

DiManno: How long can Blair stay shackled?

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Toronto Police Chief Bill Blair addresses the media at a press conference held at the Empress hotel in Victoria, BC.

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Anybody got the keys to Police Chief Bill Blair's handcuffs?

Because Toronto's top cop — indisputably the most powerful municipal law enforcement official in Canada — has got a bad case of the shackles.

Five officers identified by late Wednesday afternoon as cop-on-civilian combatants during the G20 Summit protests and there's apparently precious little Blair can do about it.

Can't fire 'em. Can't suspend 'em without pay, pending a disciplinary hearing. Can't compel them — if designated by the Special Investigations Unit as subject officers, which hasn't happened yet with this quintet — to come forth for interviewing by the independent agency.

So what's a chief for?

Blair, who won't resign and won't be fired, *will*, he vowed to the *Star*, call the Frenzy Five on the carpet, his carpet, for a . . . what? Dressing down? Stitching up? Bollocking?

"I can't fire anybody until they're convicted by a tribunal under the Police Act's code of conduct," Blair said in a phone interview Wednesday from Victoria, B.C., where he's been attending a chiefs of police meeting — while a firestorm of controversy rages in this city.

"But once I know who they are, I will order them in. Yes, absolutely."

Refusal would be an act of insubordination and possible cause for dismissal.

Subject officers have the constitutional right to decline questioning by the SIU. They do not, however, have any right of refusal against their chief under the Police Act — though nothing they say can be used against them in a criminal prosecution; can't even be turned over to the SIU for perusal.

That's the Catch-22.

Hands tied, says Blair.

"We've gone to all our senior officers and asked them to identify the (individuals) who are recognizable from video and photographs that have now emerged, including those whose name tags are not evident. Our forensics people are all over it."

Toronto Police only have those name tags because Blair insisted on the new rule in 2006. Badge numbers are worn on hats and epaulets — except when they're removed or covered over, as scores took pains to do *before* that chaotic scene broke out on the Legislature grounds, 91 cops subsequently docked one day's pay for the transgression.

"Any information we gather will be turned over to the SIU," Blair continued, if minus the contents of conversation with officers summoned to his office. "But I can't get a step ahead of the SIU investigation. The SIU has invoked, and now reinvoked, their mandate as primary investigators. They get first crack."

This is the SIU that concluded it lacked sufficient corroborating evidence when probing six specific complaints against officers who allegedly used excessive force against civilians during the Queen's Park melee. But, acting on fresh visual evidence — including a videotape and still photographs obtained by the *Star* in recent days — the SIU has reopened its probe, particularly into the baton-wielding pile-on against Adam Nobody, who suffered a broken nose and shattered cheekbone.

As of Wednesday night, the police department had identified five of six officers who engaged in vicious take-downs.

Meanwhile, a twitchy Blair held a news conference in Victoria, belatedly responding to the growing chorus demanding his head in Toronto. Essentially, though, the chief has tossed the ball back into the SIU's court and its director Ian Scott, the same institution that Blair maligned for its investigative incompetence in a radio interview last week, for which the chief has since apologized.

"The rules are explicit," Blair told the *Star*, referring to the administrative tangle of jurisdiction. "I can't just go charging in, in the middle of an SIU investigation. Mr. Scott would go off the dial if I tried that. There are laws. There is a process. The SIU goes first.

"I need cause under the Police Act, if this is a matter of discipline or police misconduct."

Yet surely there is cause — the apparent abuse of power, the indefensible bushwhacking of peaceful protesters at Queen's Park last June, unarmed citizens exercising their right to gather and jeer if they so wished, in a venue specifically designated for the purpose. These demonstrators were palpably not the same scofflaws who wreaked havoc in the city over that scary weekend, smashing windows and torching a scout car. And still they were roused, rassed to the ground, scooped up for arrest by the hundreds and hustled into a temporary jail.

Six months passed without any outward indication that any of the antagonists-in-blue would be held to account for overstepping their authority, those who pounded on protesters at Queen's Park and the many more who wrongfully forced citizens to identify themselves and submit to searches in the misapplication of an obscure "secret" regulation that suddenly invested police with exceptional powers of harassment.

That, Blair has conceded, was a mistake. Regulation 233/10, under the 71-year-old Public Works Act — better known as the five-metre rule — was drastically overplayed and grossly extended by police during the summit and probably illegal in the first place, according to a report by Ontario ombudsman André Marin.

Blair is blaming City of Toronto lawyers, who he says were the bright lights who had seized upon the legislation as a pre-emptive resource before and during the summit.

“They were exploring common law authorities that we could use,” said Blair. “I asked for clarity. The city’s lawyers sent me a letter saying that I had to make a request to the (Ministry of Community Safety and Correctional Services). They said that request had to come from police. I had my legal counsel look it over, I signed it and sent it on.”

On that basis, police were advised — in error — of the five-metre rule.

Blair insists there was never intent to keep the regulation secret, as Marin has charged. And the chief did own up to the error after media exposure. “The advice we received changed. It had been my honest belief that the rule extended to five metres outside the (perimeter) fence. Then I was told, no, it only applied inside the fence and we immediately told everybody in our police service.”

Blair further contends that officers who demanded civilians identify themselves and allow searches far distant from the security area were not relying on Regulation 233/10 but, rather, on breach of peace arrest authority.

These are details that much of the public will not grasp and many will simply reject. They sense obfuscation when they hear it and the vast majority are not knee-jerk cop-bashers. In the main, these are people who have an ingrained trust of police and respect for Blair. They feel collectively betrayed. They are rightly sore.

Listen. The truth is that Bill Blair is probably the best, certainly the smartest, police chief that Toronto has had in years. Unfortunately, he also presided over the biggest police scandal ever in the city — the “most massive compromise of civil liberties in Canadian history,” in the words of Marin, who slammed Blair in his scorching analysis.

“I don’t think anyone can accuse me of not holding my people accountable,” Blair told the *Star*.

But accountability is not laggard, chief, and it starts at the top. So far, that’s not what I’m hearing. Perhaps we just don’t speak the same language.