SUBMISSIONS OF THE CANADIAN CIVIL LIBERTIES ASSOCIATION

To the Office of the Independent Police Review Director
Re: Review of Systemic Issues Resulting from the Policing of the 2010 G-20 Summit in Toronto

December 20, 2010

I. INTRODUCTION

The Canadian Civil Liberties Association (“CCLA”) is a national organization with the paid support of thousands of individuals drawn from all walks of life, affiliated chapters across the country, and many associated group members. The CCLA was constituted to promote respect for and observance of fundamental human rights and civil liberties and to defend and foster the recognition of those rights and liberties. The CCLA’s major objectives include the promotion and legal protection of individual freedom and dignity against unreasonable invasion by public authority. For over 45 years, the CCLA has worked to advance these goals.

The CCLA’s mandate clearly intersects with the many civil liberties and Charter issues raised by security measures implemented during the 2010 G20 Summit in Toronto. These issues include whether the use of force, detention, arrest and search powers by police was consistent with constitutional standards and whether the policing of G20-related protests was sufficiently respectful of the rights to freedom of assembly and freedom of expression. Many questions remain about police conduct during the G20 Summit. Further examination of how the Summit was policed is necessary to resolve these questions. The CCLA is hopeful that the OIPRD’s systemic review will make a significant contribution to this process.

This document addresses the specific issues raised by the OIPRD in its call for submissions and relies heavily on the CCLA’s direct experiences before, during and after the G20 Summit. These experiences include: correspondence and consultation with police services and government agencies, the deployment of over 50 independent human rights monitors during the G20; assisting many individuals file G20-related police complaints; appearing before the federal Standing Committee on Public Safety and National Security in relation to G20 Summit security; and, with the National Union of Public and General Employees, organizing three days of hearings, in which members of the public were given an opportunity to share their experiences with police during the G20 Summit. We are pleased to share the results of our work, which we hope will be of assistance with the OIPRD’s systemic review.
II. LEGAL AND HUMAN RIGHTS FRAMEWORK

All government action in Canada, including security operations, must be carried out in a manner that is respectful of prevailing 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, where valid reasons exist, 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:

1. Security measures must be developed with a view to efficiently ensuring the security of the general public, dignitaries, protestors and security personnel;
2. 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;
3. Government actions that restrict human rights must be necessary, minimally intrusive, proportionate, and use the least force possible;
4. International standards\(^2\) with respect to policing large events should be adhered to, and ideally surpassed.

III. PLANNING OF G20 SUMMIT POLICING

In the CCLA’s view, the planning and implementation of G20 Summit security was not carried out in a manner that was sufficiently respectful of the rights to freedom of expression and peaceful assembly. We believe that, in many cases, measures taken by police exceeded what was necessary to achieve the objective of providing security for foreign dignitaries, resulting in

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excessive infringements of constitutional rights. Three planning-related issues of particular concern to the CCLA are discussed below.

**Infiltration of Protest Groups**

Many activists have complained to the CCLA 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 of 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 the CCLA has no way of knowing the extent and focus of undercover infiltration operations in relation to the G20, we are troubled by the reports that we have received from members of the public. In particular, we are concerned that police informants may have endorsed or supported the commission of acts of vandalism. We urge the OIPRD to examine this aspect of G20 policing as part of its systemic review and to 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 on Saturday, June 26 - were given routes that did not go anywhere near the fence surrounding the Summit site. This effectively prevented a significant expression 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. In the CCLA’s view, 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, 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

³ Commission for Public Complaints against the RCMP, APEC – Interim Commission Report, July 31, 2001
objective, the CCLA believes that a detailed legislative framework should be developed to govern the establishment of security perimeters in the public order policing context.\footnote{Wes Pue and Robert Diab, \textit{The Gap in Canadian Police Powers: Canada Needs“Public Order Policing” Legislation}, 28 Windsor Review of Legal and Social Issues 87.}

\textbf{Long-Range Acoustic Devices}

A further concern identified by the CCLA in the lead up to the G20 was the acquisition and possible use of Long-Range Acoustic Devices (LRAD), which it appeared the Toronto Police Service (TPS) was contemplating using as a crowd control tool. Our primary concern related to the use of certain LRAD functions which posed a potential safety risk to members of the public and had not been adequately tested or regulated. The CCLA believes that it is essential to thoroughly and independently test, evaluate and review new technologies that have the potential to cause harm \textit{before} they are deployed against the general public. As such measures have not been taken in the case of LRADs, the CCLA sought an injunction limiting the use of LRADs until they had been properly tested and approved.

