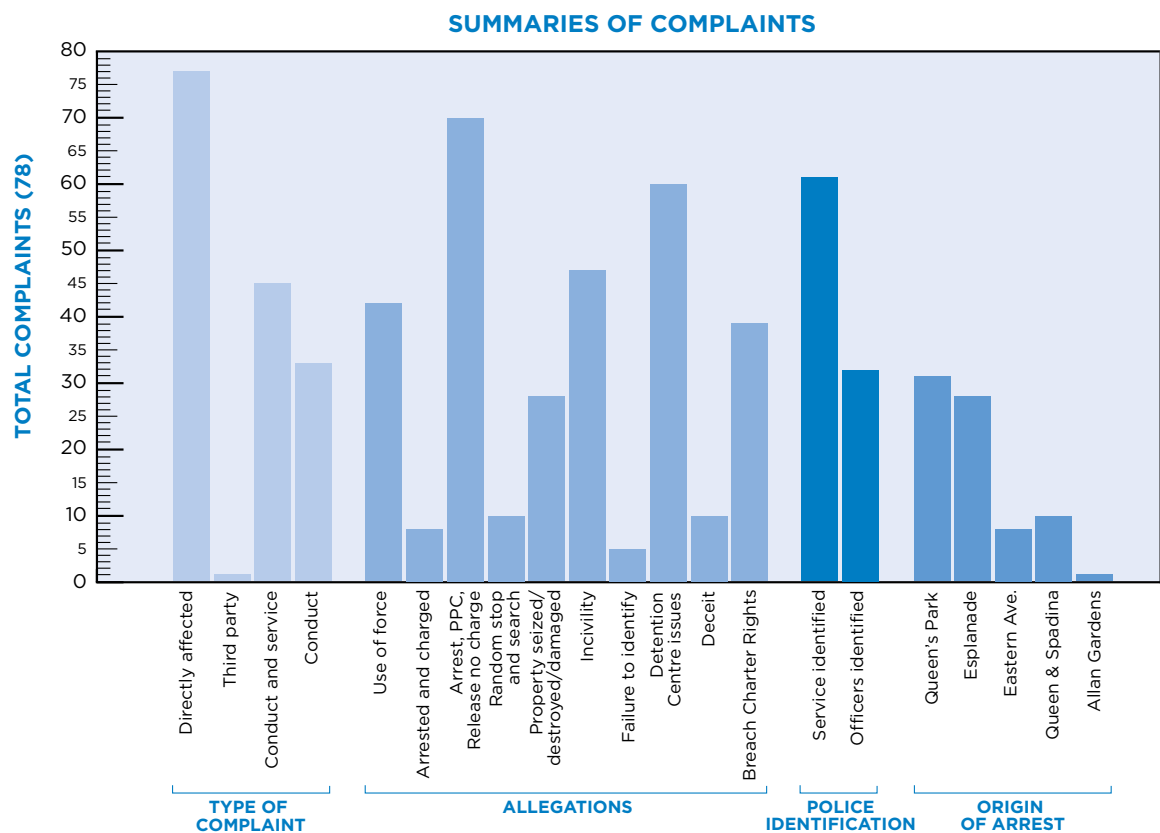
Allan Gardens / Stop and Search

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At Allan Gardens, 82 per cent of complaints dealt with random searches. Most of the complaints were unsubstantiated as often the complainant had consented to the search or, although the officers were misinformed of their legal authority, they were acting in good faith. *Substantiated complaints may include more than one finding under the code of conduct.

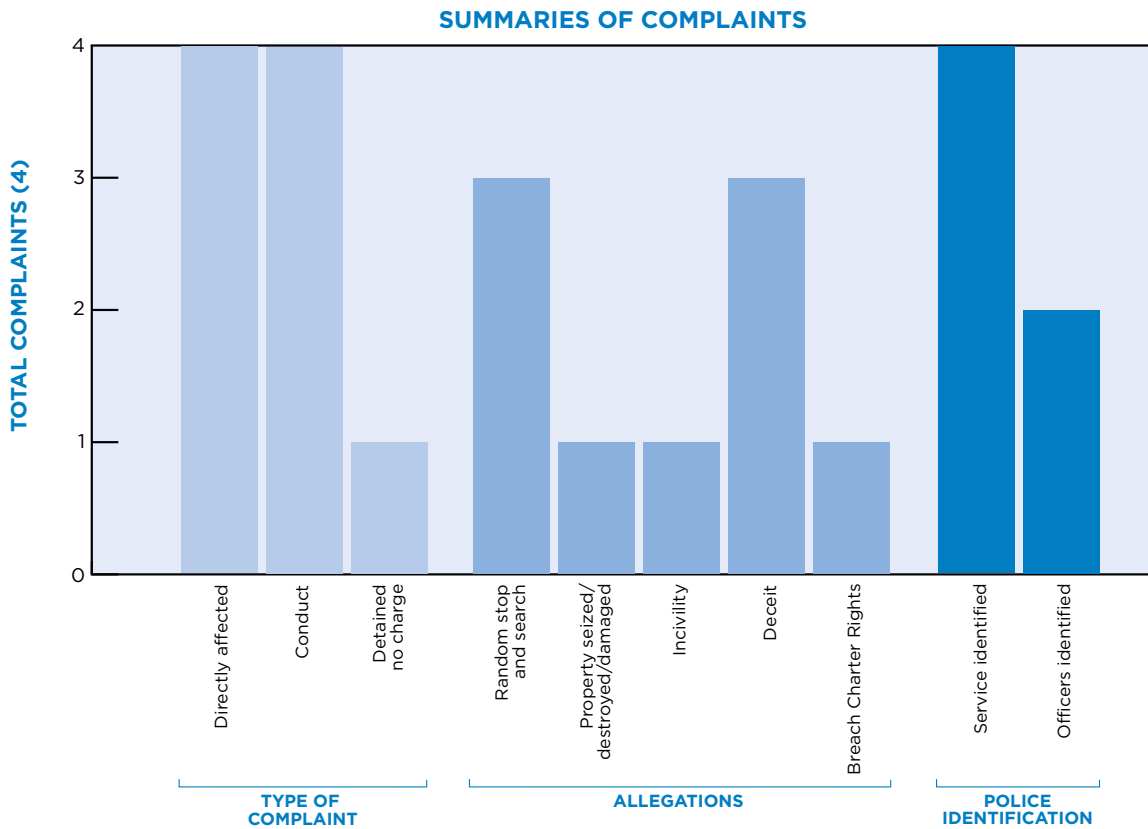
Prisoner Processing Centre



The majority of complainants at the PPC were arrested at Queen's Park/U of T, The Esplanade and Queen and Spadina where the mass arrests occurred. Almost 90 per cent of the complainants were eventually released with no charge and most of the complaints were about the conditions within the detention centre. 81 per cent of the complaints were substantiated and almost all were of a serious nature. *Substantiated complaints may include more than one finding under the code of conduct.

