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David Rider

Premier Dalton McGuinty denies it was an abuse of power for his government to secretly approve sweeping new powers for police.

"I just think it's in keeping with the values and standards of Ontarians," McGuinty told the *Toronto Star* on Friday amid a battery of complaints from opposition parties, city councillors, civil libertarians and regular Torontonians that the new rules were kept secret and, some say, may go too far.

The rules allow police to arrest and potentially jail anyone refusing to produce identification or be searched within 5 metres of the G20 security zone.

"Most Ontarians understand that there's something extraordinary happening inside our province," the Premier said. "We've tried to limit the intrusiveness to a specific secure zone as much as we can by working together with our police."

However, a city hall source said Toronto Mayor David Miller was blindsided by a front-page *Star* story about the regulation passed at the request of Toronto police Chief Bill Blair. An unhappy Miller and Blair — normally close allies — later had a brief conversation about it and Miller refused interview requests from the *Star*.

And nine councillors and mayoral candidates canvassed Friday unanimously said Torontonians should have been told loud and clear their rights had changed. All but one said there was no doubt it was incumbent on Blair to consult, or at least inform, Miller.

"These are police state regulations — we fought wars to protect freedoms like these," thundered Councillor Howard Moscoe.

"Yes, (Blair) should have made the change public. Not everyone carries ID and they have a right to know if they're breaking the law by going near a fence."

At Queen's Park, NDP justice critic and lawyer Peter Kormos said: "This law was not only passed in secret, it was kept secret.

"This is the stuff Kafka wrote novels about. Secret laws that the citizenry is not aware of are the hallmarks of tin pot dictatorships."

The measure, carrying a penalty of up to two months in jail or a \$500 fine upon conviction, was revealed after a 31-year-old York University master's student refused to show identification near the fence and was arrested based on a regulation few knew existed. He was held for five hours in a pen at a temporary holding centre on Eastern Ave.

Seeking to calm the uproar, Blair held a news conference Friday morning defending his request. And he insisted posting the change on a government website was enough notice to the public and protesters.

"Several months ago we spoke to the province of Ontario regarding that area which will be fenced off. We were seeking clarification of the authorities that the police would require to restrict people's access . . . We wanted to ensure there was a core articulation of those authorities," Blair, appearing uncharacteristically anxious, told reporters.

"It was not a secret. It was passed in exactly the procedure that is described in our legislation . . . It was published on e-laws, June 16, 2010. Most lawyers actually pay attention to that . . .," said Blair. "We are not seeking extraordinary powers to arrest our citizens. We are only seeking an authority, a clear authority, to enable us to maintain a secure perimeter."

Blair requested in May that "guards" appointed under Ontario's Public Works Protection Act be temporarily given the power to arrest anyone who, in specific areas, comes within five metres of the security zone.

Lawyer Julian Falconer speculates that Blair likely anticipated backlash over the secrecy, but knew if they came out publicly, it would likely have been overturned before the G20.

"The inescapable inference of the secret methods used to pass this legislation is that they knew it was vulnerable to constitutional challenge," he said. "This is brand new in our world. I've never seen this in all of my years as a human rights lawyer and it's disturbing."

The law was approved June 2 through an order-in-council, with no debate in the Legislature, after being discussed by the legislation and regulations committee of McGuinty's cabinet. The regulatory amendment was quietly posted June 16 on the government's e-laws website.

On June 2, the government put out four news releases touting stronger protection of retirement home residents, announcing some new deputy ministers, boasting about the province's response to last year's H1N1 pandemic, and disclosing \$2 million in funding for public libraries.

But there was nary a word from the province's massive communications' machine on a sweeping change to civil liberties in downtown Toronto.

McGuinty said he was in on the decision to pass the regulation and Community Safety Minister Rick Bartolucci insists standard protocol was followed on the regulation because it was posted online within two weeks after its passage.

"This is customary for regulations," Bartolucci said in an interview. "There's no secrecy attached to this at all."

Stuart Green, Mayor David Miller's spokesman, confirmed Friday that Blair did not consult Miller on the expanded powers.

Police board chair Alok Mukherjee said in an interview the notion that Blair acted alone is incorrect.

The Integrated Security Unit, comprised of security bodies including the Toronto police, RCMP and OPP, were concerned that lawyers were advising radical activist groups that police have limited right to question, identify and detain individuals near the fenced secure area downtown, Mukherjee said.

Blair made the request after ISU members decided extending the powers in the act, which covers buildings including Union Station and Toronto police headquarters, to the G20 fence, he said.

"The decision makers felt that a clearer articulation of what those limits are would be useful. It was not chief Blair alone. It was the ISU," said Mukherjee.