

Edited by Margaret E. Beare,
Nathalie Des Rosiers,
and Abigail C. Deshman

PUTTING THE STATE ON TRIAL

The Policing of Protest during
the G20 Summit



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Foreword

RONALD G. ATKEY

On 25-26 June 2010, Toronto hosted the G20 Summit meetings and witnessed a display of what some critics saw as overly aggressive and undemocratic policing. This book is not restricted to what transpired during that weekend but is inspired by the need to examine the numerous issues that countries hosting this type of event must confront. The issues also serve to highlight the continuing tensions inherent in protest policing of any sort. National security and policing problems with the G20 Toronto meetings were foreseeable from the outset. It was late in the day when the international community prevailed on Canada in late 2009 to combine the G8 meeting, which had long been scheduled for mid-June 2010 in Huntsville, with the G20 meetings. The G20 meetings had become increasingly important to world leaders following the world economic crisis in 2008. Given the pressure from the international community, Canada could hardly have said no. However, Canada could have followed wise counsel as to the locations of these meetings.

It was clear by January 2010 that superhuman efforts in Ottawa and Toronto, and a lot of money, would have to be spent to pull off a successful summit in the eyes of the world while lawfully containing the protests that would inevitably accompany an event of this nature. Here is some of what I said in a public panel discussion in Toronto with Toronto police service chief Bill Blair on 29 May 2010, a month before the event.

On June 23 to 27, we will witness one of the largest security operations in our country's history. The cost was announced by the federal government

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on May 26th at a staggering \$833 million, sure to creep to \$1 billion by the time all is said and done, and this comes less than six months following the initial ground-breaking security operations established in Canada's West Coast for the Vancouver/Whistler Olympics last February.

Let me give you an overview of the federal arrangements costing up to a billion dollars. The RCMP is getting approximately 50 percent (over \$100 million will flow through to the Toronto Police Service), and the Canadian Forces about 20 percent, leaving the other 30 percent for CSIS, NAV Canada, Transport Canada, Immigration Canada, and Public Health and Safety. Add to this the provincial and municipal police, private security firms and security personnel accompanying foreign leaders while in Canada. This is quite a smorgasbord when it comes to security personnel.

Threats

- Physical harm to the world leaders – remember, we will have in our midst the presidents of China, Russia, the US, India and prime ministers from the UK, Japan, Germany, and Canada.
- Protests involving criminal activity which could include violence and/or destruction of property.
- Acts of terrorism such as bombings or hostage-takings or hijackings of vehicles – al-Qaeda and its adherents remain the number one priority of CSIS, which has over two hundred such individuals in Canada on their radar screen.
- Unintended violations of the civil liberties of Canadians.

Techniques

- Law enforcement officials (i.e., the police) have the biggest challenge in applying the *Criminal Code* and municipal bylaws effectively and fairly.
- The securing of areas and buildings and meeting facilities is a challenge for the military and the police and private security companies.
- Information exchange and intelligence sharing, with appropriate caveats, is essential to effectiveness through Integrated Security Units (ISUs).
- Establishing safe assembly areas or “designated free speech areas” for protesters becomes central to security operations.
- Use of authorized electronic interceptions or wiretaps by the police or CSIS.
- Use of paid or unpaid informers or sources by the police or CSIS under procedures authorized by law.

- Surveillance of persons of interest by simple or sophisticated means, again as authorized by law.

Risks

- Overzealous policing – violence begets violence.
- Infiltration of protest groups may erode their privacy rights and lead to unreasonable restriction on their exercise of free speech or movement.
- Inconvenience to the general public ...
- Loss of productivity for employers in the secure area who really have no alternative but to give Friday, June 25, as a paid holiday so employees don't come downtown to work.
- Unreasonable restrictions on use of advertising space ...
- Public cynicism: what are we getting for this billion-dollar security exercise other than a lot of inconvenience?

Rewards

- Successful G8 and G20 Summits with meaningful discussions on world economic and social issues, with Canada's leadership role as a major player enhanced as a result.
- Canada is seen by the world as hosting another major event on a terrorist-free basis through effective security arrangements.
- Canada is seen by the world as a civilized society where protest and dissent opportunities exist under our *Charter of Rights and Freedoms* for those who disagree with world leaders.

Designated Free Speech Area

Under the *Canadian Charter of Rights and Freedoms*, peaceful protest groups cannot be confined to a designated area. Yet the Charter does not authorize physical violence or wanton destruction of property. There is a fine line to be drawn here, which I am sure will test the legal mettle of many of the lawyers and judges who will have to grapple with the many cases likely to arise from protests during this period.

Similarly, what goes on at the imposing detention and holding centre being constructed at the former film studio on Eastern Avenue to process protesters who are arrested will be closely scrutinized by those lawyers who are retained for bail hearings and to act as defence counsel, and by the judges who hear cases that are brought by prosecutors to trial. And the media will not be far behind. Clearly, there is another chapter to be written

over the next few months that will clearly test the rule of law and the fairness of our legal system in Canada.

I didn't realize at the time of preparing those remarks in May 2010 that I would be so prescient. Nor did I realize that there would be such a need for accountability mechanisms at all levels after things went so horribly wrong a month later.

There was considerable public discussion for the four months following G20 regarding the need for a full-scale public inquiry as to what went wrong. The answer from both provincial and federal governments was "No to a full inquiry." The call for a broad public inquiry is dead. The political climate for public inquiries in this decade is clearly different from that of the first decade of the twenty-first century. It's not just that the issues are different from Arar, Air India, or the federal sponsorship scandal. Now, the federal government clearly has no stomach for a broadly based, well-structured inquiry of the kind established then. Maybe the majority government in Ottawa simply has no motivation for it. Canada had minority governments from 2004 to 2011, during which time three federal inquiries were undertaken. Remember, it was essentially a minority government situation in the mid-1970s that caused Trudeau to constitute the McDonald Commission.

