

BLUE LINE

Canada's National Law Enforcement Magazine

December 2007

TRANS-CANADA FIREARMS SURVEY



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BLUE LINE MAGAZINE



December 2007
Volume 19 Number 10



Dave Brown, *Blue Line Magazine's* ubiquitous tactical firearms editor, has accumulated, analysed and written a survey of police firearms in Canada. This comprehensive report details changes in firearms issued and used since *Blue Line's* last survey ten years ago. During this time many agencies disappeared, realigned and amalgamated. For many this presented an opportunity to study and reconsider their firearm of choice. Dave's study chronicles these stops, starts, changes and facts beginning on **page 6**.

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by Morley Lymburner

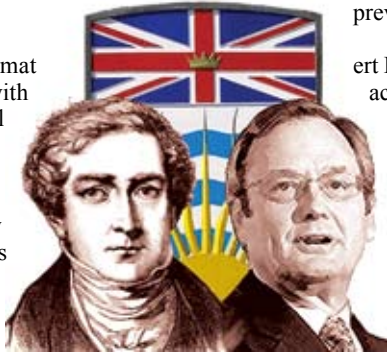
Working in a micro environment with a macro vision

The ideal policing format is a large police service with strong community control and no political manipulation. We must give these larger services the ability to function at the community level, using the advantages that come with their size to deal with the smallest of needs. Are we capable of delivering such a service? British Columbians must seriously grapple with this challenge.

Policing has never lent itself easily to simplification. The average citizen thinks of the military when they see police and their uniforms, guns and what appears to be exterior flak vests (only in Canada, I might add), but armies work in a macro environment with a macro vision.

In the grand scheme of things policing was originally designed to reflect the philosophy that smaller is best and non-military is even better. Sir Robert Peel had a revolutionary idea in the early part of the 19th Century – replace soldiers, watchmen and insurance societies with a police force made up of citizens from the community. They not only know what is going on but have a vested interest in keeping it safe.

Peel began with London and a large police service, which wasn't a paradox in his policing vision. This concept was revolutionary for the time and satisfied the needs of the industrial revolution. Great numbers of people from the country were being displaced to cities to work in the factories, foundries and commerce. With this unprecedented social upheaval came a more mobile society and large numbers of transient neighbours. Having home-grown police officers who kept an ear to the ground and a close watch was a distinct advantage in



preventing crime.

The real benefit of Sir Robert Peel's principles weren't the actual points he pondered and promoted but the process of analyzing a problem and making changes to fit those immediate needs.

Fast forward in time and geography and we find a situation where Peel's Principles and constructs are still being implemented with enthusiasm

but there's little reflection upon how times and the specific needs of today's society and communities have changed. Canada is a big country and there is no better place to innovate.

The pressure is on in Lower Mainland BC to create a unified police service, which would greatly benefit the greater Vancouver area. It has macro problems with a micro response capability. The ideal for policing, as stated, is to work in a micro environment with a macro vision. This means working on a community problem but being able to call upon a great capability to resolve it in a fast and efficient manner.

BC's Lower Mainland is in much the same state as the Toronto area in 1956. The ability to handle small town issues was hampered by the need to respond to larger issues across larger areas. When serious problems crossed boundaries (such as river flooding caused by Hurricane Hazel), there was no unified public safety agency, common plans of response or even the capability to create one in advance. A police service with no river problems would be asked to supply officers (maybe on call back) to assist an agency with flooding. How fast can this work and how well do the chiefs get along?

In this day of terrorist threats, organized crime, social upheaval, traffic congestion and the potential for natural disaster, the greater

Vancouver area clearly needs a unified police response. There must be just one command level, rule book, training manual, procedure set and level of accountability, and no political interference other than what is necessary to make it happen.

Policing is all about an individual officer dealing with one problem at a time. This is the micro response. If a micro problem suddenly grows, the officer must have a macro system ready to respond. Vancouver's current system is a hodge podge and patchwork system of mixed jurisdictions overlaying mixed or absent capability. Accountability seems to go nowhere that the public can pin down.

"I am very pleased, actually, with the degree to which our various police departments work together," John Les, BC Public Safety Minister, commented recently. This reminds me of an old joke about engineering. An engineer (a perfectionist) designed a machine with six gears which meshed so perfectly, everyone marvelled at how smoothly it worked. It continued to work very well but occasionally would fail in a spectacular fashion, requiring very costly repairs and expensive maintenance to prevent further problems. A second engineer studied the problem and replaced the six gears with two, which worked just as well.

