



G20  TORONTO

BREACH OF THE PEACE

PUBLIC HEARINGS

NOVEMBER 10 TO 12, 2010 | TORONTO | MONTREAL

A CITIZENS INQUIRY
INTO
POLICING AND GOVERNANCE
AT THE
TORONTO G20 SUMMIT



BREACH OF THE PEACE

G20 SUMMIT: ACCOUNTABILITY IN POLICING AND GOVERNANCE

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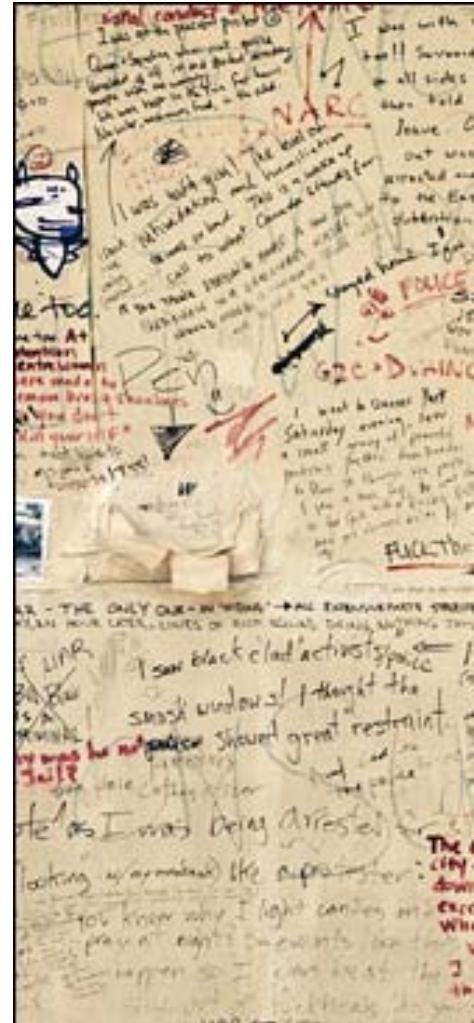
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National Union of Public and General Employees
and
Canadian Civil Liberties Association
Ottawa, Canada

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After leaving
that day,
the city felt
very different.
The city still
feels very
different.

Terra Dafoe, participant
Breach of the Peace Public Hearings



YOUR G20 STORIES



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Foreword

James Clancy, National president
National Union of Public and General Employees

What Canadians witnessed during the G20 summit last June in Toronto was a sad and dark moment in Canada's history. The largest mass arrests in Canadian history were carried out with a flagrant disregard for human rights and civil liberties as well as the basic rule of law.

The Breach of the Peace hearings, that the National Union of Public and General Employees (NUPGE) organized with the Canadian Civil Liberties Association (CCLA) in Toronto and Montreal in November 2010, certainly confirmed this. Much of the testimony we heard was shocking and appalling. Over and over again, witnesses recounted their experiences involving the excessive violent dispersal of peaceful demonstrators by police and the dehumanizing treatment of many of those who were detained. Several of those individuals we heard from continue to be traumatized by these events.

The G20 Summit extracted an unprecedented cost to all Canadians, not only in terms of its \$1-billion in public expenditure, but its serious undermining of constitutional rights of our citizens and public confidence in policing in this country.

Our public hearings and this report are our attempt to hold all levels of government accountable.

This report ends with a series of recommendations. They are designed to restore public confidence in policing and the rule of law in Canada as well as to ensure that Canadians never again face such a shameful disrespect of their human rights and civil liberties.

Our first and priority recommendation at the end of this report calls for the establishment of a joint federal/provincial public inquiry into the planning and implementation of security measures for the G20 Summit. This inquiry must have broad terms of reference to determine who was responsible for the serious violations of fundamental rights and freedoms.

The constitutional rights our citizens value and enjoy are the cornerstone of Canadian democracy. They must never again be threatened by arbitrary and excessive policing and by the systemic failure of the government to protect them.

I encourage all Canadians to join with us in continuing to demand that both the federal and Ontario governments immediately convene a joint public inquiry to ensure proper public accountability is provided to Canadians on these important issues.

A handwritten signature in black ink, appearing to read "Gord Delaney".



Foreword

Nathalie Des Rosiers, General Counsel
Canadian Civil Liberties Association

The rights to peacefully assemble and to express one's views are guaranteed in the Canadian Charter of Rights and Freedoms and in the International Covenant of Civil and Political Rights. These rights provide the necessary foundations for our democracy as do the right to vote and the right to a free press. Any violation of these rights is a serious matter that must not be taken lightly.

During the G20 Summit, the CCLA deployed a team of independent legal observers to monitor and report on how security measures were carried out in the course of Summit-related protests. Unfortunately, our monitors witnessed and, in some cases, experienced unwarranted and serious violations of civil rights. Many participants in the Breach of the Peace hearings, which the CCLA organized with NUPGE, also witnessed or experienced violations of civil rights. The

hearings were not designed to comprehensively examine every issue arising out of Summit policing. Rather, their purpose was to raise public awareness about what went on in the streets of Toronto during the G20. We are pleased that these hearings were able to give a voice to a range of people affected by the security deployed during the G20 Summit. We had also hoped to hear the perspective of the Toronto Police Service and the Ontario Provincial Police during the hearings; however, neither organization accepted our invitation to send a representative.

The picture that has emerged from both the CCLA's monitoring program and the Breach of the Peace public hearings is that rights violations occurred during the G20 on such a scale that they cannot be viewed as the result of individual police officers' misbehaviours or overreactions. In the CCLA's view, the rights violations raise serious systemic questions about policing policy and training that can only be resolved through a comprehensive federal-provincial public inquiry.

Canadians must demand that police obey the constitution at all times. When rights are violated, it undermines respect for the professional calling of police work and erodes public faith in the important work of law enforcement institutions. Both the public and the police must strive to ensure that rights and freedoms continue to be cherished and respected in our democratic society.

A handwritten signature in black ink, appearing to read "Michael Kaushansky".

NUPGE and the CCLA



The National Union of Public and General Employees (NUPGE)

The National Union of Public and General Employees (NUPGE) is an umbrella union that consists of 11 Component trade unions. With approximately 340,000 members, it is one of the largest unions in Canada. NUPGE's public sector members work to deliver public services of many kinds to the residents of their home provinces. A large and growing number of NUPGE members also work in the private sector. In addition to representing the interests of its members, NUPGE also monitors and comments on legislative and public policy issues that affect Canadian workers. For more information about NUPGE, visit www.nupge.ca.



The Canadian Civil Liberties Association (CCLA)

The Canadian Civil Liberties Association (CCLA) is a national organization that was constituted in 1964 to promote respect for and observance of fundamental human rights and civil liberties. Our work, which includes research, public education and advocacy, aims to ensure the protection and full exercise of those rights and liberties.

The Association is sustained by several thousand paid supporters drawn from all walks of life. Over the years, active CCLA members have included some of Canada's most well known names in law, journalism, politics, the arts, labour, business and other fields.

Currently, the CCLA is working on issues of national security, police accountability, fundamental freedoms, anti-discrimination and equality. With respect to the G20 Summit, the CCLA has engaged in numerous activities, including consultation with police services and government agencies prior to the Summit; the deployment of over 50 independent human rights monitors during the G20; assisting many individuals to file G20-related police complaints; on-going advocacy on behalf of the many people arrested during the G20 Summit; appearing before the federal Standing Committee on Public Safety and National Security in relation to G20 Summit security; and submitting briefs to several on-going G20 reviews.

To learn more about the CCLA, visit www.ccla.org.

Executive Summary

Constitutional guarantees matter

The Canadian Charter of Rights and Freedoms guarantees everyone in Canada the right to freedom of expression and the right to peaceful assembly. It also guarantees all persons the right to be free from arbitrary detention and unreasonable search and seizure. These constitutional liberties – and the limits they place on government and police – are the foundations of our free and democratic society. Constitutional guarantees matter because, as is often said, without them, “even the most democratic society could all too easily fall prey to the abuses and excesses of a police state”.

Failure to meet standards

The planning, organizing and delivery of security during the G20 Summit fell short of the standards set out in the Charter. While there were many instances of professional, courteous and respectful policing, there were also an alarming number of incidents where members of the public were stopped, detained, searched, arrested and subjected to police force arbitrarily, unnecessarily and illegally. There were also numerous reports of police incivility, including the use of abusive language and racist, sexist, anti-Francophone and homophobic slurs by police.

Atmosphere of intimidation

The conditions for some of the policing problems that were experienced during the Summit were set during the preparatory stage. For example, the lack of transparency surrounding the designation of the security perimeter as a “public work” led to misunderstandings about the scope of search and seizure powers and the inappropriate uses of these powers.

Moreover, the large number of police officers on the streets during the week leading up to the G20 contributed to an antagonistic relationship between police and demonstrators and created an atmosphere of intimidation that likely served to stifle some protesters' freedom of expression.

Unjustified breach of rights

While the widespread property damage that occurred during the G20 Summit was deplorable, it neither justified nor warranted the extent of the police response that occurred on June 26th and 27th. During these two days, 1,105 people were arrested by police – the largest mass-arrest in Canadian peace time history. Media, human rights monitors, protestors and passers-by were scooped up off the streets. Detained people were not allowed to speak to a lawyer or to their families. Arbitrary searches occurred in countless locations across the city, in many instances several kilometres from the G20 Summit site. Peaceful protests were violently dispersed and force was used. In an effort to locate and frustrate a small cohort of vandals, police disregarded the constitutional rights of thousands.

Action required to regain constitutional values

Canadians are entitled to policing that does not undermine constitutional values. Unfortunately, the security operations and police conduct chronicled in this report fell well short of this standard, resulting in a significant diminution of public faith in policing. To improve this situation, this report makes several specific recommendations aimed at protecting constitutional rights in future public order policing operations. We are calling upon the relevant public officials to implement these recommendations at the earliest opportunity.