As an alternative to a full inquiry, those organizations and individuals most concerned about civil liberties – together with those bodies with review or supervisory powers at the municipal, provincial, and federal levels – were quickly pressed to exercise their responsibilities. To list a few: (1) Office of the Independent Police Review Director (OIPRD, headed by Gerry McNeilly) – security planning and policing of the G8 and G20 Summits as they pertain to the actions of provincial and municipal police officers in Ontario and three hundred individual complaints (report issued in May 2012); (2) Ontario Ombudsman André Marin's report concerning the regulation passed in haste under Ontario's *Public Works Protection Act* (report issued in December 2010); (3) the Toronto Police Services Board *Independent Civilian Review* of the G20, conducted by John Morden (report issued in June 2012); (4) Ontario Special Investigations Unit (SIU) investigations into inappropriate conduct by Toronto police causing injury (charges ongoing); and (5) the report of Hon. Roy McMurtry for Ontario's Ministry of Community Safety and Correctional Services reviewing Ontario's *Public Works Protection Act* (report issued in April 2011).¹ Not to be missed in this inventory of comprehensive reviews is the remarkably speedy release by the Canadian Civil Liberties Association (CCLA) of its own report in June 2010, with a follow-up publication in August

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2010, and a full final report in February 2011 following its own public hearings in November 2010 in Toronto and Montreal.²

Federal Accountability

But where was the federal government's accountability? Yes, there was the helpful "Public Interest Investigation into RCMP Member Conduct Related to the 2010 G8 and G20 Summits" by the Commission for Public Complaints against the RCMP (CPC), which was launched in November 2010 by the chair, Ian McPhail, and reported in May 2012.³ Some gratuitous comments came from the auditor general, mostly about excessive spending and funding, in her spring 2011 report.⁴ And there was what was referred to by the Ottawa media as a "blistering" report by the Standing Committee on Public Safety and National Security, which concluded that it is indisputable that neither the planning nor the implementation of security measures during the G20 Summit were "carried out in a manner that was respectful of the rights to freedom of expression and peaceful assembly."⁵

But nothing came from Public Security Minister Toews about the extraordinary security and policing matters and what went wrong, or from Justice Minister Nicholson about the wholesale violation of Charter rights of over a thousand Canadians, or from the Security Intelligence Review Committee that watches CSIS, or from the Prime Minister's Office, which bought into the compressed G8-G20 package in the first place in late 2009 and appointed retired Deputy Ward Elcock to direct and coordinate matters. As noted by the Standing Committee, "The Committee deplores the fact that the Minister of Public Safety and government witnesses refused to acknowledge the violation of the rights guaranteed by the *Charter of Rights and Freedoms* (Charter) and to take responsibility for the events that occurred."⁶ The federal government has been missing in action – notwithstanding that Ottawa initiated the G20 in Toronto, financed it to the extent of some \$1 billion, and established the security/policing command structure.

And where was Parliament throughout all of this? In an approach reminiscent of lemming-like characteristics exhibited by most federal parliamentarians during the October Crisis of 1970 in the face of Trudeau's invocation of the *War Measures Act*, all we saw from most Ottawa MPs were attempts to score cheap political points that focused on either excessive spending for both summits (e.g., the so-called boondoggle in Huntsville) or the overarching importance of security for world leaders, with very little mention of the serious violations of civil liberties of over a thousand Canadians.

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Current Assessment

The authors of the chapters in this book come to slightly differing conclusions regarding what was gained or lost from the substitutions of many investigations for one commissioned inquiry and whether the sum total of all the parts may be greater than the whole. I look at the various reviews performed – John Morden drilling down into the Toronto Police Service and the practices and procedures of the Toronto Police Services Board, or Gerry McNeilly of the OIPRD handling nearly three hundred individual complaints against the municipal and provincial police officers, or Ian McPhail of the CPC describing the tight time frame for planning when the G20 was suddenly added to the G8 in December 2009 and his concern that while a number of possible sites in Toronto were assessed from a security perspective only, the final decision of the Metro Toronto Convention Centre was made by the Government of Canada in late January 2010.

These reports contain an abundance of valuable material that should guide institutional and individual behaviour when planning for future large events that place adequate security and peaceful protest in conflict. With the value of hindsight, the Canadian National Exhibition (CNE) grounds and buildings would have been a better choice from both a security and protest-management perspective; that venue would also have ensured more normal policing activities within the downtown core and the avoidance of massive violations of the Charter rights of peaceful protesters and innocent spectators. Maybe the federal government naïvely believed, or at least hoped, that there would be few protesters. Any serious study of previous G8 or G20 meetings should have disabused them of this view.

One paragraph near the beginning of the CPC report inadvertently reflects the federal government's sole preoccupation with G20 arrangements:

While initial planning discussions for a possible G20 Summit were underway as early as September 2009, the later announcement [of 7 December 2009] allowed six months to plan and test a security strategy that afforded sufficient protection to Internationally Protected Persons and to the international delegations that would be present during the G20. This included not only operational considerations, such as threat assessments, site security, intelligence and public outreach, but also logistical requirements, such as lodging and meals for thousands of security personnel and the placement of fences to designate security zones.⁷

Clearly, there was no federal planning for legitimate protest, advocacy, and dissent until the very last moment – and only as an afterthought, notwithstanding all the learning that was available from London, Pittsburgh, Seattle, Quebec City, Calgary/Kananaskis, and Vancouver. Had the probability of protest been properly factored into the planning process, it should have been clear that the choice of the Metro Toronto Convention Centre was unwise in terms of achieving a peaceful summit where world leaders could meet under secure conditions with proper policing that permitted containable protest activities without having them co-mingled with criminal activities in a downtown urban environment. One can only speculate as to what might have happened in terms of sensitive law enforcement had the CNE grounds been chosen as the site for the G20, utilizing the Gardiner Expressway and/or Lakeshore Boulevard as secure transportation corridors for world leaders staying in secure hotels in downtown Toronto.