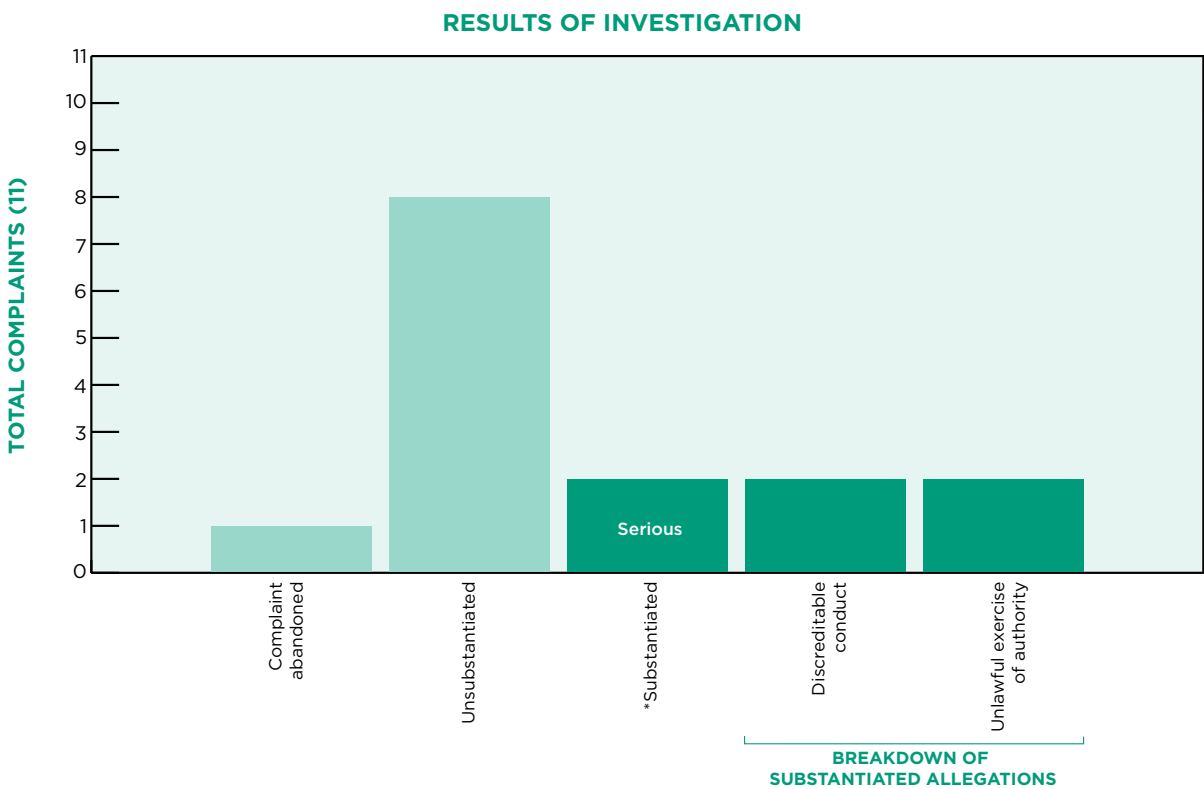
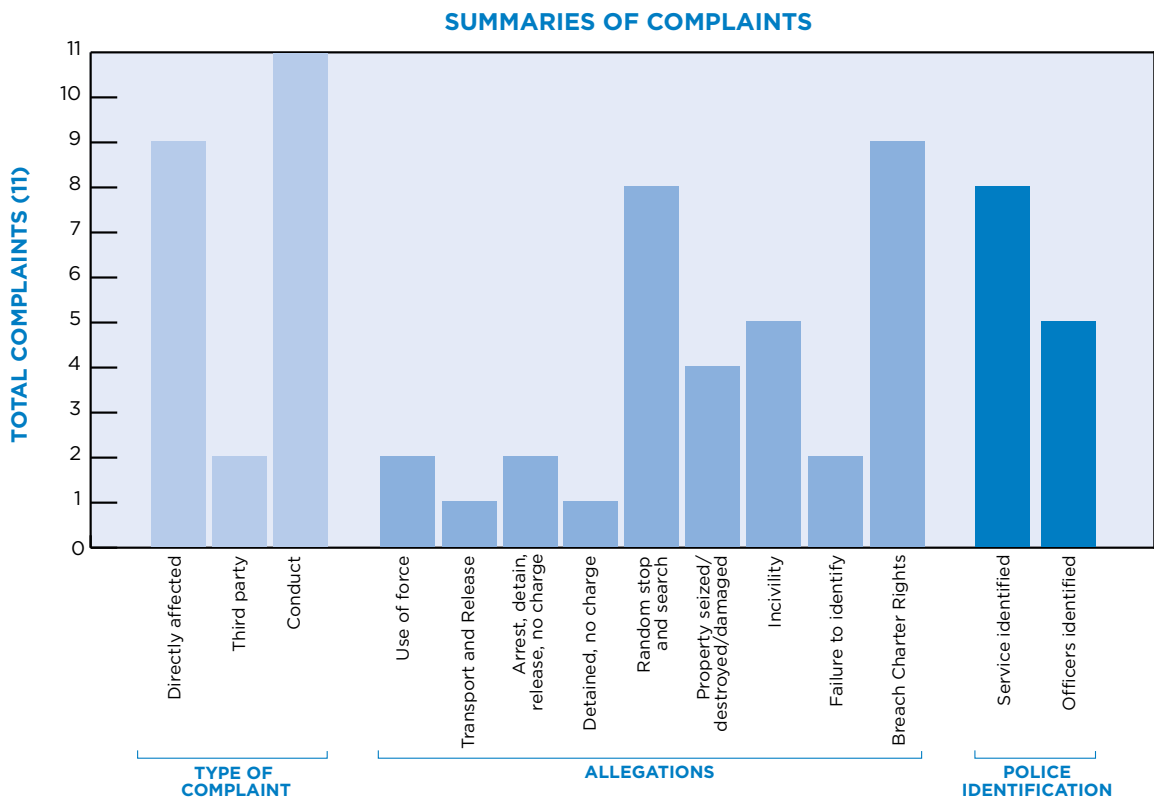
Eastern Avenue