In the CCLA’s view, it is unacceptable that a public interest organization had to take a police service to court to ensure that the public was not exposed to potential harm from the use of an LRAD by the TPS. 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 \textit{before} the weapon is deployed, not after. To ensure that the public is not unnecessarily exposed to the potential risks of LRADs in the future, the CCLA recommends that 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 \textit{Police Services Act},\footnote{For further information, see the CCLA’s submission to the Ministry of Community Safety and Correctional Services regarding the regulation of LRADs at – \texttt{http://ccla.org/2010/08/25/ccla-asks-minister-to-regulate-sonic-cannons/}.} or pursuant to another appropriate regulatory scheme.

\textbf{IV. THE OPERATIONAL APPLICATION OF REGULATION 233/10}

Regulation 233/10 under the \textit{Public Works Protection Act} (PWPA), was made on June 2\textsuperscript{nd}, filed on June 14\textsuperscript{th} and published on e-Laws on June 16\textsuperscript{th}. It designated the streets and sidewalks inside the police-established G20 security perimeter a “public work” between June 21 and June 28, 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 detained, arrested, and charged under the \textit{Act} because he declined to identify himself while walking outside the unsecured fence prior to the Summit.

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 that the Regulation had been passed and was asked about its legal authority in relation to the G20. In the CCLA’s view, 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. Several 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 that 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. In the CCLA’s view, 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. The CCLA continues to monitor these review processes closely and shares 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, the CCLA urges 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.

V. POLICE APPROACHES REGARDING MAJOR G20 PROTESTS

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 that 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 CCLA’s 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.”

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6 CCLA/NUPGE public hearings participant.
Consistent with this observation, many of the CCLA’s independent human rights monitors repeatedly 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.

In the CCLA’s view, both the breadth and tone of this police presence was excessive and, indeed, counterproductive. 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 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.”

The CCLA agrees 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, we believe that steps taken to achieve this objective should be proportionate to the perceived risks. This is particularly true in the context of public demonstrations, where police responses that are 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 Marshalls 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 CCLA believes that the quantity of police officers and the tactics that they employed may have been disproportionate to the risks that had been identified in advance of the Summit. To avoid such disproportionality in the future, the CCLA recommends that the quantity of officers assigned to police public protests, and the equipment that they are carrying and wearing, should not unnecessarily exceed what is required to ensure public and officer safety.

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VI. 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 generally have reasonable grounds to believe that 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.

During the G20 Summit, CCLA monitors observed widespread and systematic violations of these important 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. We have also heard reports of police officers boarding public transit vehicles to conduct searches. In the overwhelming number of observed instances, the police stated no basis for conducting the search. There were several instances where monitors themselves, or those they were observing, clearly and unequivocally stated that 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. One group of monitors walking along the street, far from any demonstration, was questioned by police officers, one of whom removed his name badge prior to approaching them and questioning them.

In addition to the first hand observations of our monitors, the CCLA has also received numerous reports from members of the public outlining incidents of unwarranted detentions and searches. One demonstrator advised the CCLA that “at Allan Gardens police were illegally searching everyone who entered, including myself, against people’s rights.” 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 meters of an overpass and therefore they had the right to search us. This was on the other side of the Don Valley Parkway, many kilometers from the fence.”

Another demonstrator recounted the following story to the CCLA:

“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.”