Of overall concern is the lack of any public appreciation of or concern over the blot on Canadian history left by the G20 Summit of 2010 – as if this is something in our distant past, just another low-water mark in our history of rights violations. We have other events to be ashamed of – the FLQ October Crisis in 1970, the internment of Japanese and German Canadians in 1941, and the Winnipeg General Strike in 1919, to name a few. This book and the various authors who have made contributions are performing a public service in ensuring that the G20 of June 2010 is not forgotten in the Canadian history of human rights embarrassments.

Notes

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 - 6 *Ibid.*
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Introduction

MARGARET E. BEARE AND NATHALIE DES ROSIERS

While this book is not specific to the G20 Summit meetings that were held in Toronto on 26-27 June 2010, it was inspired by the shock felt by many members of the public when they saw our police performing in ways that appeared foreign and frightening. The riot gear, the verbal assaults, the seemingly irrational physical abuse on hapless citizens caught in the maze, and the initial denial by the police that any of the actions were indicative of an out-of-control policing operation sparked outrage. However, while the actions of the police have been the main targets of critics, the police were not alone in the planning, execution, and aftermath of the G20 Summit meetings. Was this all in exchange “for the sake of a \$1.3 billion photo op,” as one writer suggests?¹

Countries of all political persuasions experience periods of protest and occasional riots. The right to protest is protected in international law and is inherent to democratic life. Protests and riots have historically been used to get various elites to make concessions. As Eric Hobsbawm stated in reference to the eighteenth and nineteenth centuries in England, “The classical mob did not merely riot as a protest, but because it expected to achieve something by its riot.”² Food shortages and low wages were classic conditions for protest and were usually responded to with concessions. “This mechanism,” says Hobsbawm, “was perfectly understood by both sides, and caused no major political problems beyond a little occasional destruction of property.”³ As long as the elites or the rulers could understand and meet the demands of the protesters, the riots were not

seen as being directed against the social system; therefore, not only were they tolerated, but to some extent, they were the normative method for demanding and receiving changes. However, when it appeared that the “social system” was at risk, the mob that had previously been viewed as rational and merely instrumental in purpose came to be defined as a “dangerous class.”⁴

When does a peaceful protest become a riot? The answer may be in the minds of the participants, but we also see that the response by the police can turn a large protest into a riot. According to the “moral panic” literature, any response to a situation can result in a counter-response, with actions and reactions spiralling until the situation is fully out of control from the perspective of both sides.⁵ Interpreting and ascribing a meaning to “riotous” behaviour is an important determinant of the state’s response. On the basis of this interpretation will flow the definitions that are used to characterize the protest, the machinery of governments that are utilized in their response, and the aftermath in terms of how the event enters into the historical records. As Alan Silver states, “Articulate riot ... requires that both rioters and their target or audience jointly define the meaning of riotous acts.”⁶ Increasingly, commentators recognize that the difference between a riot and a peaceful protest may be politically charged and, in itself, contested terrain. Who decides when there is no longer peace? What level of disorder is necessary? If the damage is localized, should the entire protest be labelled a riot? If damage such as the burning of police cars is so predictable that one asks why police cars were left idle, can the “riot” label be engineered? Do we need threat to life or to property? Is it only when the police force has used all its “good crowd-management techniques” and is unable to maintain order and when lives are at stake that a “riot” is declared, or is it simply when the police force says so?

There was a historical, economic, political, and social context that determined the response by the state, the police, and the public during the G20 meetings. The issues related to that context are identified and analyzed in this book. The policing events around the G20 in Toronto did not just happen without historical precedence. Readers who have either lived through or have read about Canada’s history of police-protester clashes were perhaps less surprised by the display of the police “fist” rather than their “velvet glove.” We include in this Introduction a review of past protester-police clashes is not intended to be inclusive but to be indicative of the types of Canadian clashes and the degree of violence that has occurred.⁷

From the Winnipeg Strike to Toronto's G20: A Brief Canadian Review of Policing Protest in Canada



Winnipeg General Strike, 21 June 1919. *Source:* Archives of Manitoba, Foote 1696 (N2762).



Burning police car, 26 June 2010. As the protest erupted into "Bloody Saturday," the "secret law" was enacted and police brutality and mass arrests ensued. *Source:* The Canadian Press, Frank Gunn.

The Winnipeg General Strike

A list of Canadian cases involving a massive police response to protests/riots is often said to begin with the Winnipeg General Strike in May-June 1919, and that list continues up to and past the G20 Summit.⁸ The Winnipeg Strike and the police actions were notorious for having resulted in the largest number of arrests (estimated to be ninety-four) and the greatest amount of violence at the hands of the police (two people killed). As historically important as the Winnipeg Strike is, on every count except for the deaths, that record was beaten by the Toronto G20 Summit meetings in June 2010. While the police presence at the Winnipeg protest was impressive, their numbers failed to compete with the police-to-protester ratio at the summit.⁹

An analysis of the Winnipeg Strike is, however, informative for additional reasons. It is too easy to see the police at that event as representing “the state” without looking deeper at who or which separate groups were pivotal in the decision making regarding how the strike protest would be handled, both during the protest and after, when the call came for negative sanctions or positive gains for the participants once the peace had been restored.