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RESULTS OF INVESTIGATION

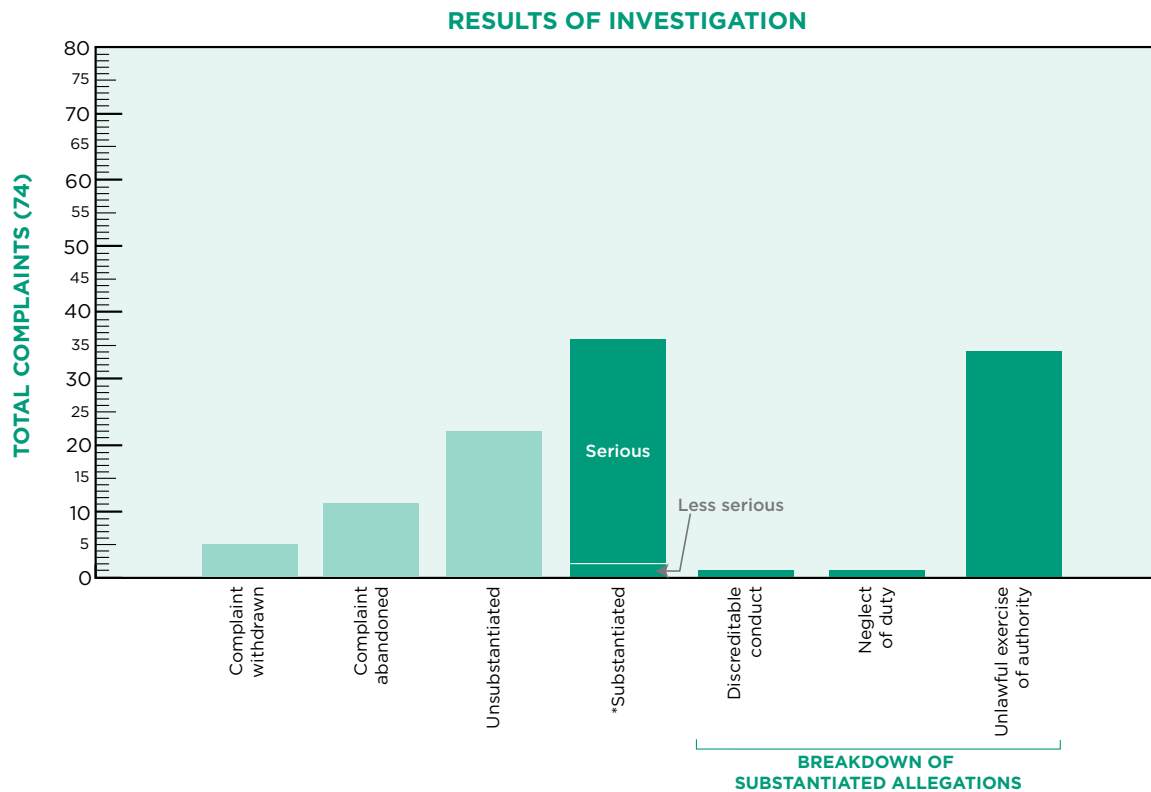
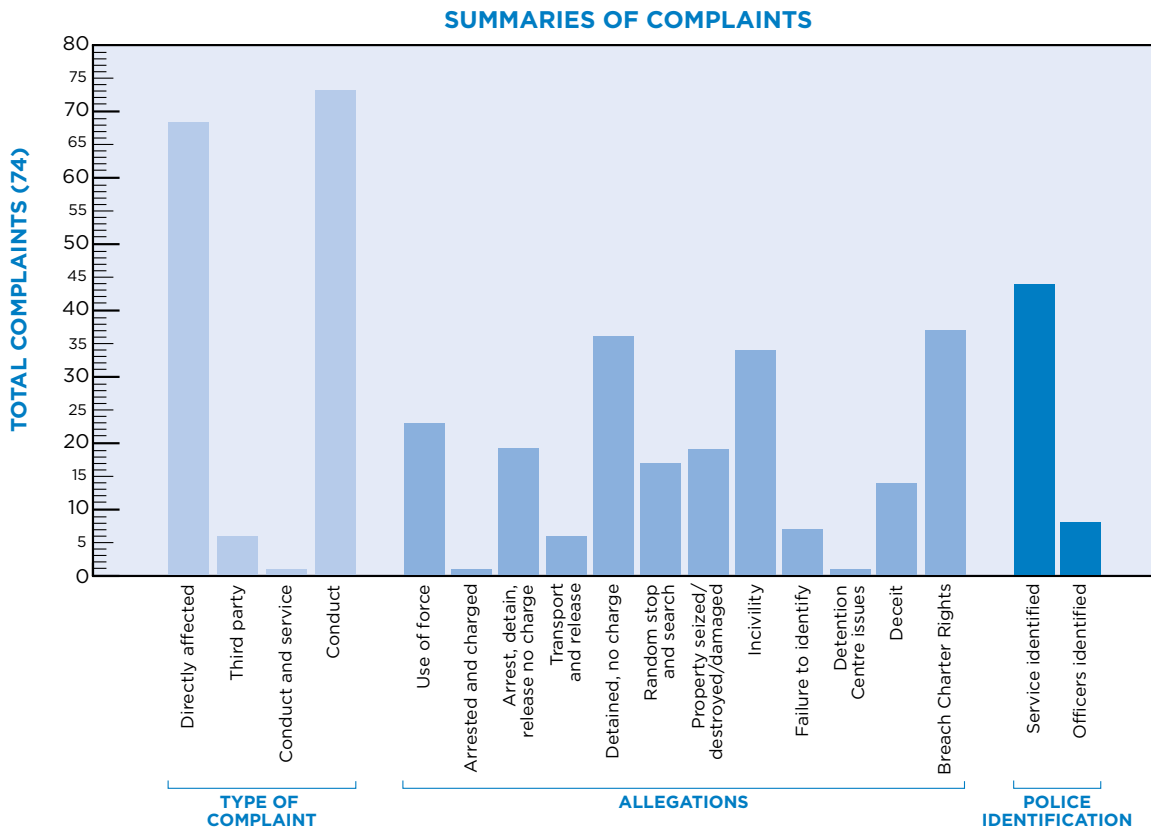
The few complaints received regarding Eastern Avenue were about incidents that occurred surrounding the PPC. Of a total 4 complaints, all 4 (100%) were unsubstantiated.



These were individuals who were not arrested and sent to the PPC. The majority of these complaints were not regarding the kettling that took place Saturday evening. *Substantiated complaints may include more than one finding under the code of conduct. One complaint was referred and then ultimately retained.