BREACH

Introduction

ON NOVEMBER 10th, 11th and 12th, 2010, the National Union of Public and General Employees (NUPGE) and the Canadian Civil Liberties Association (CCLA) invited members of the public to participate in public hearings regarding police action during the 2010 G20 Summit in Toronto. The event, titled **A Breach of the Peace: G20 Summit: Accountability in Policing and Governance** consisted of two days of hearings in Toronto and a single day of hearings in Montreal. Over the three days of hearings, NUPGE and the CCLA heard from over 60 members of the public. This group consisted of people who had witnessed a range of policing incidents during the G20 Summit and people who were directly affected by G20 security, including numerous individuals who had been unlawfully detained, searched and arrested. Several lawyers and academics also participated in the hearings and offered commentary on the events of the G20 from a legal and/or policy perspective.

As ardent believers in the importance of freedom of expression and freedom of assembly, NUPGE and the CCLA have been deeply concerned by how security measures designed and implemented during the G20 Summit significantly undermined these rights. By giving members of the public

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an opportunity to share their stories, NUPGE and the CCLA hope to increase public awareness about the impact of the G20 Summit on constitutional rights and freedoms and to promote accountability for incursions into the civil liberties of Canadians.

The following report discusses many of the issues that were identified over the course of the Breach of the Peace hearings. It incorporates the comments and perspectives of hearing participants, as well as other observations that both NUPGE and the CCLA have made through their experiences monitoring and participating in G20-related demonstrations and review processes. The thematically organized report touches upon several key issues, including whether the use of force, detention, search and arrest powers by police was consistent with constitutional and international standards and whether the security and policing strategies implemented in relation to the G20 were sufficiently respectful of the rights to freedom of assembly and freedom of expression. In doing so, it elucidates many of the problems associated with Summit security and offers recommendations as to how public order policing operations could be more respectful of civil liberties in the future.



I.

An Appropriate Legal and Human Rights Framework

All government action in Canada, including security operations, must be carried out in a manner that is respectful of legal and constitutional standards, including the *Charter of Rights and Freedoms*. In the context of the policing of large scale public demonstrations, the following *Charter* rights are most directly engaged:

- freedom of thought, belief, opinion and expression;
- freedom of peaceful assembly;
- the right to be secure against unreasonable search or seizure;
- the right not to be arbitrarily detained or imprisoned.

These rights and freedoms go to the very core of Canada's democratic society and must be infused into all phases of security planning involving the policing of public protests. This is not to say that the right to protest is absolute. Indeed, the rights of protesters must be reconciled with the interests of members of the general public, foreign dignitaries, police officers and others.

Protecting the right to protest, however, must be a central objective in security planning, not an afterthought. As one report has noted, governments planning large-scale security operations must, "demonstrate explicit consideration of the facilitation of peaceful protest

throughout the planning process and the execution of the operation or operations"¹.

In a democratic society, such as Canada, this requires that public order policing adhere to the following four principles:

- Security measures must be developed with a view to efficiently ensure the security of the general public, dignitaries, protestors and security personnel;
- Security measures must be developed in the context of respect for and protection of individuals' constitutional rights, including democratic and due process rights, the right to privacy, freedom of peaceful assembly and freedom of expression;
- Government actions that restrict human rights must be necessary, minimally intrusive, proportionate and use the least force possible;
- International standards² with respect to policing large events should be adhered to, and ideally surpassed.





II.

Planning of G20 Summit Policing

The planning and implementation of G20 Summit security was not carried out in a manner that was respectful of the rights to freedom of expression and peaceful assembly. In many cases, measures taken by police exceeded what was necessary to achieve the objective of providing security for foreign dignitaries, resulting in excessive infringements of constitutional rights. Three planning-related issues of particular concern are discussed below.

Infiltration of Protest Groups

Many activists have complained about being approached by state officials prior to the G20 Summit, voicing concerns that the government may have overstepped appropriate boundaries in pursuing pre-Summit intelligence at individuals' homes or places or work. Concerns have also been raised that undercover intelligence gathering operations involving the infiltration of protest groups were undertaken.

While the very nature of undercover operations makes it difficult to know their extent, the use of such tactics in relation to non-violent protest groups raises troubling civil liberties concerns. Indeed, the *routine* infiltration of lawful protest groups could lead to unwarranted public surveillance and potentially invade the privacy of law abiding citizens. It could also have a chilling effect

on the rights to freedom of expression and assembly. While there is no way of knowing the extent and focus of undercover infiltration operations in relation to the G20, both NUPGE and the CCLA are troubled by the reports we have received from members of the public. The suggestion that police informants may have endorsed or supported the commission of acts of vandalism is particularly concerning. NUPGE and the CCLA believe an independent inquiry into this aspect of G20 policing is necessary to investigate the extent of undercover operations and address the limits on what police infiltrators can and cannot do while on assignment.

The Security Fence

A central feature of G20 security was the massive fence that surrounded the Summit site. This fence had both practical and symbolic implications for social demonstrators and prevented them from getting both themselves and their messages close enough to the Summit site to be heard. Groups that sought approved demonstration routes from the police – including the approximately 10,000 peaceful demonstrators who marched in the labour march on Saturday, June 26th – were given routes that did not go anywhere near the fence surrounding the Summit site. This effectively prevented a significant ex-

pression of dissent from being seen or heard by Summit delegates. Previous government reports that have examined the impact of security measures on protest rights have recommended that, “a generous opportunity should be afforded for peaceful protesters to see and be seen”³. While barriers may be erected to address legitimate security concerns, such barriers must not insulate the government or its guests from criticism or peaceful dissent.

This was precisely the effect of the G20 security fence, which led to many demonstrators being effectively silenced. This was also the effect of other security measures, such as the “kettling” of demonstrators and other members of the public at the intersection of Queen Street and Spadina Street on June 27th, which was reportedly done to prevent them from protesting alongside foreign dignitaries’ motorcades. For the constitutional rights of demonstrators to be appropriately respected and protected, the policing of public demonstrations at comparable future events must be carried out in a manner that ensures protesters are given meaningful opportunities to be seen and heard. To help advance this objective, a legislative framework should be developed to govern the establishment of security perimeters in the public order policing context.⁴

Long-Range Acoustic Devices

A further concern identified in the lead up to the G20 was the acquisition and possible use of Long-Range Acoustic Devices (LRADs), which it appeared the Toronto Police Service (TPS) and the

Ontario Provincial Police (OPP) were contemplating using as a crowd control tool. The primary concern related to the use of certain LRAD’s functions was that it posed a potential safety risk to members of the public and had not been adequately tested or regulated. In order to ensure the safety of the public, it is essential to thoroughly and independently test, evaluate and review new technologies that have the potential to cause harm *before* they are deployed against individuals or groups. As such measures had not been taken in the case of LRADs, the CCLA and the Canadian Labour Congress (CLC) sought an injunction limiting the use of LRADs until they had been properly tested and approved.

It is unacceptable that two public interest organizations had to take a police service to court to ensure the public was not exposed to potential harm from the use of an LRAD by the TPS and OPP. If the nationwide policy debate over the use of Conducted Energy Weapons in recent years has taught us one thing, it is that the risks posed by new weapons must be fully understood and properly addressed *before* the weapon is deployed, not after. To ensure the public is not unnecessarily exposed to the potential risks of LRADs in the future, LRADs and comparable equipment and crowd control devices should be regulated either as weapons, pursuant to Regulation 926 “Equipment and Use of Force” under the *Police Services Act*,⁵ or pursuant to another appropriate regulatory scheme.





Participants at Toronto hearings

III.

The Public Works Protection Act

Regulation 233/10 under the *Public Works Protection Act (PWPA)*, was made on June 2nd, filed on June 14th and published on e-Laws on June 16th. It designated the streets and sidewalks inside the police-established G20 security perimeter a “public work” between June 21st and June 28th, 2010. In doing so, it expanded police powers in the area in and surrounding the G20 Summit security fence by giving police the authority to demand identification from individuals approaching the fence and subject them to searches.

The public was not notified of this significant expansion of police powers until after the Regulation came into effect. At least one individual was arrested and charged under the Act because he declined to identify himself while walking outside the unsecured fence prior to the Summit. Many more were detained and searched pursuant to the *PWPA*.

Regulation 233/10 was apparently passed as the result of a request by the TPS for clarification of its authority in relation to the G20 Summit site. The Regulation was hastily approved behind closed doors, with no notification given to key stakeholders, such as the City of Toronto, police services other than the TPS and members of the public. Notably, the CCLA was not advised about the Regulation by the TPS in either meetings or correspondence between the two organizations

in advance of the G20, even though the Service was aware the Regulation had been passed and was asked about its legal authority in relation to the G20. This process fell well short of what should be required when the government is contemplating regulatory amendments that can significantly affect civil liberties and constitutional rights.

This situation was only made worse by the manner in which Regulation 233/10 was eventually communicated to the public. Days before the G20 Summit was set to begin, the Chief of the TPS mistakenly informed the public that the new Regulation gave police the authority to search and demand identification from anyone found within *five metres* of the security fence. This misapprehension was not publicly corrected until *after* the Summit on June 29th, when the Chief conceded the so-called “five-metre rule” had never existed. The result was that members of the public were left confused and misinformed about some of their most fundamental legal rights, including their rights to be free from arbitrary detention and unreasonable search and seizure. This obfuscation of civil liberties was unacceptable and may have served to dissuade some people from exercising their democratic right to protest.