In *When the State Trembled*, Reinhold Kramer and Tom Mitchell, via access-to-information documents, make the argument that the Citizens’ Committee of 1000, careful to conceal their hand in decision making, were instrumental in pressuring, cajoling, and deceiving the various levels of government into conforming to their wishes: “The Citizens’ executive, through a working alliance with the federal government, engineered the suppression of the Strike, prosecuted and convicted the Strike leadership, and above all, shaped the immediate historical meaning of 1919.”¹⁰ The authors emphasize that history from “above” may be a valuable addition to any focus on history from “below.” While it is perhaps more popular to focus strictly on the protesters, or the police, discovering who was actually calling the shots and why are important questions. As Harry Glasbeek, Professor Emeritus and Senior Scholar at Osgoode Hall Law School in Toronto, comments:

The righteous anger aimed at the police behaviour during the G8/G20 is aroused because it was made clear to the demonstrators that their liberal democratic rights could be subjugated to force. This is why there were many cries about Ontario having become a Police State, one that did not respect democracy. The Force becomes the target to respond to the obvious attack on democratic entitlements. Truly, this makes sense: The Force repressed free assembly, free speech, free movement, freedom from arbitrary detention, etc. But, concentration on The Force – totally warranted as it is (and

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unlikely as it is to lead to great amelioration of police behaviour) – tends to obscure a question that should be confronted directly: Who has an interest in having The Force frontally attack and diminish our democratic institutions and potential?¹¹

The Winnipeg Strike illustrates some of Canada's persistent divides – the “aliens” in our midst (however the newest immigrants are defined), the class divisions, union support versus free “anti-communist” competition, and finally, the orderly and civilized (and usually propertied) versus those deemed to be the disorderly and less legitimate. It also serves to illustrate that all police do not respond in the same manner to protest. When the Winnipeg police refused to sign a no-strike pledge, they were fired and the Citizens' Committee financed the hiring of an 1,800-man force of “Specials” who were supplied with horses and baseball bats. With one-fifth of Winnipeg's population walking off their jobs, the strike ended on “Bloody Saturday,” 21 June, when the Royal North West Mounted Police rode into town and opened fire on a gathering of more than thirty thousand strikers. Two strikers were killed, thirty wounded, and many arrested.¹² Illustrative of Silver's point regarding the categorization as “dangerous” of those who challenge the established “fabric of society,” seven strike leaders were convicted of a conspiracy to overthrow the government.

Protests and the Great Depression

The Great Depression affected all areas across Canada, and the inability of the state to offer any acceptable concessions was the source of several brutal confrontations. Across the country, miners, fishermen, farmers, and dockworkers all sought relief through protest, and in every case, the protest was deemed to be a riot. This major category of “riot” relates directly to poverty and the desperation of the public.

The 1931 Estevan Riot in Saskatchewan was a miners' protest that turned violent. For the protesters, the complaints were related to the conditions and wages in the mines. For government, the concern was related to the fear of unions and, behind unions, the threat of communism. Police on horseback used rifles, revolvers, and, apparently, four machine guns against the miners. Three miners were killed and more than twenty-three were injured.¹³

The fishing industry in Newfoundland collapsed the following year, which resulted in the 1932 Newfoundland General Election Riot. An additional catalyst in this case was the discovery that the prime minister had been siphoning off government funds for personal use. Ten thousand rioters took part, and, even with ex-servicemen called in to assist the police, the police were pulled from

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their horses by the throng and apparently fared less well than the protesters. As Jeff Webb, in his account of the history of Newfoundland, notes, "Voting was not the only method ordinary people possessed to effect political change; crowds in the street threatening violence could bring down a government or get food for those who were in need."¹⁴ An interesting comparative riot the following year took place at Christie Pits in Toronto (1933). The clashing mob of Jewish and Italian baseball team members and their supporters was estimated to be at least ten thousand, but the police appear to have taken little action – neither to prevent the clash nor to intervene after it began. One explanation was that both groups were considered to be outsiders in WASP Toronto, so the establishment, including the police, really did not care. Anti-Semitism, racism, unemployment, and poverty combined to fuel this riot, and those same factors might explain why there was little police intervention. Anti-Semitism was rife among the general population and among the police in those days.¹⁵

As protests and riots moved across the country, the next clash was fuelled by the conditions at the farming relief camps that had been set up in the Western provinces by the Department of National Defence. With support from the Workers' Unity League, the trade union arm of the Communist Party of Canada, the 1935 "On-to-Ottawa Trek" protest took place in Regina and resulted in one police officer being killed, 40 protesters and five citizens wounded, and 130 men arrested.¹⁶ The combination of RCMP and local police hid and ambushed what turned out to be mainly public supporters in Market Square. The actual Trekkers had been blocked from leaving the exhibition stadium. Three years later in 1938, the relief camp program provoked a second protest. The Relief Project Workers' Union now represented the workers. However, many of these homeless men from the prairies decided to move on to Vancouver for the better weather; they also believed that the BC relief pay was higher than the pay offered directly by the federal government. They arrived in Vancouver in significant numbers, only to discover that the federal government had cancelled the grants to the provinces. Bloody Sunday 1938 was the result. What started peacefully with unarmed farm labourers turned violent when a thousand homeless men were evicted from an art gallery with the use of tear gas and batons.¹⁷ The atmosphere in Vancouver was already tense following the 1935 Battle of Ballantyne Pier, which involved dock workers and a union strike. As the men marched to the federal dock in Vancouver, they were met with an almost equal number of RCMP. Workers were clubbed and the members of a women's auxiliary who had set up a first aid station were tear-gassed.¹⁸

The police played quite a different role in the Montreal 1969 Murray-Hill protest. The Montreal police were on strike when the taxicab owners protested

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the monopoly that was held by the Murray-Hill company to service Dorval Airport.¹⁹ In what the CBC called a “night of terror,” the striking city police and firemen refused to assist the Quebec Provincial Police (Sûreté du Québec) in dispersing the angry protesters. Students and separatists joined the looting and vandalism of shops and restaurants during over sixteen hours of chaos. A corporal with the Quebec Provincial Police was shot and killed at the garage of the Murray-Hill limousine company as taxi drivers tried to burn it down, and 108 people were arrested.²⁰ Legislation was passed forcing the police back to work, and partly as a result of this police performance, Montreal Urban Community Police was created in 1970.