Queen and Spadina

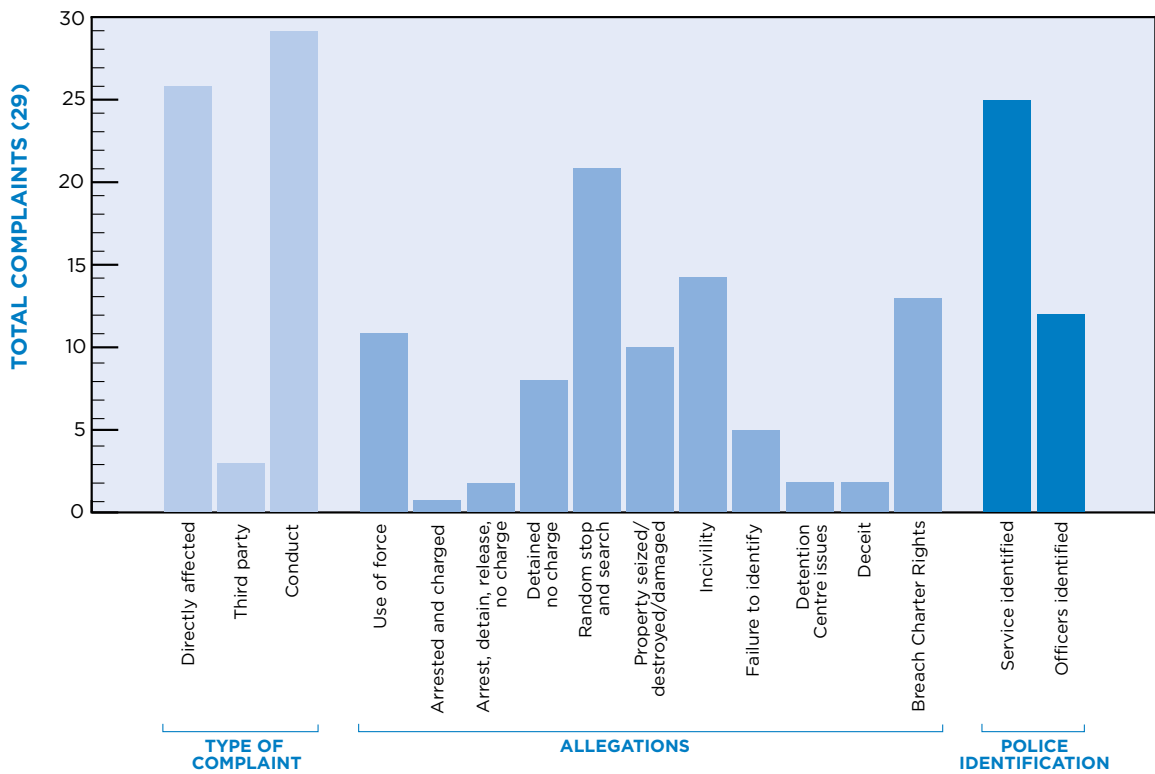
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The substantiated complaints deal with the kettling that took place at Queen and Spadina on Sunday afternoon and evening. The remaining complaints took place over the course of the weekend and involved other incidents. None of these complainants were sent to the PPC. *Substantiated complaints may include more than one finding under the code of conduct.