Much criticism has been levied against the Ontario government for

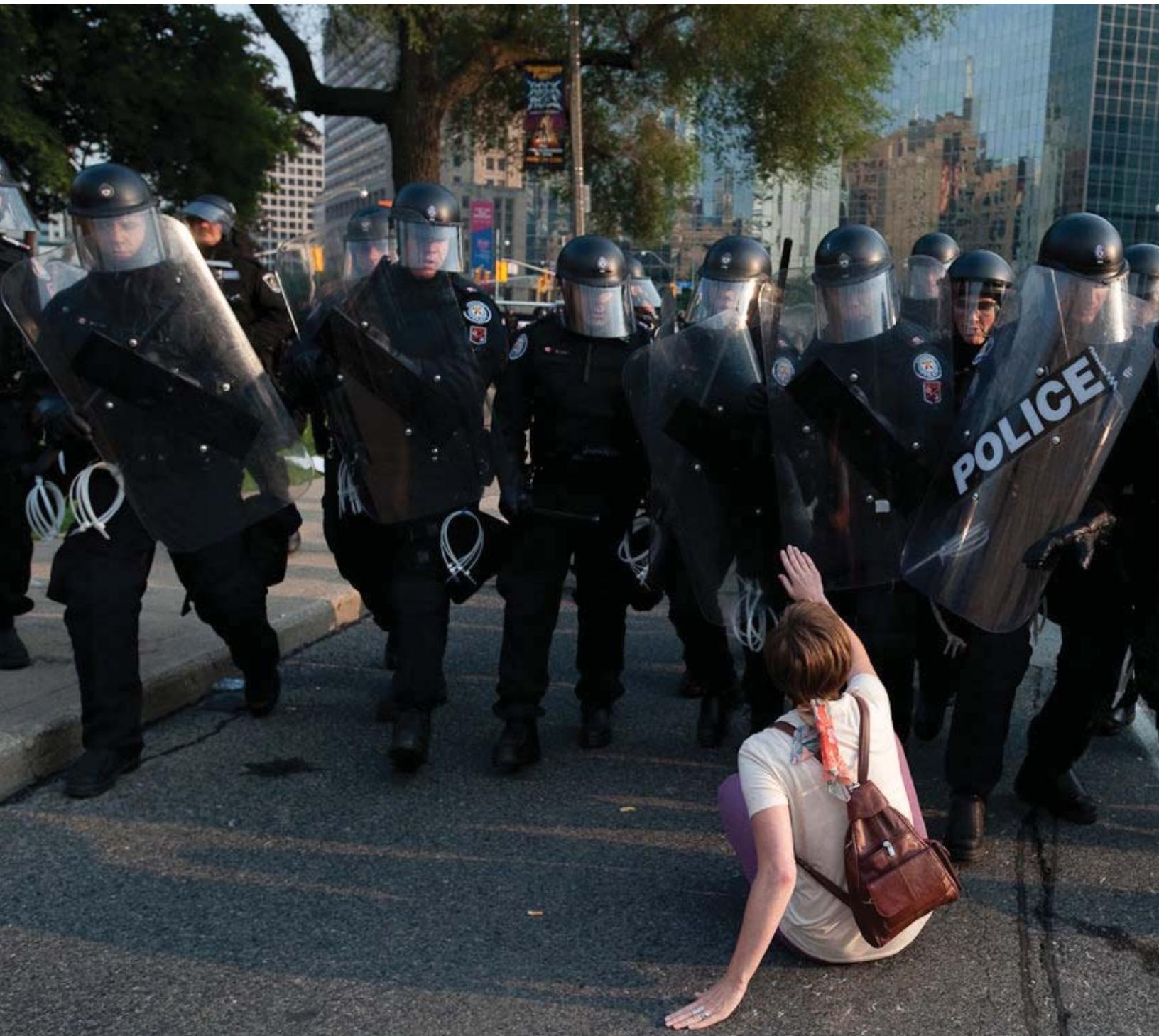




its decision to pass Regulation 233/10. Most recently, Ontario's Ombudsman issued a comprehensive report that examined the impact of the Regulation and the process through which it was passed. In this report, the Ombudsman posits that Regulation 233/10 was "probably illegal" and of questionable constitutional compatibility.

A further review by the Honourable Roy McMurtry is also underway and will conclude in the spring of 2011.

NUPGE and the CCLA share many of the concerns about the use of the *PWPA* in relation to the G20 expressed in the Ombudsman's report. On a go-forward basis, both organizations urge the government of Ontario to improve the consultation requirements applicable to the adoption of regulations that affect the civil liberties of Ontarians and to significantly amend or repeal the *PWPA*.



IV.

An Excessive Police Presence



During the G20 Summit, downtown Toronto looked dramatically different than it does on the average summer weekend. In addition to the massive security fence set up around the Summit site, there was an overwhelming police presence in the city, with some reports indicating there were close to 20,000 security officers on the streets. One union member who attended the labour march on June 26th made the following comment at the Breach of the Peace public hearings:

"the first thing I noticed was the overwhelming police presence, and it wasn't friendly (...) As we moved down University Avenue towards Queen, one thing that became apparent was that the police were on display, predominantly the ones carrying weapons, and that they were there for show. There was no doubt about it. They were in place to show the crowd that there was a large armed presence there to watch us."⁶

Consistent with this observation, many hearing participants reported an overwhelming number of police and security officers throughout the city. At demonstrations during the week prior to the G20 and on the weekend of the Summit, the sheer number of police officers as compared to demonstrators

was disproportionate, creating an atmosphere of intimidation. Police were wearing riot gear and were seen with weapons, including Conducted Energy Weapons, pepper spray, tear gas and guns that shot some form of projectile. Police in riot gear also engaged in intimidating tactics, including clattering their batons against their shields and pointing guns at peaceful crowds.

Both the breadth and tone of this police presence was excessive and, indeed, counterproductive. Many lawful demonstrators perceived police as having an "us vs. them" approach to security during the G20 that significantly increased tensions between police and protesters. One example of this attitude was described by Breach of the Peace hearing participant and CAW – Sam Gindin Chair in Social Justice and Democracy at Ryerson University in Toronto, Judy Rebick:

"OXFAM had a conference on the 18th on women's rights and there was a demonstration of almost all women – a pro-choice, pro-reproductive rights demonstration – on the 18th. The police presence was unbelievable. It wasn't a big demonstration. It was a couple of hundred people. It was a demonstration coming out of a conference. This is like a daily occurrence practically in Toronto. We noticed two

- I went to Toronto to demonstrate peacefully, which I did on Saturday. The next morning I was woken up with a Taser gun in my face.

Amelie Chateauneuf
Breach of the Peace public hearings participant



Amelie Chateauneuf | Participant at the Montreal hearings



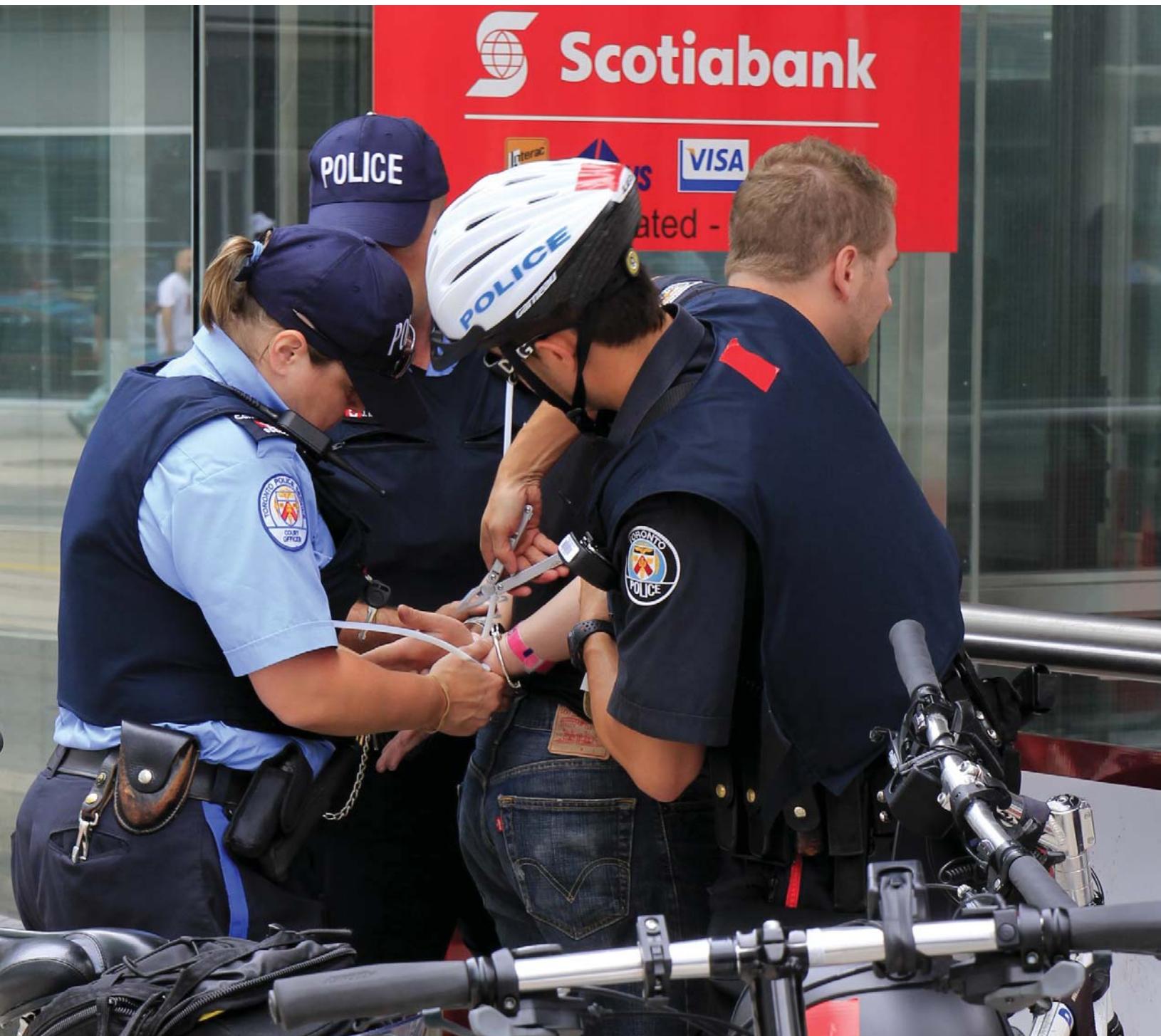
things – the first thing was the number of police and how they were dressed – close to riot gear. But the second thing was the attitude of the police. The police wouldn't talk to you. They wouldn't smile if you smiled at them. They wouldn't engage in conversation. They were ready for a war."