Protesting Diverse Causes

After some of the worst of the Depression was over, protests took on a slightly different form. Post-Depression protests tended to be more ideologically driven in the sense of contesting a general policy or government practice rather than the struggle of desperate individuals for food, jobs, and housing that characterized the Depression riots. The protesters were now not necessarily the subject of the protest. Although protesters often share some of the conditions that they want changed, the reasons for protesting are often broader than direct private interest. As Eli Sopow notes about the post-Depression period, “No longer were large-scale public protests representative of a single group or cause.”²¹ He is referring to the intertwined diverse “causes” that protest as one, an early example of which is the 1971 Gastown Riot in Vancouver. Several aspects of this so-called hippie, marijuana, anti-Vietnam-era, civil rights protest are reminiscent of the Toronto G20 protest nearly forty years later. Incidents recorded in the *Vancouver Sun* on 9 August 1971 included the following:

Officers pushed people into doorways and pinning them there ... A young woman being dragged, screaming, by two officers who held her by the hair and one arm, about 100 yards over broken glass to a waiting wagon; A young woman marching towards a group of officers shouting “You might as well take me too.” They took her. As they shoved her into the wagon, bent over so she was almost touching her toes, an officer shoved his riot stick into her seat, pushing her inside; Another youth held down on a parking lot and struck three times with a policeman’s stick; Youths and middle aged men and woman dragged, lifted and thrown into the rear of waiting paddy wagons; No police badges or numbers on officers uniforms; Riot equipped police standing guard outside the public entrance to the police station at 312 Main.²²

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Seventy-nine people were arrested and thirty-eight were charged with various offences. The attorney general ordered Justice Thomas Dohm (a provincial Supreme Court judge) to investigate the causes. Dohm acknowledged Police Inspector Abercrombie's "overzealousness," and he agreed that the crowd had not degenerated into a mob and that individual officers used "unnecessary, unwarranted and excessive force." However, the bulk of the blame was laid on "two dangerous yippies," who, it was claimed, used "the harassment of young people by the drug squad police and the resultant hostility as grist to their trouble-brewing mill."²³ A seemingly peaceful protest was turned into a violent suppressive action by the police, resulting in a riot – and yet the blame fell largely on the protesters.

Protesting Bias and Discrimination

A contender for the largest number of arrests prior to the G20 protest would be the 1981 Toronto bathhouse raids, with close to three hundred arrests. In this case, the arrests were what led to the protest rather than the reverse. The police actions and the arrests sparked a large protest by gay men and women and their supporters, with the result of turning a clandestine segment of the population into a political force. As Matt Mills states in a retrospective look at those raids, "If gay people had run for the shadows in 1981, if the found-ins had pleaded guilty, if those who marched on that first cold February night had simply stayed home, Canada would be a very different place for gay people today."²⁴

Under Police Chief Ackroyd's authority, 150 Toronto police raided four bathhouses, kicking in doors, taunting the men and humiliating them by marching some three hundred out and charging them as "found-ins." When asked why that action was required, Chief Ackroyd replied that police investigations had indicated that there were *Criminal Code* violations and therefore charges could be laid: "I, as Chief, have no other course of action but to *go along with the direction of the Crown Attorney*" (emphasis added).²⁵ The chief might have been confused regarding operational independence of the police, except for the fact that Attorney General McMurtry denied the chief's allegations that the size, timing, and nature of the raids had been discussed in his office.²⁶ As Alan Borovoy, representing the Canadian Civil Liberties Association, stated, "Nowhere in his letter does he [Ackroyd] answer why it was necessary to mount such an enormous operation for people who are nothing more than found-in."²⁷

During their raid of the bathhouses, the Toronto police, like the police in the Vancouver Gastown Riot and the joint policing action during the G20

Summit in Toronto, removed their badges. Furthermore, it was discovered after the bathhouse raid protest march that two of the men holding the protest banner stating “Enough is Enough. Stop Police Violence,” which led the march from Yonge and Wellesley Streets to Queen’s Park, were in fact undercover police officers, raising the additional concern that they had acted as *agent provocateurs*.²⁸ Rather than race being the issue, this was a police action rising out of a homophobic culture. The result of the police action and the responding protest was political activism. In his reflections on the G20 protest, Harry Glasbeek writes: “This was hardly the first time that modern police forces have been accused of exaggerating dangers, of using too much power to quell minor wrongs, of using hysterically created panics to institute sweeps against profiled groups. The Bath House raids revealed, in stark terms, the homophobic nature of the police.”²⁹

While Toronto has seen a number of race-related protests, the 2008 Montreal-Nord Riot in Montreal resulted in particular violence. Police profiling of blacks in a predominantly Haitian neighbourhood caused tensions between police and young people. According to one youth, “The police are always creeping around here, hassling people.”³⁰ These tensions erupted with the fatal police shooting of an eighteen-year-old man and the non-life-threatening shooting of two other men while the police were trying to make an arrest. After a night of looting, setting fires, burning cars, and vandalism, the riot police were able to restore some order.³¹

Aboriginal Protests: Land Rights and the Environment

Some Aboriginal land claims and environmental protests in Canada have been particularly violent. I shall mention only three: Oka, Ipperwash, and Clayoquot Sound. In 1990, the Oka land dispute in Kanésatake resulted in the federal government bringing in the military after the police forces proved to be insufficient to remove a roadblock that was preventing developers from building a golf course on what the Mohawks saw as their land. In support of Kanésatake, the Mohawks in Kahnawá:ke blocked all roads into the reserve, including two major highways. One police officer was killed, and the shooting and violence continued from March 1990 to the end of September. Oka was followed by Ipperwash, and in too many ways, Ipperwash served as a terrible reminder of the events that had occurred in Oka.