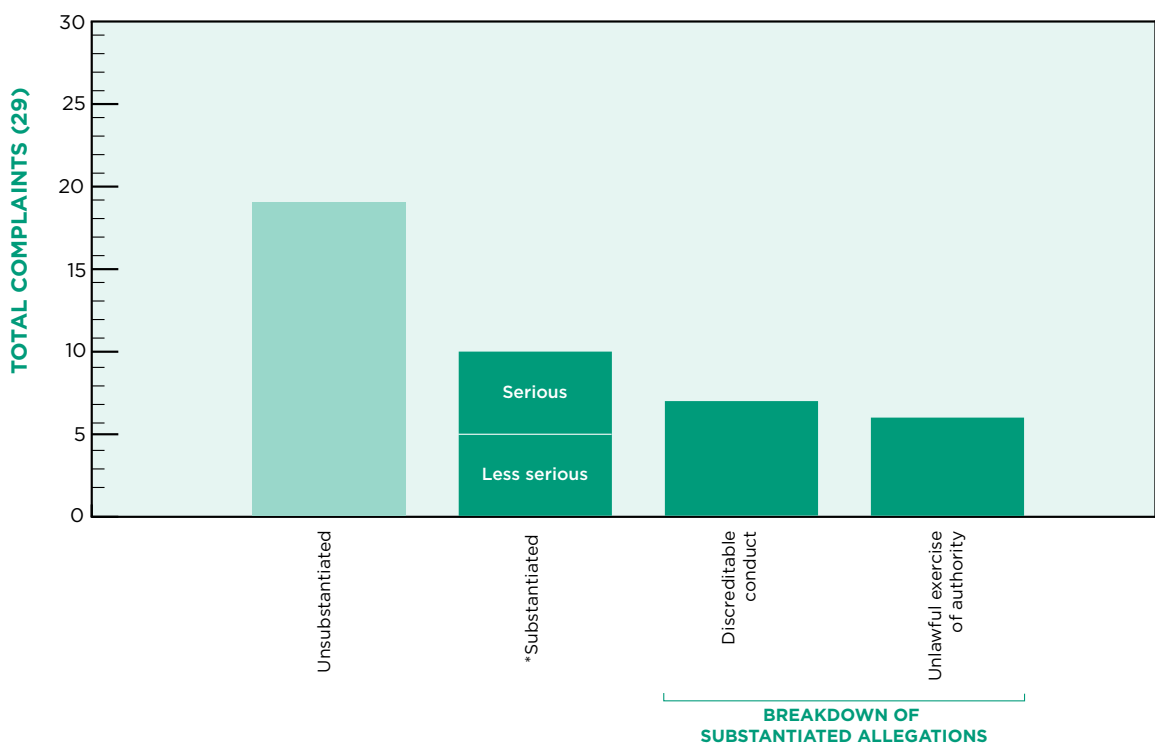
Queen's Park and Area

SUMMARIES OF COMPLAINTS



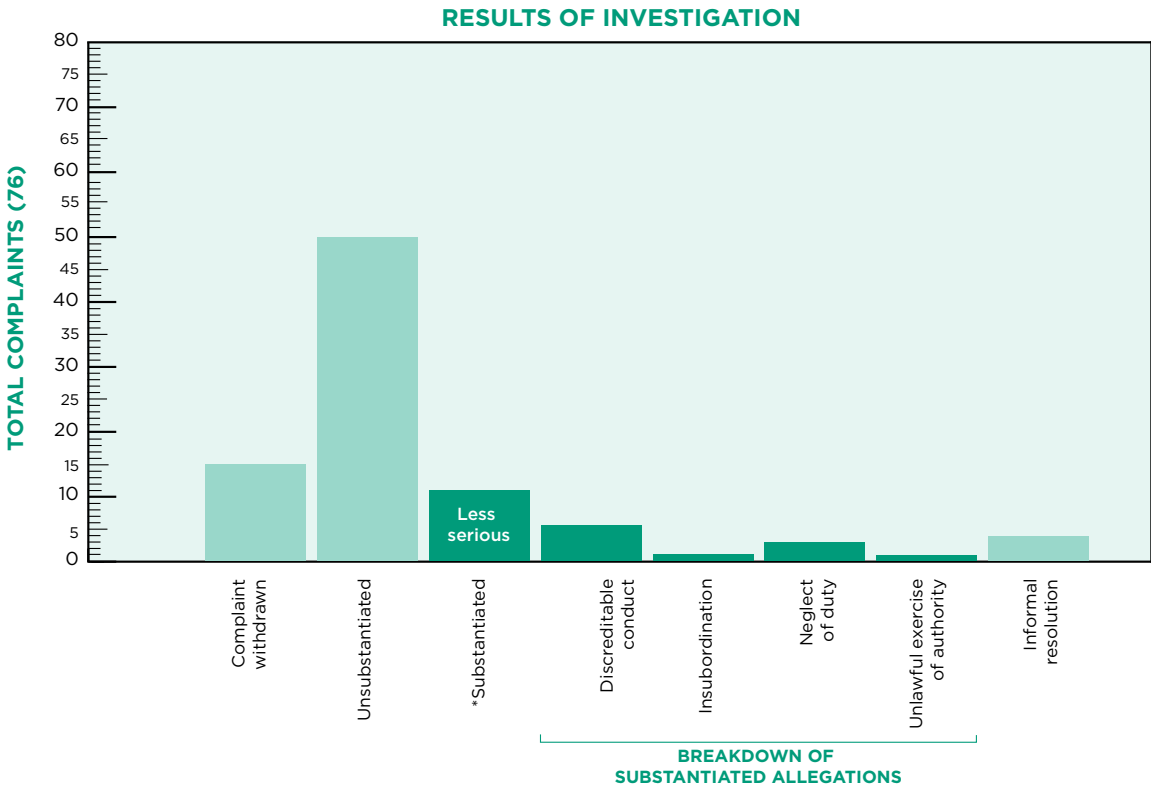
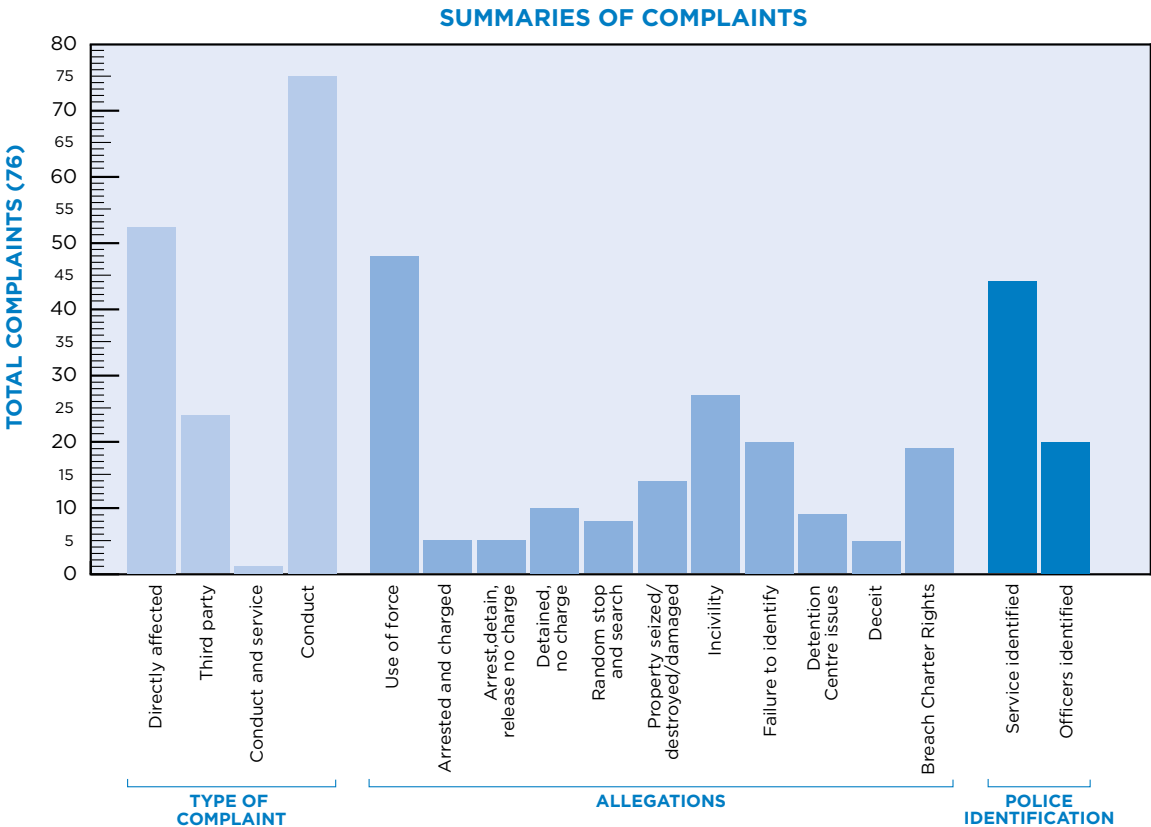
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RESULTS OF INVESTIGATION