By treating lawful demonstrations like significant public safety threats, police introduced a combative element to these protests that might otherwise not have emerged. This dynamic was criticized in a report completed in the wake of the 2009 G20 Summit in London, England, which commented that:

"We are concerned that protestors have the impression that the police are sometimes heavy-handed in their approach to protests, especially in wearing riot equipment in order to deal with peaceful demonstrations. Whilst we recognize that police officers should not be placed at risk of serious injury, the deployment of riot police can unnecessarily raise the temperature at protests. The Policy Service of Northern Ireland (PSNI) has shown how fewer police can be deployed at protests, in normal uniform, apparently with success. Whilst the decision as to the equipment used must be an operational one and must depend on the circumstances and geography in the

particular circumstances, policing practice of this sort can help to support peaceful protest and uphold the right to peaceful assembly and we recommend that the adoption of this approach be considered by police forces in England and Wales, where appropriate."⁸

NUPGE and the CCLA agree with the perspective set out in these remarks. While we most certainly understand the need for police officers to protect their personal safety at all times, steps taken to achieve this objective should be proportionate to the likely risks. This is particularly true in the context of public demonstrations, where police responses perceived as excessive can provoke antagonism and threaten the safety of both the police and members of the public. Where, for example, planners of a peaceful march have arranged for Marshals and consulted extensively with public authorities, it may be appropriate to reduce the number of police in riot gear to adapt to a reduced threat. In the context of the G20, the quantity of police officers and the tactics they employed appear to have been disproportionate to the risks that had been identified in advance of the Summit. To avoid such disproportionality in the future, the quantity of officers assigned to police public protests, and the equipment they are carrying and wearing, should not unnecessarily exceed what is required to ensure public and officer safety.



V.

Stops and Searches

Freedom from arbitrary detention and unreasonable search and seizure are two of the most fundamental rights enjoyed by Canadians. To detain or arrest a person, police must have reasonable grounds to believe they are implicated in criminal activity and, unless an individual is being legally detained or arrested, the police must generally have a warrant, or other reasonable grounds, to search him or her.

Unfortunately, Breach of the Peace hearing participants described numerous incidents of unwarranted detentions and searches. One demonstrator indicated that “at Allan Gardens police were illegally searching everyone who entered, including myself, against people’s rights.”⁹ The same individual also reported that later in the weekend:

A white unmarked van pulled up and two police officers got out and demanded to search my backpack (...) one member of my group said that this was illegal and that they did not have the right to search us. One officer responded, ‘actually we do’. He cited the Public Works Protection Act and told us that we were within five metres of an overpass and therefore they had the right to search us. This was on the other side of

the Don Valley Parkway, many kilometres from the fence.”¹⁰

Another demonstrator recounted the following story:

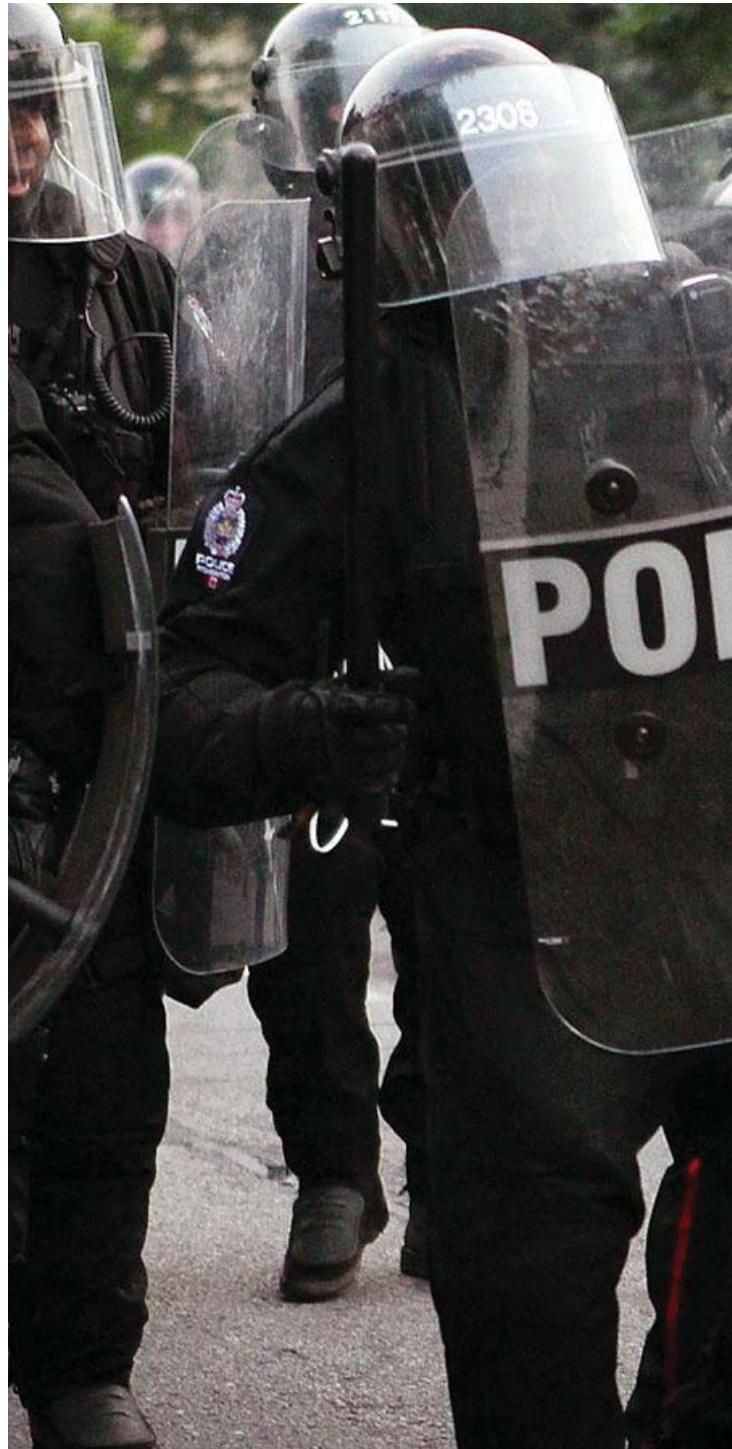
“I was grabbed by a police officer who told me that he had a reason to believe that I had weapons and had a right to search me. I explained to him that he did not, but he refused to let go of my arm the whole time that he searched me. He stole several of my things – my toque, long underwear, my earplugs and a bandana soaked in vinegar – and explained to me that those things were potentially weapons that I could use (...) He then took my picture and took my name.”¹¹

Participants in the public hearings also reported having been searched for no apparent reasons or witnessing a large number of searches that appeared random, arbitrary and, at times, discriminatory.

These observations are consistent with the experiences of the CCLA’s independent G20 monitors, who also observed widespread and systematic violations of constitutional rights by both uniformed and plain-clothes police officers. Throughout the weekend, observers witnessed groups of officers stationed outside of subway stations

and public parks, demanding that individuals identify themselves and/or submit to a search. There were several instances where monitors themselves, or those they were observing, clearly and unequivocally stated they did not consent to being searched. The searches proceeded, however, despite the clear lack of consent. Many observers also reported seeing large groups of police officers without their names or badge numbers visible, thus impeding the rights of the public to make complaints about abuses by specific officers.

Considering the scale and systematic nature of these seemingly illegal searches, it appears that during much of the Summit and the week leading up to it, constitutional protections against arbitrary detentions and unreasonable searches had effectively been suspended across downtown Toronto. In some cases, police may have mistakenly believed these detentions and searches were carried out in accordance with their authority under the PWPA. In other cases, it would appear that police detained and searched people in spite of knowing they had no lawful authority to do so. This situation has alarming implications for civil liberties and public accountability. It may also have contributed to the escalation of a confrontational atmosphere between police and demonstrators. In the future, measures must be taken to ensure greater respect for the boundaries of lawful detention and search powers are instilled in police through improved *Charter* training that is specific to the context of public demonstrations.









VI.

Use of Force

NUPGE and the CCLA condemn the use of violence by both members of the public and the police. While police may, of course, need to use force at times to advance legitimate public safety and policing goals, such force should only be used where it is absolutely necessary. When police do use force, it should be used minimally and in a manner that is proportionate to the threat it is addressing. If this standard is diverged from, police action can create unreasonable risks to the public and significantly undermine public confidence in law enforcement. During the G20 Summit, members of the public witnessed many instances of police using more force than was necessary while conducting searches, arresting individuals and controlling crowds. There have been reports of riot police charging into peaceful crowds without audible warning and instances where police used excessive force against protesters and other members of the public.

One incident in which excessive force was used was the dispersal of demonstrators from the “designated protest zone” in Queen’s Park in the early evening of June 26th. During this incident, over 100 police in riot gear were observed advancing on a crowd of peaceful protestors. Police ordered the protestors to leave, beat batons against their shields and aggressively

dispersed demonstrators. Officers were observed dashing into the crowd, grabbing individual protesters and, in some cases, violently arresting or dragging them behind police lines. As a result of this action, one police officer has been charged with assaulting a protester named Adam Nobody in an incident that has received significant media attention.¹² Another member of the public, who wears a prosthetic leg, described the following experience at Queen’s Park during the Breach of the Peace hearings:

"The police ordered me to walk (...) I said 'I can't'. Then one of the police grabbed my artificial leg and yanked it right off my leg for no apparent reason (...) He pulled it off, and then told me to put it back on. I just looked at him (...) I couldn't believe what he was saying. Of course, I can't put my leg back on with my hands tied behind my back (...) so then he says 'hop'. And again I said 'I can't'. Then he says 'you asked for it'. So then one police grabbed me under each arm and they started to drag me backwards. As they were dragging me backwards we went over pavement and I had on a short sleeve shirt and my elbows were digging right into



John Pruyn | Police yanked off his artificial leg



the pavement and they were gouged out, both elbows, both sides (...) we got to the paddy wagon and they slammed me onto the ground. They kicked me some more and then they went through my pockets for a quick search.”¹³

Other protesters also experienced excessive force while being dispersed from the Queen's Park area, one of which described his experience in the following terms:

“I heard a lot of police pushing people, a lot of screaming behind me. Then I was kicked in the back of the head by a police officer. My girlfriend was hit in the arm by a billy club, so I had to let go of her hand. When she tried to assist me up, the same officer that kicked me, kicked her in the side and she kind of flew away (...) They then pushed us further while pepper spraying people in the crowd.”¹⁴

Another incident where excessive force was widely reported occurred outside of the Eastern Avenue Detention Centre during the morning of June 27th. A large group of protesters had gathered in front of the detention centre and were cheering as detainees were released. The atmosphere was described by some as “celebratory”. Protestors were chanting peacefully and interacting calmly with the approximately 5-10 police officers that were present. Two hearing participants mentioned that demonstrators had negotiated about possible “boundaries”

of the protest and were told not to cross the sidewalk.