In 1942, the federal government, under the *War Measures Act*, had expropriated land belonging to the Stony Point Band in order to build a military camp – Camp Ipperwash. The Aboriginal community believed that a promise was made that the land, including a sacred Aboriginal graveyard, would be returned

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after the war. During the occupation of Ipperwash Park in 1996, Dudley George was shot and died. Following a change in government, an inquiry was eventually called. The inquiry report, released in 2007, examined three issues that potentially culminated in the death of Dudley at the hands of the Ontario Provincial Police: racism, political interference, and unsettled land claims.³² Surveillance videotapes taken by police officers in September 1995 contained racist remarks made by police officers the day before Dudley George's death. These comments – together with the alleged comments of former Premier Mike Harris, who apparently said, “I want the f***** Indians out of the park” (which became famous for combining racism with political interference in one sentence) – fuelled allegations of discrimination and political interference in policing.

The Clayoquot Sound protest in British Columbia, the third Aboriginal example, was claimed by some to be the largest civil disobedience protest in Canada and was perhaps as much an environmental protest as an Aboriginal action. In 1993, twelve thousand people gathered in Clayoquot Sound to protest logging and call for the preservation of British Columbia's ancient forests.³³ Activists formed human blockades to stop the logging. More than 850 people were arrested. How successful the campaign was is yet to be seen, since some logging continues in that unique and vulnerable region.

Protesting “For the Hell of It”

We conclude this look at police-protester conflict in Canada with one final, less sympathetic type of public protest – the drunken brawl. The Halifax Riot of 1945 is a historical case in point. May 8th was VE Day, and there were eight thousand army personnel, three thousand from the air force and eighteen thousand from the navy – all were stationed in Halifax waiting to be demobilized. Someone made the faulty decision to close all of the liquor stores! Officers from all three branches of the military, together with the RCMP and local police, were unable to stop the looting and property damage. This type of riot could perhaps be combined with all of the sport and concert celebrations that end in violence, occasionally in death, and always in destruction – that is, the 1993, 1994, and 2011 Stanley Cup finals, and the 1992 and 2002 Guns N' Roses concerts. For our purposes, these public demonstrations are perhaps less worthy of analysis except to suggest, as some writers have, that sometimes the police in these “riotous” circumstances appear more relaxed and careful to target only those individuals who are actually causing the damage or vandalism rather than indiscriminately targeting all who are in attendance – as appeared to be the case with the G20 event.³⁴

The G20 Protest

The response of the police shocks the public when it appears disproportional. The articles in this book address the conditions (political, social, and economic) that “allowed” the policing of the G20 Summit to take the form that it did. One month before the June 2010 meetings were held, Chief Blair gave a formal dinner talk in which he stated clearly, and made a point of emphasizing, that during the G20, “the number one responsibility of the Toronto Police Service is the protection of the protesters.”³⁵ The RCMP would be inside the protected area with the international dignitaries, but outside of that perimeter, the Toronto municipal police – together with officers from other jurisdictions, including a few RCMP and Ontario Provincial Police members – would ensure the safety of the protesters while policing any protester violence. Using Brodeur’s terminology, the dominant characteristics of this role therefore sounds like “low policing” (*Criminal Code*-focused policing). As Jean-Paul Brodeur explains, the aim of low policing is to protect society, while “the protection of the political regime is the *raison d’être* of high policing.”³⁶

How then did the policing of the G20 protest swing so sharply and quickly from a low-policing role of protection of the citizenry to some sort of mix between low and high policing where abuse of citizens was justified on the basis that none of the political leaders were threatened and no one was actually killed? The long history of the policing of protests and riots in Canada and the eleven-plus inquiries into the 2010 G20 event serve to illustrate Brodeur’s argument that low and high policing live very close together and that rather than these operational methods being used by two distinct agencies, policing practices may blend, combining the traditional violence of low policing with the politically motivated deception and covertness of high policing.³⁷

Some of the key questions surrounding the summit, and the policing of protest more generally, remain unanswered. For example, neither the contributors to this volume nor the inquiries into the event were able to “prove,” beyond what seemed to some writers to be compelling visual evidence, that the burning of the police vehicle and some of the window breaking and other wilful destruction during the protest was purposefully allowed by the police for reasons ranging from incompetence to setting the stage to legitimize their own aggressive anti-democratic actions. In the words of RCMP Chief Superintendent Alfonse McNeil, who was in charge of the command centre, “We have the ability through our video feed to see everything that is going on ... even helicopters and planes are providing video feed ... We can see them from the air, we can see them from

the ground, if there is anyone trying to interfere, we see that.”³⁸ “Knowing” that it was going to happen and then being able to watch it happen was apparently not the issue. The question therefore remains: Why was the vandalism and destruction not the target of the massive policing action rather than the peaceful protesters?

What happened that tested Chief Blair’s resolve to carry through with those “best intentions” of protecting the public and that resulted in the kettling and massive arrests over the weekend? Ought we to have predicted those results? International meetings serve as an excellent arena to see played out the priority assigned to protection of the state rather than the citizenry – in fact, *against* the citizenry. Beyond any single police-citizen encounter, this book is about policing, policing powers, and what appears to be a changing relationship between the police and the public.

The book is divided into three parts corresponding to three time periods: before, during, and after the summit in Toronto. In each of these sections, the chapters cover more than the happenings over those two days in 2010. Three main themes work their way through the fourteen chapters: the securitization and internationalization of the politics of protest, legal uncertainty or lawlessness, and the accountability vacuum.