Canada is a big country and the need for policing in any particular area must be based on that area's demands, geography, population and related factors. Policing must be designed for optimum response balanced by maximum capability.

British Columbia, and indeed we all, need someone with Peel's vision and willingness to make changes and get the ball rolling.



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www.blueline.ca

12A-4981 Hwy 7 East Ste 254 Markham, ON L3R 1N1 Canada
Ph 905 640 3048 Fax 905 640 7547 blueline@blueline.ca

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PUBLISHER
Morley S. Lymburner
Publisher@blueline.ca

GENERAL MANAGER
Mary K. Lymburner, M.Ed.
Admin@blueline.ca

SENIOR EDITOR
Mark Reesor
Editor@blueline.ca

NEWS EDITOR
Kathryn Lymburner, B.A.
Kathryn@blueline.ca

ADVERTISING MANAGER
Bob Rodkin
Bobrodktm@blueline.ca

GRAPHIC DESIGNER
E. Jolene Lymburner
Jolene@blueline.ca

PRINTED IN CANADA

CONTRIBUTING EDITORS

Case Law: Mike Novakowski
Communication Skills: Mark Giles
Police Management: James Clark
Psychology: Dorothy Cotton
Tactical Firearms: Dave Brown
Technology: Tom Rataj

AFFILIATIONS

International Association of Law Enforcement Planners
Canadian Advertising Rates & Data
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TRANS-CANADA FIREARMS SURVEY

Stops, starts, changes and facts about police firearms in Canada

by Dave Brown

The 2008 Trans Canada Gun Survey is the most comprehensive we have published in our 20 year history. It features results from 138 Canadian law enforcement agencies – that's nearly all of them – and details the sidearms carried by Canada's 70,000 plus law enforcement officers.

We have added a few new agencies for the 2008 survey, including armed conservation officers in seven provinces, and welcome the 5,000 or so Canada Border Service Agency officers who are (or will be) armed.

Statistics

The numbers were compiled from several sources. We sent out a survey request early in 2007 to nearly every agency in Canada and most of them responded, telling us the sidearms, shotguns and patrol rifles their street officers use.

Some agencies also reported on the more specialized weapons their undercover officers and tactical teams use, which we chose not to include. We also asked about less-than-lethal weapons, since many agencies are now trained and equipped with Tasers.

While not every officer is issued a personal Taser, shotgun or patrol rifle, we tried to include them if they were available to most street officers, either in their vehicle or with street-level supervisors.

For agencies that did not respond to our survey, we looked for information available on public outlets such as annual reports and agency web sites. Individual officers also contributed some numbers, as did some of the gun manufacturers. If we could find no other source, we turned to the numbers in our last survey in 2003.

We tried to confirm numbers from at least two sources, but there is no way a survey of this magnitude will ever be 100 per cent accurate. Some agencies responded with the number

of sworn officers on their force, for example, while others gave us the number of sidearms in their inventory.

Some agencies are in the middle of transitioning from one make to another. We tried to report on their newest make if the transition was substantially completed, or the make in use as of the day they reported to us, but inevitably there will be some errors. (If your agency's results seem off, might we suggest a better response to our next survey!)

Charts

Our charts no longer list the percentage of firearm makes and calibres by the number of officers. Instead, we now list percentages by number of agencies. We consider this a better representation of the numbers, because we're confident a 20-member agency will put almost as much care into testing and selecting its new sidearm as a 2,000-member agency.

Previous results

Our first Trans Canada Gun Survey in 1995 showed that semi-automatics were still quite new to most agencies, and the numbers illustrated a few of what some might call curious choices. It was obvious that some agencies may have succumbed to fast-talking sales people or clung more to tradition than a proper head-to-head evaluation of everything on the market.

Police handgun manufacturers also did not always have a good understanding of the dynamics of a gunfight and how tricky little buttons, levers and switches are quickly forgotten when the bullets start flying. Officers needed the point-at-the-bad-guy-and-pull-the-trigger simplicity of their previous revolvers – and unfortunately, were not always getting it from all the new models flooding the market.

Thankfully, some standout makes began

dominating and continue to do so. These companies recognized that technology wasn't an end unto itself, but should be used to enhance the user's survival and expand the limits of their abilities in real-life encounters.

By 2003, law enforcement agencies were still feeling their way among semi-automatics and trying to recover from the initial expense of the new sidearms, equipment and transition training. Most agencies were not prepared to jump horses in midstream – especially after working so hard to get approval from the bean counters to buy the horse, barn, saddle and new oats – no matter how much of a potential glue factory candidate that horse turned out to be.