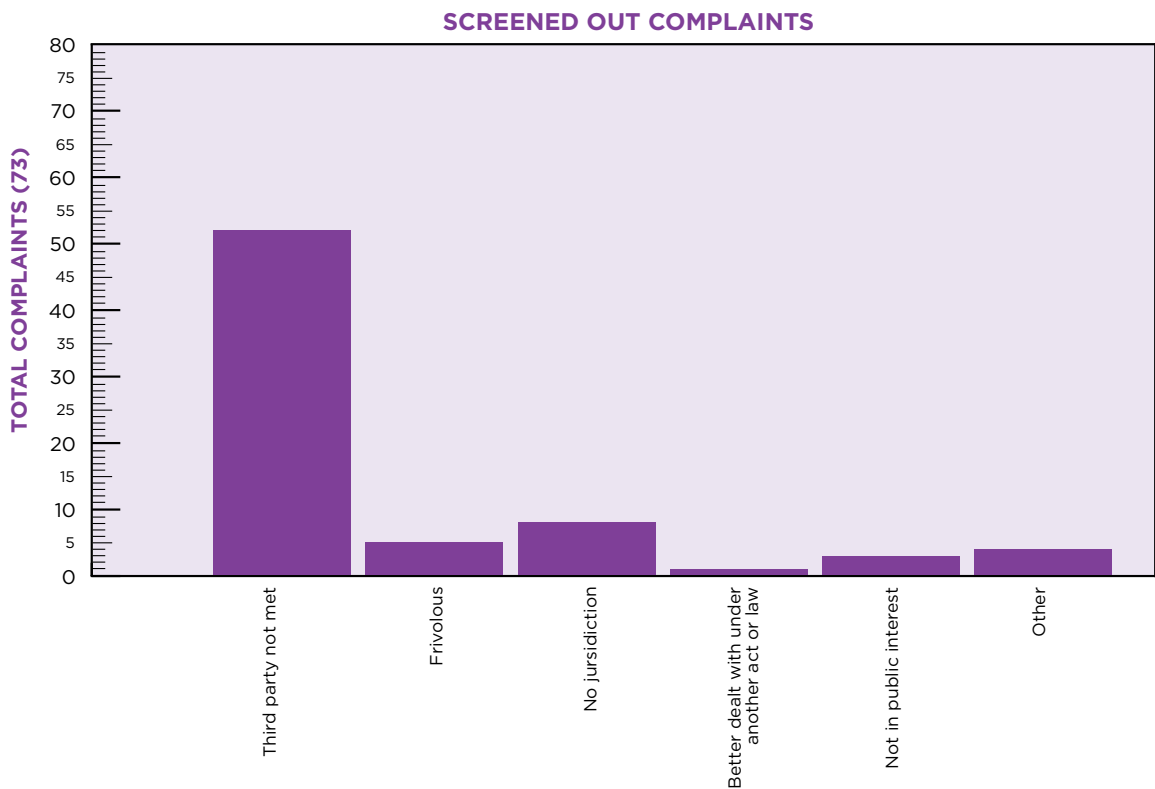
These complaints largely deal with incidents that occurred at Queen's Park on Saturday, but also involve areas in and around the University of Toronto including random searches that occurred between June 21 and June 28, 2010. *Substantiated complaints may include more than one finding under the code of conduct.

Referred Complaints



Referred complaints are those that were sent to a police service for investigation. The majority of complaints were regarding Toronto Police Service. *Substantiated complaints may include more than one finding under the code of conduct.

Screened Out



A total of 73 complaints were screened out (not investigated) for various reasons. The vast majority were not directly affected by the incident and did not meet the criteria for a third party complaint. In many cases they had seen the incidents on the TV or read about them in the paper. *The Police Services Act* sets out criteria for what constitutes a complaint. No jurisdiction means that one or more of the criteria was not met and the OIPRD does not have the authority to investigate. Screened out complaints also include duplicates.

Appendix 2: Terms of reference

Overview

The Office of the Independent Police Review Director (OIPRD) is an independent agency of the Ministry of the Attorney General. It is established under the *Police Services Act (Act)*.

The role of the OIPRD is to maintain the public confidence in police oversight and make sure that public complaints against police in Ontario are dealt with fairly, efficiently and effectively.

Pursuant to s. 57 of the *Act*, the OIPRD will be conducting a review (Review) of issues of a systemic nature that have been the subject of public complaints pertaining to the policing of the 2010 G-20 summit in Toronto.

Members of the public have made complaints to the OIPRD regarding the conduct, policies and services of police during the G-20 summit including allegations of discreditable conduct and unlawful or unnecessary exercise of authority.

Objectives

The Review will identify issues and make recommendations to specifically address the policing of large protests and the maintenance of public order and to generally enhance public confidence and trust in police and policing. Such issues may include:

- Stops and searches
- Arrests
- Use of force
- Detention centre issues
- Incivility
- Planning and implementation
- Containment policies and practices
- Communication processes, and
- Other issues that may arise or may be identified.

Process

The Review will gather information, review complaints, conduct investigations and invite submissions from key stakeholders, including selected public and police organizations asked to participate, regarding their view on the policing practices employed during the G20 summit.

The Review will examine and consider:

- 1 Public complaints filed
- 2 The overall governance of the planning and implementation of policing the G-20 summit
- 3 Procedures, lawful authorities and police policies regarding major protests
- 4 Police command structure and the overall role of the Integrated Security Unit
- 5 Operational decision making processes, such as, giving of orders and directions to officers as well as overall supervision
- 6 Training of officers
- 7 The operational application of Regulation 233/10 (made under the *Public Works Protection Act*)
- 8 Evidence collected, including videos, print and audio media and documents provided by both police and the public, and
- 9 Written submissions from invited participants.

The OIPRD will prepare a final report summarizing the findings of the Review and outlining recommendations regarding major protests and advice for the overall improvement of police practices in relation to the public complaints system. This final report will be in a form appropriate for release to the public, pursuant to the *Freedom of Information and Protection of Privacy Act*.

Appendix 3: Disclosure request summary

The Office of the Independent Police Review Director received operational plans, policies and procedures, training materials, organizational charts, meeting minutes, Incident Command scribe notes, senior officer scribe notes, officer interviews or statements, officer notes, closed-circuit television (CCTV) video and other video, occurrence reports, officer duty rosters, arrest records, arrest photos, and booking videos. Most of the disclosure required by the OIPRD was from the Toronto Police Service, the Royal Canadian Mounted Police, and the Ontario Provincial Police.

Disclosure was required for both systemic review purposes and OIPRD conduct investigations, and each stream had its own methods for obtaining the disclosure. Over the course of the review, the OIPRD received thousands of documents and photos, and interviewed more than 600 officers and 200 civilian witnesses. In addition, the OIPRD received several thousand hours of street level video and aerial video from the TPS, the RCMP and the OPP.

TPS also provided tens of thousands of hours of closed circuit TV video taken from the Prisoner Processing Centre (PPC) at 629 Eastern Ave.

Toronto Police Service

The disclosure process initially encountered delays from TPS. The Independent Police Review Director (IPRD) made his initial request for G20 disclosure on August 23, 2010, with a detailed list of items and documents required provided on August 24, 2010. The OIPRD did not begin to receive disclosure until October 22, 2010.

The IPRD corresponded directly with TPS on major disclosure-related issues on the following dates:

August 6, 2010
August 23, 2010
August 24, 2010
September 17, 2010
November 19, 2010
December 14, 2010
December 23, 2010
January 5, 2011
January 28, 2011

The OIPRD did not receive disclosure items from the detailed list sent to TPS on August 24, 2010, until October 22, 2010. The OIPRD received the items on compact discs, but the items received were limited in scope and, in many cases, were not what were requested. For example the OIPRD requested all CCTV footage from the public domain and from inside the PPC. In response, TPS sent the locations of the CCTV cameras in the public domain and in the PPC, but no footage. (The footage was eventually provided in February 2011.)

The issues with disclosure were consistent throughout the process. Disclosure requested was not received in a timely manner. Not only were items omitted, but the lack of organization of the items made it a tedious task to sort and identify. The disclosure logs that were included were not adequate. The naming conventions in the log did not match up to the file names, making it difficult to determine if the correct items had been included in the disclosure package. In some cases, items were included in the disclosure package but not identified on the log. In other cases items were listed on the disclosure log but not included in the package. In most cases, the CD contents were not labelled and the reader had to search the enclosed folders to determine the contents.