Before the Summit: Securitization, the Politics of Protest, and Policing

“The 9/11 attacks did not change everything, but they changed much,” says Kent Roach in Chapter 3. The spectre of 9/11 has a pervasive influence on conceptions of risk and order, where a “security at all costs” approach appears predominant. The securitization of politics reorders the hierarchy of values, prioritizing security concerns and security actors above all else. The right to be free from violence (and in this context, from destruction of property) is presented as justifying all necessary measures and enacting exceptional ones to respond to the “threat.” In Chapter 6, Kate Milberry and Andrew Clement describe this transformation as “an overall shift toward pre-emptive securitization where proportionality – the idea that the level of security measures should be proportional to the risk – appears to have been jettisoned.”

Arguing that the militarization of policing precedes the terrorist attacks of 9/11 is Leo Panitch, who refers to his own observation after the G7 Summit in Toronto in 1988. At the time, he used the following terms to describe his impressions after police clothed in riot gear intervened during the protest: “The message is inescapable. A political protest spawns ‘terrorism.’ It not only labelled dissenters as potential terrorists, but worked as a giant ‘keep away’ sign (stay home and watch it on ‘safe’ television).”³⁹ The chilling effect on social protests by

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the portrayal of demonstrators as dangerous, would-be terrorists is also noted by Abby Deshman and Nathalie Des Rosiers in Chapter 4 and is aptly captured by the CBC documentary “You Should Have Stayed at Home,” cited by Milberry and Clement in Chapter 6. In their essay in this volume, Bernard Duhaime and Jacinthe Poisson describe “the creation, promotion and reinforcement of a political passiveness ... and a tacit acceptance of repression of dissent,” while Nicholas Lamb and George S. Rigakos use the term “pacification” to describe the politically charged and pervasive policing of social protests.

Some would say that it is Seattle that changed everything. In Chapter 2, Lesley Wood explains how the “liaison policing” model (which emphasizes de-escalation and facilitating the exercise of the right to protest) gave way to a more militarized policing of protests – in particular, after the Seattle protests against the WTO in 1999. This militarized model more adequately reflects the response to the Quebec student protests and the G20 protest in Toronto. She suggests that such militarized policing is particularly used in the context of international meetings: “Based on assessments of past events, protesters at these [international] summits are perceived as particularly unpredictable and threatening, despite the fact that in no summit or convention protests have any protesters attempted to physically harm either delegates or passerby.” The same could be said of the Quebec student protests – even if they appear initially to be a localized conflict. It could be that despite the peaceful intentions of the group (no desire to harm people), a tolerance within the group for vandalism, obnoxious behaviour, occupation of property, or impeding access is perceived as “un-peaceful” and outside of the realm of legal and protected activities. The role of law in supporting or contesting police actions is always relevant in the assessment of policing and of the “peaceful” or “violent” nature of the protest. During the G20 protests, there were serious debates as to the legitimacy of the police actions.

During the Protest: Legal Uncertainty or Lawlessness?

Not only is the law regulating the policing of protests ill-defined, vague, antiquated, and hence open to abuse, but there is a general legal unresponsiveness to an allegedly necessary ability of dissenters to organize, discuss, argue, and unite to engage in political action and civil disobedience. This comes through in the chapters by Paul Burstein and Howard F. Morton. In Chapter 11, Burstein argues that the lack of recognition of jury nullification undermines political action: even if political dissenters were brought to trial, could they mount a “political” defence and ask their peers (a jury) to refuse to side with the government and refuse to convict? Of course, many do not get a trial, having pled

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guilty in the context of stringent bail conditions and delayed trials or having been charged with provincial offences such as the infractions under the *Highway Traffic Act* or municipal bylaws where no jury is available. The absence of a meaningful jury nullification power leaves the dissenter with the prospect of a technical trial devoid of any political content – in a way, another form of silencing of political dissenters.

Morton, in Chapter 8, places the police use of discretion in its larger context. Much of what we are concerned about when we examine policing hinges on issues that arise from the discretionary decisions that the police make – and yet awareness of the importance of these discretionary powers only became a subject for research and theorizing beginning in the 1960s.⁴⁰ Arrests for breach of peace are but one example of broad discretionary powers in the context of policing. The constant interaction between police officers and ordinary people is often marked by moments of tension. Some people have few, if any, interactions with security forces; others are constantly stopped and asked questions and feel harassed. Some interactions are benign, while others are threatening or uncomfortable and can have lasting consequences. Morton analyzes the legality of random police questioning on the street, particularly when recorded by police officers, a technique that is usually referred to as “carding.” Many protesters are “approached” by police officers who seek to obtain information. Innocent, calculated, friendly, prejudiced, aggressive, reasonable, or threatening questions form part of a community policing outreach initiative. Whether the interaction, which is conducted outside a particular criminal investigation, is at the initiative or choice of the layperson or the officer is the key question. Many protesters do not trust the police and will not want to share information. The relationship between a police officer and a protester is not an equal one. Besides the obvious power imbalance, one should consider that a democracy does not accept that the state has unlimited means to access information about its citizens. Indeed, in a democracy, the reverse is expected: that citizens are generally entitled to information about government but that the government is not generally entitled to information about its citizens. However, a securitization model requires and relies on information to assess risks and predict behaviour. This is one of the reasons why a securitization model challenges so fundamentally our democratic tradition and our laws as they are interpreted or enforced.

In their chapter, Duhaime and Poisson argue that many rights are violated in the context of repressive police action against social protests, including internationally protected rights to legal counsel and due process, in addition to violations of rights to freedom of expression, freedom of association, and

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freedom of peaceful assembly. Their essay indicates that despite legal ambiguity surrounding the boundaries of some police powers, there is still clarity, in both international and national law, about basic legal protections against arbitrary detentions and mass arrests. Indeed, the lawlessness of various police actions suggests that even if the law were clear, it would still be violated and that good law reform may not be sufficient to prevent further abuses.

This apparent lack of clarity justified the granting of special powers through the *Public Works Protection Act*; the outrage that this evoked may have been futile, as Roach suggests, but it symbolically reinforced the message of securitization discussed above. Wood suggests that protests occur in “waves,” with peaks and valleys: repression does work when the costs of protesting become too high and people accept being “pacified.” However, at times, protests persist because the alternatives of acceptance and passivity are unacceptable.