Eventually, more police arrived in unmarked vans. Several plain-clothes police jumped out of one of the vans and ran into the crowd, where they proceeded to grab at least three people and forcefully remove them from the crowd. One of the people was thrown into the back of the van, which then sped off extremely quickly. Another woman and man were also pulled out of the crowd, treated roughly and forced to lie on the ground with a police officer's knee in the woman's back, and a police officer's boot on the man's head. Shortly thereafter, police in riot gear began to appear in dozens and lined up in front of the detention centre. Despite the fact that no protester had crossed the sidewalk, the police officers ordered demonstrators to leave and, at one point, fired a weapon that emitted some sort of white smoke into the crowd. Many of the protesters that were present were confused about why police had fired projectiles into the crowd and dispersed what was a lawful and peaceful demonstration.

These two incidents were not the only ones that reportedly involved excessive force. Demonstrators at other locations also had similar interactions with police, including one Breach of the Peace hearing participant that reported the following account of her experience near the intersection of Queen Street and John Street:

“Police were hitting demonstrators. I saw a woman hit in the face with a shield (...) I was shocked. I

- Six months after the fact I am still anxious around police officers.

**Nikos
Kapetaneas**

Breach of the Peace public hearings participant

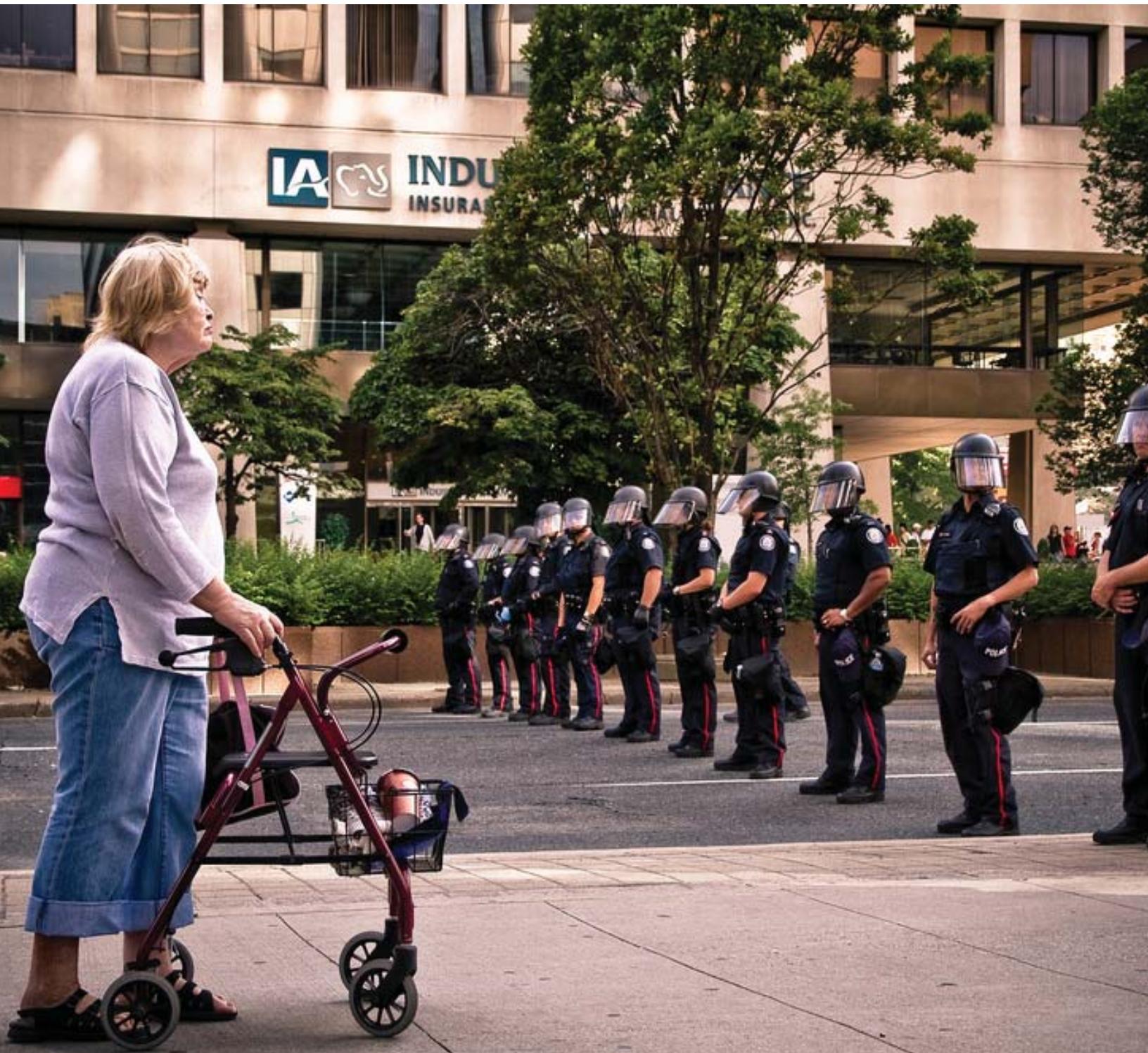


Nikos Kapetaneas | Participant at the Toronto hearings



*pulled out my phone and tried to take pictures of this. An officer told me to move and I didn't. I wasn't doing anything wrong (...) He raised his shield to me and he started hitting me through the shield and I collapsed to the ground and someone pulled me out of the crowd. I was pretty shaken up.*¹⁵

The aforementioned incidents indicate an excessive use of force by police during the G20 Summit. These actions created unnecessary safety risks for members of the public and undermined the right to peaceful protest. Police actions involving excessive force did not operate to diffuse tensions but, to the contrary, escalated tensions and fear among demonstrators. Public faith in the ability of police to fairly and even-handedly address security issues during public protests was also dealt a serious blow, as was public confidence in the police more generally.





VII.

Arrests

One of the most noteworthy things about the G20 Summit was the 1,105 arrests that were made over the course of the weekend, which set a record for the largest mass arrest in Canadian history. Numerous individuals were arrested by themselves or in groups in the lead-up to and during the Summit. One Breach of the Peace hearing participant recounted being arrested in the days leading up to the G20 Summit for carrying a small piece of bamboo, which she intended to give to someone to use as a flagpole in a G20-related protest. She was advised by police that they considered the bamboo to be a “tool of burglary” and that she was being charged with burglary-related offences. Another hearing participant, who was 17 years old at the time of the Summit, reported being arrested on a GO Transit platform while on his way to a G20 protest. He was subsequently told that he had been arrested for breach of the peace and then detained at the Eastern Avenue detention centre for approximately 25 hours. He was never charged with any offence.

In addition to the many individual arrests that took place, several mass arrests also occurred over the course of the G20 weekend. Some of these mass arrests were characterized by police boxing in large groups of protestors and other members of the public and then, without giving them an opportunity to leave, arresting them. The legal tool

used by police to justify such sweeping detentions was, generally, the power to arrest individuals for “breaching the peace”. Mass arrests were reported at several locations over the course of the weekend. These incidents are described below.

The Esplanade

On the evening of June 26th, 2010, a crowd of protestors gathered in front of the Novotel Hotel on the Esplanade. Most of the crowd was sitting, following chants by some of the protestors to “sit down” and “peaceful protest”. The police engaged some members of the crowd to ask questions and observers noted the conversations to pass peacefully and uneventfully. Suddenly, pairs of police began to approach the crowd, grab seated demonstrators and remove them with their arms behind their backs. It became clear the protestors were not allowed to leave the area, which was blocked by buildings or by police dressed in riot gear. Over a 20 minute period, police began to periodically move forward, confining the crowd to a smaller and smaller space. No announcement was made to the crowd until the police called upon people to be quiet and announced that everybody was under arrest. Over the next three hours, numerous individuals were arrested and removed from the Esplanade by bus or van and, in many cases, taken to the Eastern Av-

■ The treatment that I received was humiliating and traumatizing. I had the distinct impression that they wanted to discourage me from protesting.

Jacynthe Poisson
Breach of the Peace public hearings participant



Jacynthe Poisson | Participant at the Montreal hearings



venue detention centre. Two CCLA human rights monitors were arrested despite having identified themselves. Well-known journalist Steve Paikin was allowed to leave.

The U of T Graduate Students' Union Building

Early in the morning of June 27th, police conducted a raid at the University of Toronto's Graduate Students' Union building, which was housing many demonstrators who had bussed to Toronto from Quebec for the weekend. Reports indicate over 70 activists were arrested, the majority of whom were subsequently charged with criminal offences, including conspiracy-related offences. Some of those arrested participated in the Breach of the Peace hearings and spoke of police making remarks during the arrests that were racist, sexist and anti-Francophone. Many of those arrested were then taken outside and loaded into police vehicles before being transported to the Eastern Avenue detention centre. Members of the media were present while this was taking place and a CCLA monitor who was also present felt the police appeared to be showcasing the arrests for media consumption. After several court appearances, all of the charges against persons arrested at the Graduate Students' Union building have been dropped. The impact of this experience was described by several public hearing participants, one of whom made the following remarks:

"I went to Toronto to demonstrate peacefully, which I did on Saturday. The

next morning I was woken up with a Taser gun in my face. I was in my pajamas and was not allowed to go to the washroom. I became very frightened and started to cry. A police officer mocked me. I stopped and looked at him and he was laughing. (...) I have lost confidence in our institutions".¹⁶

The Queen and Spadina "Kettle" and arrests

On the evening of June 27th, many peaceful protesters, journalists and passers-by were contained by police at Queen Street W. and Spadina Avenue. This detention persisted for several hours through various weather conditions, including extremely heavy rain. During this time, the CCLA received calls from members of the public who reported they had not been protesting and wanted to go home. These individuals were fearful and at a loss as to how to get out of the situation. Some subsequently reported their property was damaged as a result of long-term exposure to the rain. After several hours, some members of the public were permitted to leave. Many others, including three of the CCLA's legal observers, were arrested and further detained outside in the rain, or kept for hours in police vans. Some of these individuals were taken to the Eastern Avenue detention centre. Others reported being taken to a police station in Scarborough and then released hours later.