Bulk disclosure was received on the following dates:

Part 1 disclosure — October 22, 2010
Part 2 disclosure — November 15, 2010
Part 3 disclosure — November 24, 2010
Part 4 disclosure — December 1, 2010
Part 5 disclosure — December 4, 2010
Part 6 disclosure — December 9, 2010
Part 7 disclosure — December 10, 2010

Part 8 disclosure — December 15, 2010
 Part 9 disclosure — December 17, 2010
 Part 10 disclosure — January 5, 2011
 Part 11 disclosure — February 14, 2011
 Part 12 disclosure — February 16, 2011
 Part 13 disclosure — March 2, 2011
 Part 14 disclosure — March 16, 2011
 Part 15 disclosure — June 23, 2011
 Part 16a disclosure — June 24, 2011
 Part 16b disclosure — June 24, 2011
 Part 17 disclosure — August 17, 2011.

As OIPRD investigations into G20 conduct complaints progressed, the disclosure process became very large and labour intensive and required a tracking mechanism. In January 2011, the OIPRD and TPS agreed to exchange a weekly spreadsheet that itemized the disclosure that had been requested and the items received within the weekly reporting period. This measure greatly improved the disclosure process. However, even as the disclosure process became streamlined, the naming conventions were still inadequate and disclosure logs were not always included. This process continued until November 2011.

It took just over one year for the OIPRD to receive complete disclosure from TPS on G20 matters. Video footage which was critical to the investigation was not received until February 2011. At that time the OIPRD received the following from TPS:

Street level video (approximately 8,000 hours)
 PPC CCTV video (approximately 21,000 hours)
 Mobile video (CD format)
 Approximately 800 PPC booking videos (CD format)

The Independent Police Review Director interviewed senior officers from TPS as well as other police services, specifically for the systemic review. Beginning in May 2011, the IPRD interviewed 21 senior TPS officers, two civilian members, and Chief Blair.

RCMP

The RCMP is a federal police service and does not fall under the jurisdiction of the OIPRD. The IPRD made his initial request to the RCMP for disclosure

on November 9, 2010. This request itemized 32 documents and other items. As a result of that request, the IPRD received one document, the “C2,” on February 22, 2011.

The IPRD met with the RCMP on numerous occasions to address concerns over the lack of disclosure and also wrote to the RCMP to convey concerns. Eventually a protocol for disclosure was agreed on and the process was set up for the OIPRD to receive disclosure.

Correspondence dates (IPRD to RCMP):

November 9, 2010
 February 22, 2011
 March 29, 2011
 April 13, 2011.

Meeting dates (IPRD and RCMP):

March 7, 2011
 March 18, 2011
 July 13, 2011
 July 19, 2011
 July 27, 2011.

On August 10, 2011, the RCMP attended the OIPRD office with disclosure to be reviewed by OIPRD legal counsel and investigators. OIPRD legal counsel and investigators attended the RCMP offices on the following dates:

August 17, 2011
 August 30, 2011
 August 31, 2011.

As a result of the correspondence and meetings, disclosure flowed to the IPRD beginning in July 2011 and was fully satisfied on October 14, 2011.

Batches received:

RCMP disclosure July 8, 2011
 RCMP disclosure July 11, 2011
 RCMP disclosure July 14, 2011
 RCMP disclosure July 18, 2011
 RCMP disclosure July 21, 2011
 RCMP disclosure July 27, 2011

RCMP disclosure July 28, 2011
RCMP disclosure August 5, 2011
RCMP disclosure August 15, 2011
RCMP disclosure August 30, 2011
RCMP disclosure September 1, 2011
RCMP disclosure September 6, 2011
RCMP disclosure September 14, 2011
RCMP disclosure September 26, 2011
RCMP disclosure October 3, 2011
RCMP disclosure October 4, 2011
RCMP disclosure October 14, 2011 (last batch).

Disclosure / RCMP Commission for Public Complaints (systemic review and conduct matters)

Meeting date:

July 14, 2011.

Ontario Provincial Police

The OIPRD met with the OPP to discuss bulk disclosure on March 8, 2011, at OPP Headquarters in Orillia. All requested disclosure was received on March 30, 2011, at the OIPRD offices.

The disclosure requested from the OPP was large and similar in nature to the material requested from TPS and the RCMP. It was provided to the OIPRD in a neatly indexed bin, separated by category and nature of the material.

Other police services

The IPRD sent a G20 survey to the Calgary Police Service on February 23, 2011, requesting information about its involvement in the G20. The Calgary Police Service provided a response to this letter on April 15, 2011.

As part of the systemic review, the IPRD interviewed senior officers from the Barrie Police Service, Durham Regional Police Service, Halton Regional Police Service, Hamilton Police Service, London Police Service, Montreal Police Service, Ottawa Police Service, Peel Regional Police Service, Waterloo Regional Police Service, and the York Regional Police Service (in addition to the OPP and the RCMP).

POU video was also provided by Barrie Police Service and London Police Service. This disclosure was received in a timely manner.

Appendix 4: Other reviews and investigations

This review is one of several reviews resulting from the events taking place during the G20 summit. The OIPRD has to the extent possible taken into consideration the work of these other reviews in carrying out its own systemic review.

Canadian Civil Liberties Association

The Canadian Civil Liberties Association and the National Union of Public and General Employees held public hearings into the police activities during the G20 summit and released a report called Breach of the Peace in February 2011.

Commission for Public Complaints against the RCMP (CPC)

The Commission for Public Complaints against the RCMP (CPC) launched a public interest investigation into specific aspects of the 2010 G8 and G20 summits. The Commission acted on a complaint lodged by the Canadian Civil Liberties Association (CCLA), which made a number of allegations about the conduct of unidentified RCMP members. The CPC examined four issues and incidents and the degree to which RCMP members were involved: G8/G20 planning (including the location of the security fences); infiltration and surveillance (if any) of individuals or groups before and during the summits; use of force, detentions, and arrests during the summits; and conditions at the Eastern Avenue detention facilities in Toronto. The review conducted by the CPC has been completed.

Federal parliamentary committees

Two parliamentary committees have also looked into certain aspects of the G20 summit. On October 25, 2010, the House of Commons Standing Committee on Public Safety and National Security began an

examination of issues surrounding the security at the G8 and G20 summits. On October 19, 2010, the House of Commons Standing Committee on Government Operations and Estimates looked into the effectiveness, management, and operation of the expenses incurred for the G8 and G20 summits.