With semi-automatics now approaching the middle of their projected service lives, agencies have had a lot more experience fixing and maintaining them. After use in real life encounters, they are no longer willing to tolerate deficiencies in either design or customer service.

While we reported on few changes from 1995 to 2003, notice the substantial differences in makes from 2003 to 2008. Completely dumping one make and going through the additional time and expense of acquiring another obviously takes some substantial justification, especially for a major agency.

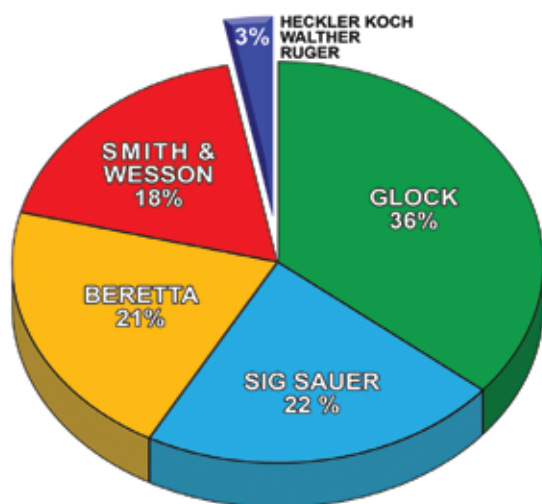
The big winners in 2008

Back in 2003, we didn't report on any winners or losers in the race to supply the Canadian police market; we said the big winner was the street officer now equipped with some of the finest handguns ever designed. While we stick by that contention, we can now report on some of the specific winners of 2008.

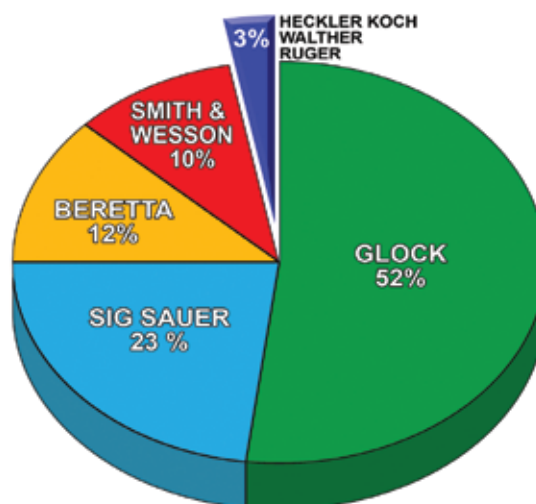
Glock and Sig Sauer are both up; every

TRANS-CANADA FIREARMS SURVEY

Police Agency Sidearms by Make - 2003



Police Agency Sidearms by Make - 2008



agency reporting a change in make from 2003 to 2008 has gone with one of these two brands.

Sig Sauer continues to combine Swiss watch precision with solid German reliability – not surprising considering its Swiss/German roots – and Glock still has the legendary reliability of John Wayne in a cowboy movie, plus the simplicity of a clean design that is easy to bring into action when the bullets start flying.

Both manufacturers continue to improve their products incrementally, but show just how good a pistol can be right from its initial design.

The big losers in 2008

The Ruger semi-automatic pistol has almost disappeared from the police handgun market. The reliability and popularity of its rifles and single-action revolvers never translated into the company's semi-automatic pistols. Their sharp edges and alloy construction may be better suited to more stationary activities – perhaps in a deep marine environment.

Beretta had 21 per cent of the Canadian police market in 2003 but has fallen to 12 per cent. Several major police agencies have dumped the company's pistols, citing poor quality control and less-than-exemplary customer service, neither of which should be acceptable in a police handgun.

One shipment of eight brand new Berettas I came across included one that was defective right out of the box. Two of the three magazines packed with another were for the Beretta Cougar instead of the 92D model; although they will actually seat properly in the 92D, they are about 2mm short. The scary part was, had we not noticed the slight difference in the stock number, the officer could have been carrying two loaded magazines on his belt that would not have chambered a single round.

The ones to watch in 2008

Smith & Wesson is one of those up-and-down stories. The company has been sold and traded almost as often as a 'neighbourhood' trampoline but looks to be the brand to watch in 2008. While its market share has plunged to 10 per cent, it is potentially poised for a bit of

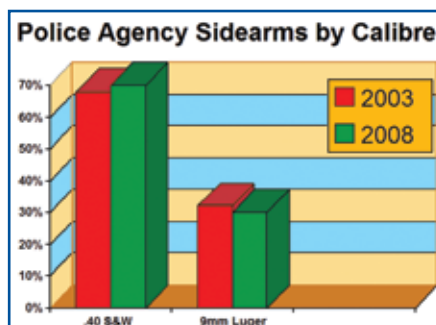
a come-back with a new polymer frame M&P semi-automatic.