One public hearing participant made the following remarks about this experience:

"We were heading home, which for us is at King and Bathurst, so we started walking west on Queen Street (...) At the intersection of Queen and Spadina (...) a small number of people were seated in the middle of the intersection, still chanting "peaceful protest" and sitting down (...) So we walked into the intersection, we could tell that some exits were already blocked (...) and in a matter of a minute, we could see lines of police in riot gear coming down from the north (...) by the time we lifted our heads, we were cornered from all four sides. We were given three warnings to leave. We were there from the very beginning and we did not hear a single warning. We would have gone home. We did not want to be there and wanted to go home (...)"

"The actual kettling was terrifying. The way I remember it is hundreds of policemen coming in from all sides at that corner pounding their shields and screaming "move" (...) I never saw any violence from the protesters (...) we got pushed and pushed and pushed and when we were shoulder to shoulder and face to face, we were pushed some more. People started to panic (...)"



Participant at the Toronto hearings



"There was a woman walking her dog and an elderly couple with five or six bags of groceries beside us (...) People had their lives with them (...) We saw people get pulled (...) the woman with her dog was told she could go, but later we saw her in handcuffs (...)"

"For the next two hours, there was nothing, no information (...) An hour into it, it started to rain heavily. We were scared and we were cold and one man collapsed. The new lines of cops did not know anything, asking us how long we had been there".¹⁷

NUPGE and the CCLA believe the majority of the arrests that occurred during the G20 were excessive and unwarranted. Hundreds of persons were arrested for breach of the peace, including individuals who were peacefully protesting, reporting on the G20, or simply walking on the streets. The fact that so many of these people were either not charged or have since had the charges against them dismissed, dropped or stayed, appears to indicate the arrests were made without a reasonable basis. Unwarranted detentions and arrests are a clear violation of *Charter* protections. They are also a violation of comparable protections under international law that require police to "ensure that the right of persons to peacefully participate in social protests is respected, and ensure only those committing criminal offences during demonstrations are arrested".¹⁸

Unwarranted criminal charges can also result in the significant stigmatization of individuals who may

have done nothing wrong. Even if the charges against such individuals are withdrawn outright, they may haunt the affected individual for many years, as certain police background check processes can reveal criminal charges even if a conviction is not entered. This is an issue of great concern to NUPGE and the CCLA. The CCLA has written to the TPS to request the removal of all G20-related charges that do not result in convictions from background check databases. The TPS has refused to grant this request.



VIII.

Incivility Towards Members of the Public

Members of the public have reported numerous incidents of police incivility during the G20. Police are alleged to have made racist, sexist, homophobic, anti-Francophone and other demeaning comments to demonstrators both on the streets of Toronto and in the Eastern Avenue detention centre. One hearing participant recounted the following observations of police conduct during the G20:

"I am not a protester; I just live here (...) I see a group of 15 year old high school students and a group of eight fully loaded police officers, not riot, but they are tailing these kids. What is this? Is it their first protest? I go up to the police, and asked, "What are you doing? Are these kids a threat?" (...) Later, I see a group of police officers. They were making rude, crude sexual comments, not only to G20 women but women going to work. Where is their sergeant to tell them to shut up and do their job? This seemed out of control."¹⁹

Another hearing participant recalled being repeatedly called a “f--king b--ch” by a police officer.²⁰ Another individual – an alternative media journalist who, because of a spinal injury, relies on a cane to walk – described the

following incident at the Breach of the Peace hearings:

"The cops took away my cane, which is my only means of getting around. I'm not stable on my feet otherwise. And the cops were jousting with it to one another and playing with it like it was a toy, while I was left vulnerable. If anything were to happen to me, I wouldn't be able to run or escape because I consider that cane my right, my ability to participate in society."²¹

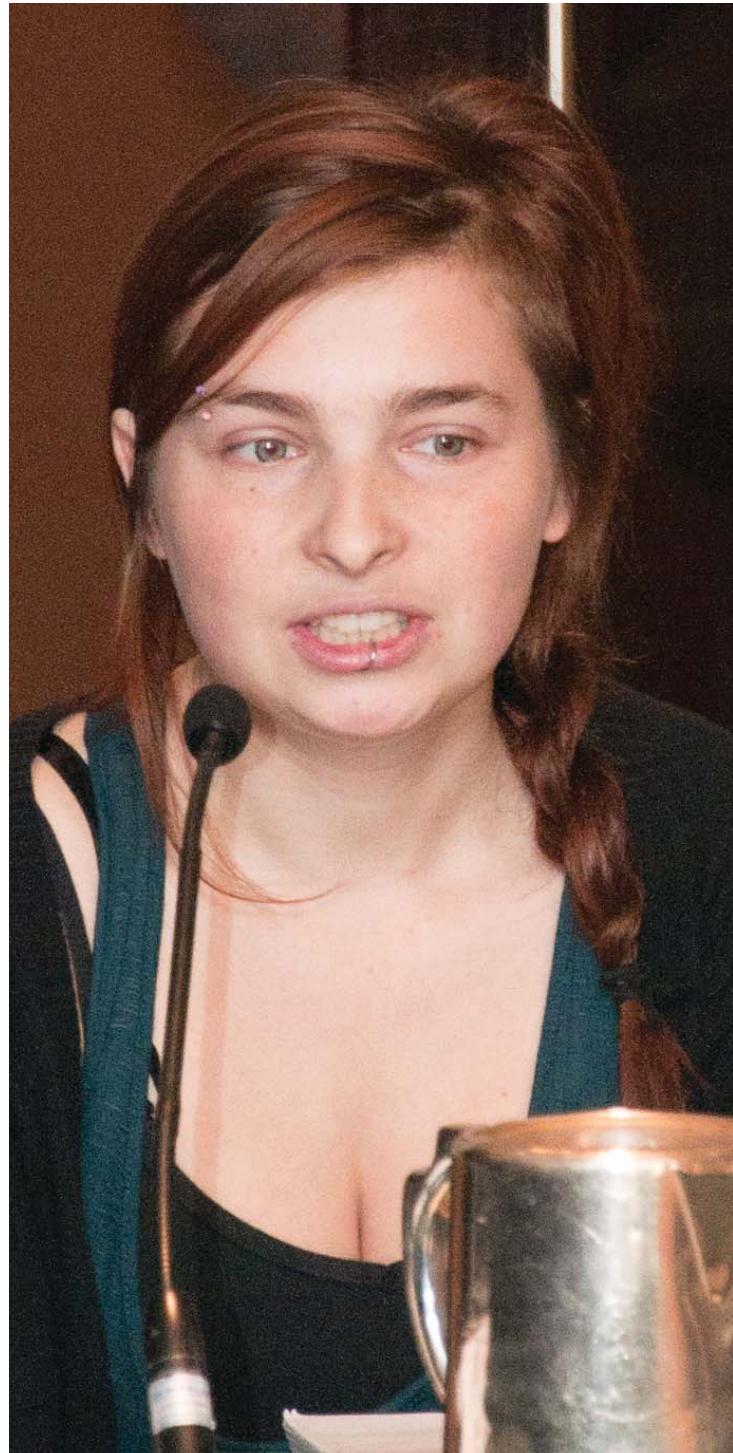
A large number of incivility complaints came out of the Eastern Avenue detention centre, where it has been reported that rude and demeaning language was used regularly by police. One detainee, who was not subsequently charged with any offence, indicated she heard an officer comment that “we should kick her while she’s asleep” as he walked by her. At some time after this, the same individual indicated several police officers “got on this trip about ‘are you a man or a woman?’” at which point one of them advised her that he was “just going to start calling [her] sir because [he was] not sure”.²² Another demonstrator that was detained recounted the following incident at the Breach of the Peace hearings:

"I heard at least one threat of rape (...) one of the guards came over, targeted someone

directly and said 'if you don't shut the f--k up, I am going to take you out of here and f--k you in the a--.' And at one point I was told that if I did not shut up I would get dragged out of there and get the s--t kicked out of me".²³

NUPGE and the CCLA condemn the use of rude, demeaning and threatening language by police. Such language is unprofessional and alienates the public from law enforcement. Where it can be substantiated that a specific police officer made an inappropriate comment to a member of the public, action should be taken to ensure the officer understands that such behavior is inappropriate and will not be tolerated.

Catherine Durand
Participant at the
Montreal hearings



IX.

The Eastern Avenue Detention Centre

Many Breach of the Peace hearing participants reported inappropriate and, in some cases, unsafe conditions of confinement at the temporary detention centre that was set up on Eastern Avenue. Hearing participants described being placed in overcrowded cages with concrete floors, chain link walls and limited toilet facilities. Many arrestees had plastic wrist ties tying their hands behind their backs for the duration of their detention. Although the temporary detention centre was part of G20 security planning for some time before the Summit, many of those detained inside described a total lack of organization and substantial backlogs in the processing and release of arrestees. Court services officers working at the centre could not answer basic questions about when arrestees would be processed or released.

Although many individuals were detained for nearly a day, food and water were reportedly both scarce. Access to legal counsel was also inadequate. In many cases, arrestees had no opportunity to use the phone or access legal counsel. Lawyers also reportedly had a great deal of trouble getting access to clients inside the detention centre. Indeed, a criminal lawyer the CCLA retained to advise two of its legal monitors that had been detained was unable to reach his clients in spite of trying numerous times. At one point, he was told by staff members at the detention cen-

tre they had no idea whether or not the two monitors were even in the facility.