The Standing Committee on Public Safety and Security presented its report to the House of Commons on March 25, 2011. The committee found, in light of the evidence heard, no question that “errors in the planning of these events, especially the summit’s security operations, contributed to violation of the rights of many protestors during the summits

The Standing Committee on Government Operations and Estimates also presented its report to the House of Commons in March 2011. The committee reported that, in mid-March, 2011, it was unable to obtain the final costs of both summits, but made two recommendations to help Parliament better examine expenses, and one recommendation to allow businesses that suffered damage following events organized by the federal government to more easily claim compensation.

Ministry of Community Safety and Correctional Services: review of the *Public Works Protection Act*

Ontario launched an independent review of the *Public Works Protection Act* (PWPA) by the Honourable R. Roy McMurtry. His report, released on April 28, 2011, recommends repeal of the Act after the Province has considered potential policy and security gaps resulting from the repeal.

Ombudsman of Ontario

The Ontario Ombudsman announced on July 9, 2010, the launch of an investigation into the provincial government’s development and its subsequent communication of Regulation 233/10, made under the PWPA. The Ombudsman’s investigation concluded with the release of its report on December 7, 2010. This report found that the regulation

“conferred unnecessary and constitutionally suspect police powers in the volatile and confrontational context of inevitable public protest.”

Police Services After Action Reports

The TPS conducted an assessment of its G20 security plans and operations after the G20 summit. This report, released on June 23, 2011, contained recommendations addressing, among other issues, TPS planning, training, and prisoner management. The “After Action” acknowledged several deficiencies in planning and training while also noting that the scope and intensity of the disorder experienced throughout the weekend were without precedent in the history of the TPS.

The OPP

The OPP has completed an After Action Report.

The RCMP

The RCMP has completed an After Action Report.

Special Investigations Unit

The Special Investigations Unit investigated a number of allegations of serious injuries to civilians resulting from the policing of the G20 summit. The unit’s mandate is to cause criminal charges to be laid against police officers following its investigations where there are reasonable grounds to do so.

Toronto Police Services Board Review into Matters Relating to the G20 Summit

On September 23, 2010, the Toronto Police Services Board appointed the Honourable John W. Morden to conduct a review of matters relating to the G20 summit. The issues to be examined in this review include the role the board played with respect to the summit; the role played by the Toronto Police Service; and whether the plans developed and implemented were adequate and effective for policing of the summit. The review being conducted by Justice Morden had not been completed at the time of publication of this Report.

Appendix 5: Other significant protests

Protests at international gatherings

Protests, some involving relatively small groups of violent protesters causing significant damage, have been associated with many past international gatherings. International summits that involve multilateral meetings between economic and political leaders are highly visible and symbolic opportunities for protesting. The international summit therefore acts as a social and political venue to voice a wide range of grievances from traditionally marginalized groups that have mobilized in large crowds of protesters. Such mass protests became increasingly common following the events surrounding the 1999 World Trade Organization's Ministerial Conference in Seattle.

World Trade Organization

The protests during the 1999 World Trade Organization's ministerial conference in Seattle, and the police handling of them, continue to offer many host jurisdictions insight into errors, issues and challenges associated with policing protests. Those protests led not only to a disruption of the conference, but also to significant police use of force, personal injury and property damage.

Several reviews were initiated regarding the Seattle Police Department's response to the protests. Although the reviews differed in some of their findings and recommendations, they are largely consistent in their finding that the Seattle Police Department was not fully prepared to deal with the protests.

APEC

In Canada, an important report on how police dealt with protesters at an international meeting was issued following the 1997 Asia-Pacific Economic Cooperation (APEC) Conference in Vancouver. One of the largest conflicts between protesters and police at the APEC summit occurred along the security fence. This area was the site of a protest march involving between 2,500 and 3,000 individuals.

In response, the police were ordered to fall back behind the fence as the crowd approached. This move was unexpected by protesters, and a few of them began to climb on the fence, which quickly collapsed because of inadequate construction. Perceiving a loss of control, police responded with pepper spray and made several arrests.

The Commission for Public Complaints against the RCMP examined preparations for the APEC summit event along with the conduct of police and protesters throughout the event. The recommendations of the APEC Report focused on areas of training, planning, and communications

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Previous G20s

Violent protests have occurred at two of the G20 summits held just before the one hosted by Toronto. The 2009 G20 summit in Pittsburgh saw almost 200 arrests. The 2009 G20 summit in London, England, resulted in the arrest of over 100 individuals and the death of a newspaper vendor who, on his way home, got caught up in the violent protests.

Pittsburgh

On September 24 and 25, 2009, the world's financial representatives and leaders came together to discuss economic policies and the global financial crisis in Pittsburgh. The event was held in downtown Pittsburgh and was chaired by U.S. President Barack Obama.

The venue was set with approximately only three months' preparation time. Thousands of protesters were expected during the week of the summit. Security was coordinated by the U.S. Secret Service, working in conjunction with the Pittsburgh Police. Officers from other police services, such as New York City, Baltimore, and Chicago, were also in attendance. All officers, regardless of department, were under the command of the Secret Service for the event days.

An estimated \$50,000 in damage was reported to the city. At least a dozen Pittsburgh police cars were vandalized. Police used pepper spray and smoke canisters to halt a march to downtown by anarchists. The city purchased four long-range acoustic devices

(LRADs), to engage unlawful protesters. Protesters complained to media about police using heavy-handed tactics, harassment and intimidation tactics.

London

Unlike the Pittsburgh G20 summit, the police response to the violence occurring at the G20 summit in London in April 2009 was the subject of considerable analysis.

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This operation was one of the largest security events for the Metropolitan Police Service. As in the case of other G20s, London security services faced a number of challenges. An estimated 35,000 protesters rallied on the streets of London, and during the course of the event the police made 122 arrests. Although the vast majority of protesters were peaceful, some extremist elements among them engaged in violence and vandalism. Events escalated when protesters and several marches converged at the Bank of England. The police responded by attempting to disperse the crowds through police cordons. This action unfortunately led to the tragic death of Ian Tomlinson, a news agent who was on his way home and got caught up in the protest. The Independent Police Complaints Commission (IPCC) confirmed that Tomlinson had been pushed back by police officers minutes before he collapsed and died of a heart attack.

Following the London summit, Her Majesty's Inspectorate of Constabulary (HMIC) prepared two reports on policing. The first dealt with policing the G20 specifically and the second dealt with public order policing generally. Reports were also prepared by the House of Lords and House of Commons Joint Committee on Human Rights, the House of Commons Home Affairs Committee, the Metropolitan Police Authority Civil Liberties Panel, and the Independent Police Complaints Commission.

The HMIC report *Adapting to Protest – Nurturing the British Model of Policing* (the British Model Report) examined how the British police have operated in policing public order events and ways for the police to adapt to the modern demands of public order policing.

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