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8 CCLA/NUPGE public hearings participant.
9 CCLA/NUPGE public hearings participant.
10 CCLA/NUPGE public hearings participant.
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 that 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 that 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 that 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.

VII. USE OF FORCE

The CCLA condemns 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, CCLA monitors witnessed many instances of police using more force than was necessary while conducting searches, arresting individuals, and controlling crowds. Monitors saw riot police charging into peaceful crowds without audible warning and there were also instances where police were observed shooting projectiles into peaceful crowds without warning.

One incident in which excessive force was reportedly commonplace 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 one hundred 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. One member of the public, who wears a prosthetic leg, described the following experience at Queen’s Park to the CCLA:

“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 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.”¹¹

Other protesters also experienced excessive force while being dispersed from the Queen’s Park area, one of which described his experience to the CCLA 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.”¹²

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”. Two hearing participants mentioned that demonstrators had negotiated about possible ‘boundaries’ of the protest and were told not to cross the sidewalk. Protestors were chanting peacefully and interacting calmly with the approximately 5-10 police officers that were present. Eventually, more police arrived in unmarked vans. Several plain-clothed 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 line up in front of the detention centre. Despite the fact that no protester had crossed the sidewalk, the police officers ordered the protestors to leave and, at one point, fired a weapon that emitted some sort of white smoke into the crowd. The CCLA monitors that were present, as well as many protesters, 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 resulted in reports of excessive force being made to the CCLA. Demonstrators at other locations also had similar interactions with police, including one that reported the following account of her experience near the intersection of Queen St. and John St.:

“Police were hitting demonstrators. I saw a woman hit in the face with a shield... I was shocked. I 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.”¹³

In the CCLA’s view, the aforementioned incidents appear to indicate an excessive use of force by police during the G20 Summit. These actions created seemingly unnecessary safety risks for members of the public and undermined the right to peaceful protest. Police actions involving

¹¹ CCLA/NUPGE public hearings participant.
¹² CCLA/NUPGE public hearings participant.
¹³ CCLA/NUPGE public hearings participant.
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.

VIII. ARRESTS

One of the most noteworthy things about the G20 Summit was the 1105 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 member of the public 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 teenage member of the public 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”. CCLA monitors observed mass arrests occurring at several locations over the course of the weekend. We have also received further information from members of the public who were affected by these mass arrests. 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 peaceably 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 that the protestors were not allowed to leave the area, which was blocked by buildings or by police dressed in riot gear. Over a twenty-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 Avenue detention centre. Two CCLA human rights monitors were arrested despite having identified themselves. Well-known journalist Steve Paikin was apparently allowed to leave.
Early on the morning on 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 that over 70 activists were arrested, the majority of whom were subsequently charged with criminal offences, including conspiracy-related offences. Some of those arrested have advised the CCLA that police made disparaging 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 observer who was also present felt that 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 since been dropped.

The Queen and Spadina “Kettle” and Arrests

On the evening of June 27th, many peaceful protesters, journalists and passersby were contained by police at Queen St. 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 that 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 that 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.

In the CCLA’s view, 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 dropped, indicates that the arrests were made without a reasonable basis. Unwarranted detentions and arrests are a clear violation of Charter protections against arbitrary detention and imprisonment. 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 that only those committing criminal offences during demonstrations are arrested.”

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

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may have done nothing wrong. Even if the charges against such individuals are withdrawn, 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 the CCLA, which 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.

IX. INCIVILITY

Members of the public have reported numerous incidents of police incivility during the G20 to the CCLA. Police are alleged to have made racist, sexist, homophobic and other demeaning comments to demonstrators both on the streets of Toronto and in the Eastern Avenue detention centre. One demonstrator recalled being repeatedly called a “f--king b--ch” by a police officer.15

Another individual - an alternative media journalist who, because of a spinal injury, relies on a cane to walk - advised the CCLA that:

“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.”16

A large number of incivility reports came out of the Eastern Avenue detention centre, where the CCLA has been advised that rude and demeaning language was used regularly by police. One detainee, who was not subsequently charged with any offence, advised the CCLA that 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 that 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”.17

Another demonstrator that was detained recounted the following to the CCLA:

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.”18

The CCLA condemns the use of rude, demeaning and threatening language by police. Such language can have a deep and hurtful impact on members of the public and serve to alienate them 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 that the officer understands that such behavior in inappropriate and will not be tolerated.