Detainees were also reportedly denied necessary medical attention for hours, including access to insulin. One hearing participant indicated that:

"One of the people in our cage was a diabetic. We literally begged for medical attention for him for hours, which was refused until he passed out, at which point he was given medical attention, which meant that he was taken out of the cage, given what I assume was insulin and a little bit of juice, and then brought immediately back into the cage."²⁴

Concerns have also been raised about how youth were treated in the detention centre. One teenage hearing participant reported being put in an adult cell before she was later moved after advising staff that she was a minor.²⁵ The same woman indicated she was not permitted to contact her parents for many hours and that her mother only learned that she had been detained when she called the police to report her daughter missing. A male teenage detainee recounted the following story of being strip searched in the Eastern Avenue detention centre:

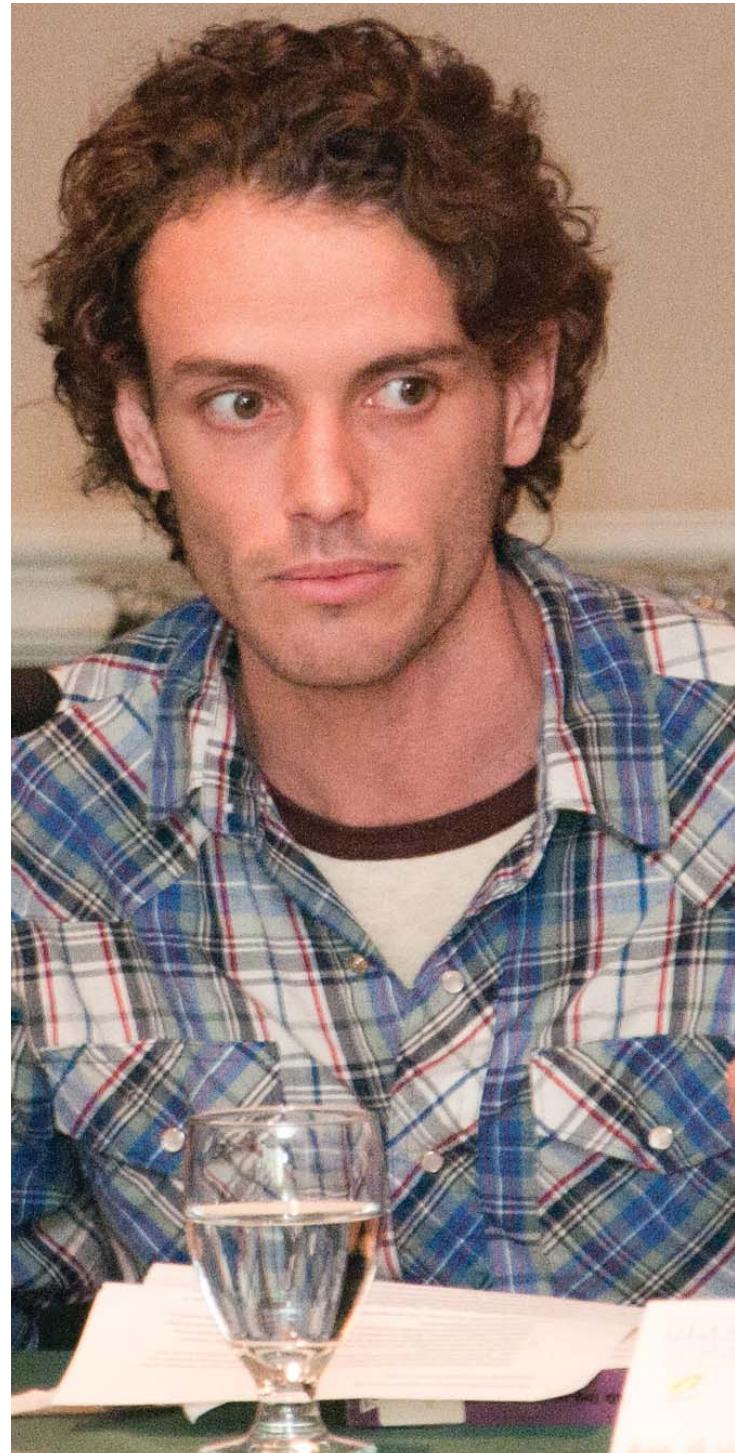
"They searched me as a level 3 security risk, which was the term that they called it, which

*meant that I would be naked on either the bottom or on top at all times (...) I was 17 years old and I was searched by two male officers and duty counsel was completely disgusted by that.*²⁶

Another person who was detained described how she was told that martial law had been declared and that she had no rights and police could detain her as long as they wanted.²⁷

Many of those detained in the Eastern Avenue facility were not charged with criminal offences. They were deprived of their constitutional rights and, in some cases, subjected to degrading and dehumanizing comments and treatment and privacy violations. Detainees were photographed, subjected to video surveillance throughout their detention and, in some cases, interviewed while being videotaped by police. Some detainees were strip searched and others were asked to promise they would not participate in future G20 protests after being released.

Steve Peters
Participant at the
Montreal hearings



X.

Police Communications with the Public



Police communications with the public before, during and after the G20 Summit have, at times, been problematic. In some cases, communications seem to have been designed to demonize lawful protesters and overstate the public safety threats. Vandalism, such as the smashing of windows or other property damage, was regularly referred to as "violence", creating the impression that crimes committed may have been more serious than they actually were. A TPS news conference was also held shortly after the G20 to showcase "weapons of opportunity" seized over the weekend. Many of the "weapons" displayed, however, were not obtained through G20-related seizures and others, such as a skateboard, tennis balls and a bicycle helmet, are not objects that are considered dangerous. These communications exercises created the impression that police overstated G20-related public safety threats to justify security measures implemented during the Summit.

One public participant made the following remarks about G20-related police communications:

"Later we saw an interview with the police chief on CBC where he stated, and I quote, 'They tried to storm our officers and the prisoner processing centre. We responded with a very calculated and measured

response and those people got what they wanted. They got to see the inside of the prisoner detention centre.' This accusation (...) is utterly preposterous. There were hundreds of videos taken by protesters as well as CTV, CBC and other news channels that show what really happened... This is an outright lie by the police department and to me this indicates they knew what they had done was wrong... They broke every rule in the book."

²⁸

A further example of police overstating public threats, was Toronto Police Chief Blair's comments about Adam Nobody, an individual who alleges that he was assaulted by police while at a G20-related protest. Blair was forced to recant comments in which he suggested Nobody was armed and violent and admitted that he had no evidence to support this. These remarks appeared highly defensive and created the troubling impression that police were "out to get" Mr. Nobody, regardless of the truth about his interactions with police. While Chief Blair's apology and recanting of his remarks were a welcome development, NUPGE and the CCLA continue to be concerned about the defensive, rather than the dialogue oriented nature of many police communications about G20-related issues.

XI.

Conclusion & Recommendations

NUPGE and the CCLA are deeply concerned about police conduct during the G20 Summit and the legacy it will leave for police community relations in Canada. The many violations of civil liberties that occurred during the Summit, such as illegal detentions and searches and excessive uses of force, cannot have simply been the actions of a few bad apples. Rather, given the scope and severity of the violations of rights that occurred during the G20, it is difficult to view this situation as anything other than a failure of policy and training. While individualized responses, such as the imposition of discipline following a police complaint, can make a beneficial contribution to restoring public confidence in police, the lingering questions in the wake of the G20 necessitate a broader, systemic response to what was a systemic failure. With this in mind, NUPGE and the CCLA recommend the following:

- [1] That a joint federal/provincial public inquiry be convened in accordance with the Terms of Reference set out in Appendix "B" to this report, and that this inquiry examine:
 - The dispersal of protesters at the designated G20 demonstration site in Queen's Park on the evening of June 26th;
 - The absence of police when acts of vandalism were occurring on June 26th;
 - The failure of firefighters to extinguish burning police cruisers on June 26th;
 - The failure to provide medical attention to injured protesters throughout the weekend;
 - The mass detentions and arrests on the Esplanade on the night of June 26th;
 - Arrests and police actions outside the Eastern Avenue detention centre on the morning of June 27th;
 - Mass arrests at the University of Toronto Graduate Students' Union Building on the morning of June 27th;

-
- The prolonged detention and mass arrest of individuals at Queen Street W. and Spadina Avenue on the evening of June 27th; and
 - The conditions of detention at the Eastern Avenue detention centre.
- [2] That changes be made to police policy and training that will ensure the important role of facilitating peaceful protest be given explicit consideration throughout the planning and execution of future public order policing operations;
- [3] That the role of undercover police informants in relation to G20 protest groups be examined and that the limits on what police can and cannot do while working undercover in protest groups be addressed;
- [4] That a detailed legislative framework with appropriate civilian oversight be developed to govern public order policing operations, including the establishment of security perimeters and the deployment of officers and equipment;
- [5] That the Ontario government ensure all new weapons and crowd control technologies are thoroughly tested and regulated before they can be deployed against members of the public;
- [6] That the Ontario government implement the recommendations set out in Caught in the Act, the Ontario Ombudsman's report regarding the *Public Works Protection Act*;
- [7] That measures be implemented to ensure greater respect for the boundaries of lawful detention and search powers are instilled in police through improved Charter training that is specific to the context of public demonstrations; and
- [8] That all G20-related charges that do not result in convictions should be removed from police background check databases.

Endnotes

1. See, Adapting to Protest, Her Majesty's Chief Inspector of Constabulary, 2009 [http://www.hmic.gov.uk/sitecollectiondocuments/ppr/ppr_20090706.pdf] at pg. 10.
2. See the United Nations Code of Conduct for Law Enforcement Officials, (1979) 34 U.N. GAOR Supp. (No. 46); U.N. Doc. A/34/46; Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990) U.N. Doc . A/CONF.144/28/Rev. 1.
3. Commission for Public Complaints against the RCMP, APEC – Interim Commission Report, July 31, 2001.
4. Wes Pue and Robert Diab, The Gap in Canadian Police Powers: Canada Needs "Public Order Policing" Legislation, 28 Windsor Review of Legal and Social Issues 87.
5. For further information, see the CCLA's submission to the Ministry of Community Safety and Correctional Services regarding the regulation of LRADs at – <http://ccla.org/2010/08/25/ccla-asks-minister-to-regulate-sonic-cannons/> .
6. NUPGE/CCLA public hearings participant, Robert Edgar.
7. NUPGE/CCLA public hearings participant, Judy Rebick.
8. Demonstrating respect for rights? A human rights approach to policing protest, UK Joint Parliamentary Committee on Human Rights, 2009 at para. 187.
9. NUPGE/CCLA public hearings participant, Ian Clough.
10. NUPGE/CCLA public hearings participant, Ian Clough.
11. NUPGE/CCLA public hearings participant, Jonah Hundert.
12. See <http://www.thestar.com/news/toronto/g20summit/article/910306--police-officer-charged-in-g20-beating?bn=1>
13. NUPGE/CCLA public hearings participant, John Pruyne.
14. NUPGE/CCLA public hearings participant, Nikos Kapetaneas.
15. NUPGE/CCLA public hearings participant, Nora Loretto.
16. NUPGE/CCLA public hearings participant, Amelie Chateauneuf.
17. NUPGE/CCLA public hearings participant, Terra Dafoe.
18. Consideration of the Reports Submitted by State Parties Under Article 40 of the Covenant on Civil and Political Rights, Concluding Observations – Canada, United Nations Human Rights Committee, Eighty-fifth session, April 20, 2006 [[http://www.unhchr.ch/tbs/doc.nsf/0/7616e3478238be01c12570ae00397f5d/\\$FILE/G0641362.pdf](http://www.unhchr.ch/tbs/doc.nsf/0/7616e3478238be01c12570ae00397f5d/$FILE/G0641362.pdf)] at para. 20
19. NUPGE/CCLA public hearings participant, Anonymous
20. NUPGE/CCLA public hearings participant, Miranda McQuade.
21. NUPGE/CCLA public hearings participant, Krystaline Kraus.
22. NUPGE/CCLA public hearings participant, Lisa Walter.
23. NUPGE/CCLA public hearings participant, Jonah Hundert.
24. NUPGE/CCLA public hearings participant, Jonah Hundert.
25. NUPGE/CCLA public hearings participant, Louise Harper.
26. NUPGE/CCLA public hearings participant, Brian O'Shea.
27. NUPGE/CCLA public hearings participant, Jacynthe Poisson.
28. NUPGE/CCLA public hearings participant, Jenny James.