Kate Milberry and Andrew Clement, in Chapter 6, also discuss the increasing militarization of policing since Seattle in terms of surveillance operations: covert, cyber-, and overt surveillance is conducted as a way to “destabilize” the mobilization of protest. One would be remiss not to point out that the securitization mandated by the international legal order and the internationalization of policing techniques and tactics is well documented throughout this book: local police embrace foreign techniques and share information across borders, as demonstrated by Veronica Kitchen and Kimberly Rygiel in Chapter 7. In a way, police are shedding their neighbourly approach in favour of a more muscular, technological, and intimidating style that reflects a general sense of unease vis-à-vis anti-globalization protests. As Milberry and Clement note, this style appears at times as “a public pedagogy played out through violence, intimidation and lawlessness.”

It may be sheer nostalgia to think back to the Canadian equivalent of the “bobby on the block”; however, models from the United States are worthy of our concern rather than emulation. While he exaggerated in terms of numbers, New York City mayor Bloomberg’s boast a few months after 9/11: “I have my own army in the NYPD, which is the seventh largest army in the world,” was more true than false in terms of technology and resources.⁴¹ According to a detective with the Intelligence Division of the NYPD, “We are in the business of scaring people – we just want to scare the right people.”⁴² A policy shift from “To Serve and Protect” to “Scaring the Right People” should not be encouraged!

Ultimately, a day of reckoning arrives when events are interpreted and actions are judged. Was the policing adequate? reasonable? unconstitutional? After the protests comes a time of accountability, or does it?

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After the Protests: The Accountability Vacuum

The lawlessness created by an unsatisfactory legal framework or a disregard for law at the expense of security suggests that there is an accountability vacuum unlikely to be filled. In Chapter 14, Liora Salter and Colleen Matthews present an inventory of needs that must be filled through accountability processes. The contributors to this volume differ as to the wisdom of a public inquiry to deal with the G20 policing. Inquiries, regardless of their mandate, do not always deliver what is promised, and whether we have learned more from eleven separate exercises than we would have from one large, expensive, and not necessarily timely inquiry remains open to debate. In this volume, Roach argues in favour of a public inquiry, while Salter and Matthews argue against it. Nevertheless, all contributors recognize that accountability is fractured and diffuse because of the variety of actors, the lack of rules, the tremendous pressure of security demands, and the inconsistent public opinion. In their chapter, Kitchen and Rygiel speak of the difficulty of maintaining accountability across networks, particularly in the context of security provided through integrated and transnationalized models and their inherent by-products of “confused chain of command, intentional and unintentional misinformation about legal regulations and a blurring of the lines” as to who is the target of the operations.

Police have gotten away with rights violations. No doubt, the long and convoluted route to accountability diminishes its attractiveness for many – and some believe that without sufficient resources, achieving accountability may remain impossible. Julian Falconer and Meaghan Daniel argue in Chapter 12 that this era of insufficient accountability may be a thing of the past, or at least that there is hope for a greater consciousness about accountability and its normalization in the context of police governance. Lamb and Rigakos are less optimistic; they contend that playing the game of accountability, asking for it in any form, is depoliticizing the problem. They suggest that accountability may be a form of liberal apology that ignores the fundamental role of policing in pacification by making it “acceptable” if done slightly better. It is still too early to determine whether the shock to the conscience described by Falconer and Daniel may prove to be real. Certainly, the impact of the media on the demand for accountability matters, as Ian Urquhart demonstrates in Chapter 13. The demand for accountability, even as a liberal apology, will continue. According to NGOs who are in the business of making it happen, the current convoluted scheme is costly and unworkable. The question of what an efficient accountability regime would look like, including one that fully responds to the pressures and complexities identified in this book, may present further opportunities for research and discussion.

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During the G20 Summit, the media adopted a communication strategy that emphasized danger and engineered fear; as Ian Urquhart explains, this created an atmosphere quite compatible with the granting of “exceptional” powers and stressed to both police and protesters that “things are different” and that a rights-based approach to policing had been set aside. This message seems to have been well understood by the police, as documented by NGOs (see Chapter 4). The public acceptance of such “exceptionalism” has been more readily forthcoming in a post-9/11 context, as described above.

Lessons from the Newspaper Coverage of the G20 Weekend

Journalists and newspapers are often accused of bias in their reporting – of being tilted to the left or right side of the political spectrum. But the truth is a little more complicated than that. Journalistic bias exists, but it rests less on conventional left/right politics than on the *framework* that reporters and editors apply to a story. Readers approach most news events with a predetermined mind – whether such events are sports contests (such-and-such a team is the favourite to win), a political race (so-and-so is the front-runner), or a war (one side or the other is the aggressor). There is often a remarkable media consensus on these frameworks that cuts across the political spectrum. Then, when facts emerge that challenge these views, just like the readers, journalists are initially reluctant to change their mindsets. Rather, they try to get the new facts to fit the old framework, until this exercise becomes too awkward to sustain.

As described by Urquhart, all the Toronto newspapers, regardless of their political views, approached the G20 Summit with a similar framework, one that was based on warnings from governments and police forces about the dangers of anarchistic protests and the need for heavy security. Clearly, newspapers – and in fact, all media – should adopt a far more skeptical stance toward such warnings in future. More questions should be asked in advance about how police will balance the need for security with the right to peaceful protest (or, indeed, the right to walk the streets without fear of police interference). Editorialists and commentators also need to pay much more attention to what their own reporters are saying about what is actually happening on the ground.

This book is an invitation to pursue inquiry about how to ensure that the right to protest and dissent is protected and to reflect more broadly on policing strategies that are deployed to control the exercise of this right. In our conclusion, we suggest some avenues for further research and inquiry.