15 CCLA/NUPGE public hearings participant.
16 CCLA/NUPGE public hearings participant.
17 CCLA/NUPGE public hearings participant.
18 CCLA/NUPGE public hearings participant.
X. DETENTION CENTRE ISSUES

The CCLA has received many reports of inappropriate, and in some cases unsafe, conditions of confinement at the temporary detention centre that was set up on Eastern Avenue. Two CCLA human rights monitors were among those swept up in a mass arrest at the Esplanade on Saturday night and both were detained for over 18 hours – the majority of which was spent at the detention centre. These two monitors, along with other members of the public who have recounted their experienced to the CCLA, have described being placed in overcrowded cages with concrete floors, chain link walls and limited toilet facilities. Many arrestees had plastic wrists 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. One CCLA monitor was given minimal food and only received two small cups of water over the 18 hours that he was detained. One cup of water was yellow in colour and he said it was simply not drinkable. 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 its two arrested monitors was unable to reach his clients in spite of trying numerous times. At one point, he was told by staff members at the detention centre that 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 detainee advised the CCLA 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.”

Concerns have also been raised about how youth were treated in the detention centre. One teenage woman reported being put in an adult cell before she was moved after advising staff that she was a minor. The same woman told the CCLA that 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 and I was searched by two male officers and duty counsel was completely disgusted by that.”

19 CCLA/NUPGE public hearings participant.
20 CCLA/NUPGE public hearings participant.
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, subject to video surveillance throughout their detention and, in some cases, interviewed while being videotaped by police. Some detainees were strip searched on more than one occasion and others were asked to promise that they would not to participate in future G20 protests after being released.

XI. COMMUNICATION PROCESSES

The CCLA believes that 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 to overstate the public safety threats resulting from G20-related demonstrations. Vandalism, such as the smashing of windows or other property damage, was regularly referred to as “violence”, creating the impression that crimes committed during the G20 may have been more serious than they actually were. A news conference was also held shortly after the G20 by the TPS 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 normally considered dangerous. These communications exercises have created the impression that police are overstating G20-related public safety threats in order to justify the security measures that were implemented during the Summit.

A further example of this concerning trend, was Toronto Police Chief Bill 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 that Nobody was armed and violent and admit that he had no evidence to support either assertion. 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 was a welcome development, the CCLA continues to be concerned about the defensive, rather than dialogue oriented nature of many police communications about G20-related issues.

XII. CONCLUSION & RECOMMENDATIONS

The CCLA is deeply concerned about police conduct during the G20 Summit and the legacy that 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, the CCLA recommends the following:

1. That changes be made to police policy and training that will ensure that explicit consideration is given to the facilitation of peaceful protest throughout the planning and execution of future public order policing operations;

2. 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;

3. 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;

4. That the Ontario government ensure that all new weapons and crowd control technologies are thoroughly tested and regulated before they can be deployed against members of the public;

5. 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;

6. That measures be implemented to ensure that 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;

7. That comprehensive inquiries be conducted into:
   a. The dispersal of protesters at the designated G20 demonstration site in Queen’s Park on the evening of June 26th;
   b. The mass detentions and arrests on the Esplanade on the night of June 26th;
   c. Arrests and police actions outside the Eastern Ave. detention centre on the morning of June 27th;
   d. Mass arrests at the University of Toronto Graduate Students’ Union Building on the morning of June 27th;
   e. The prolonged detention and mass arrest of individuals at Queen St. W. and Spadina Ave. on the evening of June 27th; and
   f. The conditions of detention at the Eastern Ave. detention centre; and

8. That all G20 related-charges that do not result in convictions should be removed from police background check databases.