Appendix “A” – List of Breach of the Peace Public Hearings Participants

- | | |
|----------------------------|----------------------------|
| 1. Danielle McLaughlin | 32. Linda Salewsky |
| 2. Lisa Walter | 33. Kristin Guite |
| 3. Robert Edgar | 34. Chris A. |
| 4. Janet Money | 35. Paul Cavaluzzo |
| 5. Judy Rebick | 36. Adrienne Telford |
| 6. Terra Dafoe | 37. Selena Flood |
| 7. Rachelle Suave | 38. Josh Harrower |
| 8. Julia Croome | 39. Anonymous |
| 9. Nikos Kapetaneas | 40. Yutaka Dirks |
| 10. Miranda McQuade | 41. Kate Oja |
| 11. Nora Loretto | 42. Sean Salvati |
| 12. Geoffrey Bracarich | 43. Lindsey Fiddes |
| 13. Jason Phillips | 44. Daniel Vandervoort |
| 14. Graham Bignell | 45. Natalie Gray |
| 15. Jonah Hundert | 46. Catherine Durand |
| 16. Louise Harper | 47. Virginie Gendron-Blais |
| 17. Cheryl Milne | 48. Johann Harding |
| 18. Kent Roach | 49. Jeremie Dhavernas |
| 19. Amelia Murphy Beaudoin | 50. Jenny James |
| 20. Alison Fisher | 51. Fernando Garcia Blanes |
| 21. David Coombs | 52. Steve Peters |
| 22. Ian Clough | 53. Jacynthe Poisson |
| 23. Seamus Parker | 54. Maryse Poisson |
| 24. Julius Arscott | 55. Liza Perreault |
| 25. Dylan Disalle | 56. Amélie Châteauneuf |
| 26. Lara Lucretia | 57. Jaggi Singh |
| 27. Kathleen Chung | 58. Hubert De Roy |
| 28. Denise Ashby | 59. Nargess Mustapha |
| 29. Judith Killoran | 60. Julius Grey |
| 30. John Pruyne | 61. Brian O’Shea |
| 31. Andrew McCaughrrie | 62. Krystaline Kraus |
| | 63. Valerie Zawilski |

Appendix “B” – Draft Public Inquiry Terms of Reference*

Commission of Inquiry into the Planning and Implementation of G8 and G20 Summit Security

A joint Commission of Inquiry, established jointly pursuant to the federal Inquiries Act and the Public Inquiries Act of the province of Ontario, is hereby established.

His Excellency the Governor General in Council, on the recommendation of the Prime Minister, hereby directs that said Commission do issue under Part I of the Inquiries Act and under the Great Seal of Canada appointing _____, as Commissioner to conduct a joint inquiry into the planning and implementation of security measures for the G8 and G20 Summits held in Huntsville and Toronto between June 25-27, 2010 (the “Inquiry”).

His Excellency the Lieutenant Governor in Council for the province of Ontario, directs that said Commission be issued under the Public Inquiries Act, appointing _____, as Commissioner to conduct a joint inquiry into the planning and implementation of security measures for the G8 and G20 Summits held in Huntsville and Toronto between June 25-27, 2010 (the “Inquiry”);

Said Commission shall direct:

- 1) The Commissioner to conduct the Inquiry as he or she considers appropriate with respect to accepting as

* These Draft Public Inquiry Terms of Reference were prepared by Amnesty International Canada and the Canadian Civil Liberties Association. They were delivered to the House of Commons Standing Committee on Public Safety and National Security on December 10, 2010 and have been endorsed by the following organizations: Amnistie internationale Canada francophone, Amnesty International Canada (English branch), British Columbia Civil Liberties Association, Canadian Civil Liberties Association, National Union of Public and General Employees, Canadian Federation of Students, Canadian Arab Federation, Canadian Association of University Teachers, Canadian Federation of University Women, Canadian Council for International Co-operation, RightOnCanada, United Steelworkers

conclusive or giving weight to the findings of other examinations of the circumstances surrounding the G8 and G20 Summit security, including:

- a) the Independent Civilian Review initiated by the Toronto Police Services Board and being carried out by the Honourable John W. Morden;
 - b) the Systemic Review being carried out by Ontario's Office of the Independent Police Review Director;
 - c) the review of the Public Works Protection Act being carried out by the Honourable R. Roy McMurtry, Q.C.;
 - d) the review of the Public Works Protection Act being carried out by Ontario's Ombudsman;
- 2) The Commissioner to conduct the Inquiry specifically for the purpose of making findings and recommendations with respect to whether any of the following contravened the Charter of Rights and Freedoms or Canada's international human rights obligations:
- a) the planning of G8 and G20 Summit Security, including:
 - i) the infiltration of and collection of intelligence regarding G8 and G20 protest groups;
 - ii) the framework and strategy for policing the G8 and G20 Summits;
 - iii) the boundaries of the perimeter fence around the G20 Summit site;
 - iv) the testing and deployment of crowd control measures, including the Long Range Acoustic Device; impact weapons and chemical agents;
 - b) police actions at the time of the G8 and G20 Summits, including:

- i) the approach to demanding identification from members of the public, including peaceful demonstrators and members of the media;
- ii) searching individuals, including members of the media, without a search warrant;
- iii) searching premises without a search warrant;
- iv) arresting individuals, including members of the media, without an arrest warrant;
- v) the use of force on members of the public, including protesters and members of the media;
- vi) whether the temporary prisoner detention centre on Eastern Avenue met international standards and Canadian domestic standards with respect to medical care for prisoners, access to lawyers, access to Duty Counsel, housing of prisoners with disabilities, housing of young people, access of young people to their parents, strip searches of prisoners, supply of food and water for prisoners, the temperature in the facility, access to toilet facilities, returning the personal property of prisoners, and releasing prisoners without charge; and
- vii) whether detained individuals were subject to humiliating and degrading comments that may have been sexist, racist, homophobic or offensive in other ways.

c) measures to ensure that police personnel involved in providing security for the G8 and G20 Summits could be held accountable for their actions, including:

- i) whether sufficient police accountability mechanisms are in place to deal with situations, such as the G8 and G20 Summits, where numerous police services from a variety of ju-

risdictions are working in concert to provide security; and

ii) whether adequate measures were taken to ensure that all police officers, regardless of their jurisdiction of origin, were required to wear name badges and/or police badge numbers while on duty;

d) the sufficiency of constraints within Canada's existing legal framework on police and security intelligence personnel tasked with planning and implementing security measures relating to large-scale public demonstrations, including:

i) clarity regarding the laws that apply to the provision of security for large-scale international meetings;

ii) mechanisms for resolving inter-jurisdictional issues that may arise in the context of large scale security operations involving different levels of government;

iii) whether *Criminal Code* provisions relating to "breach of the peace", "riots" and "unlawful assemblies" are consistent with contemporary constitutional standards and international human rights standards;

3) the Commissioner to take account of observations and recommendations made previously to the Canadian government by international human rights bodies with respect to issues relevant to the matters enumerated in paragraph 2;

4) the Commissioner to conduct the Inquiry under the name of the Commission of Inquiry into the Planning and Implementation of G8 and G20 Summit Security;

5) that the Commissioner be authorized to adopt any procedures and methods that he or she may

consider transparent, fair and expedient for the proper conduct of the Inquiry, and to sit at any times and in any places in or outside Canada that he or she may decide;

6) that the Commissioner be authorized to conduct consultations in relation to the Inquiry as he or she sees fit;

7) that the Commissioner be authorized to grant individuals and civil society groups aggrieved as a result of G8 and G20 Summit security an opportunity for appropriate participation in the Inquiry;

8) that the Commissioner be authorized to grant to any other person who satisfies him or her that he or she has a substantial and direct interest in the subject-matter of the Inquiry an opportunity for appropriate participation in the Inquiry;

9) that the Commissioner be authorized to recommend to the Clerk of the Privy Council that funding be provided, in accordance with approved guidelines respecting rates of remuneration and reimbursement and the assessment of accounts, to ensure the appropriate participation of any party granted standing under paragraph 7 or 8, to the extent of the party's interest, wherein the Commissioner's view the party would not otherwise be able to participate in the Inquiry;

10) that the Commissioner be authorized to engage the services of any experts and other persons referred to in section 11 of the *Inquiries Act*, at rates of remuneration and reimbursement approved by the Treasury Board;

11) that the Commissioner, in conducting the Inquiry, take all steps necessary to ensure maximum public disclosure of all relevant information and only limit such disclosure to the extent absolutely

necessary and in conformity with exceptions recognized under international human rights standards;

12) the Commissioner to perform his or her duties without expressing any conclusion or recommendation regarding the civil or criminal liability of any person or organization;

13) the Commissioner to perform his or her duties in such a way as to ensure the conduct of the Inquiry does not jeopardize any ongoing criminal investigation or criminal proceeding;

14) the Commissioner to submit a report or reports, simultaneously in both official languages, to the Governor in Council and the Lieutenant Governor in Council.