The company's first attempt at a composite-and-steel pistol was ergonomically challenged, to put it politely; such a hastily conceived rip off of a competitive design that some of its parts could almost have been drop-in replacements. Most North American police agencies were less than impressed.

Their all-steel Model 5946 has proven to be a somewhat clunky but relatively reliable workhorse for the RCMP, however it is out of production. Smith & Wesson is also notable in being one of the few police manufacturers to include a magazine disconnect in its models, although this controversial feature is at least optional in the new M&P.

Named after the famous Military & Police revolver that put Smith & Wesson solidly on the police firearms map, the new M&P model combines a uniquely designed composite frame with a blackened-finish stainless steel slide. Watch for a head-to-head test of it against the other major police market players in a future issue of *Blue Line*.

Calibres



There really is no choice for Canadian police; the only two cartridges widely used in law enforcement handguns are the 9mm Luger and the .40 S&W. While the Luger design pre-dates the First World War, ammunition manufactur-

ers have not rested on their laurels.

Modern hollow-point bullet designs are combined with careful gunpowder choices to ensure the cartridge performs as effectively as possible in the hands of officers. With police bullet designs, bigger is usually better, but the Luger's .355 inch diameter can be made to perform nearly as well as .40 inches.

Unquestionably though, the .40 S&W cartridge is the most popular in law enforcement today. Since its introduction in the 1980's, it quickly caught on and today is used by 70 per cent of Canadian police agencies. Its origins can be traced back to the famous 1986 Miami shootout in Dade County, Florida, where two killers, Platt and Matix, murdered several FBI agents despite being hit numerous times.

In an effort to equip agents with a more powerful handgun, the FBI adopted the new 10mm Auto cartridge, but its fierce recoil, blinding muzzle flash and need for huge frame sizes overwhelmed many agents. The FBI soon requested a reduced-load 10mm called the 10mm Lite.

Smith & Wesson saw an opportunity to design a cartridge with the same .40 inch bullet diameter as the 10mm but contained in a much shorter and more efficient case. This meant that existing 9mm frame sizes could be easily adapted to the new .40 cartridge and it didn't take long for the calibre to dominate the Canadian police market.

We could argue the merits of the 9mm versus .40 calibre cartridge until our twenty-fifth anniversary issue. Assuming a well-trained officer, using a modern semi-automatic design, can place accurate shots into the centre mass of an immediate threat, one could also argue that both calibres are about equally effective.

Ultimately, regardless of the name on the side of the slide or the head stamp on the cartridge, it all boils down to the best gun to have in a gunfight is the one that works when you need it to work.

Dave Brown is Blue Line Magazine's Firearms Editor. He is a tactical firearms trainer and consultant. He can be reached at firearms@blueline.ca

TRANS-CANADA FIREARMS SURVEY

Agency	Guns	Make	Model	Calibre
ALBERTA				
Alberta Fish and Wildlife	100	Glock	22	40
Calgary Police Service	1559	Glock	22	40
Camrose Police Service	19	Glock	22	40
Edmonton Police Service	1420	Glock	22	40
Lethbridge Police Service	140	Smith & Wesson	5946	9
Medicine Hat Police Service	110	Glock	22	40
Taber Police Service	13	Sig Sauer	P226	9
BRITISH COLUMBIA				
Abbotsford Police Department	210	Glock	22	40
BC Environment Ministry		Glock	22	40
Central Saanich Police	25	Glock	22	40
Delta Police Department	145	Glock	22	40
Nelson City Police Service	40	Glock	22	40
New Westminster Police Service	129	Glock	22	40
Oak Bay Police Department	28	Glock	22	40
Port Moody Police Department	40	Glock	22	40
Saanich Police Department	175	Glock	22	40
Vancouver Police Department	1250	Sig Sauer	P226	40
Vancouver Transit Police	70	Glock	22	40
Victoria Police Department	256	Glock	22	40
West Vancouver Police Department	79	Glock	22	40
MANITOBA				
Altona Police Service	7	Glock	22	40
Brandon Police Service	92	Glock	17	9
Dakota Ojibway Police Service	25	Beretta	92D	9
East St. Paul Police	9	Glock	22	40
Manitoba Conservation	150	Glock	22	40
Morden Police Service	7	Glock	17	9
Ste. Anne Police Department	3	Glock	22	40
Winkler Police Service	15	Glock	17	9
Winnipeg Police Service	1318	Glock	22	40
NEW BRUNSWICK				
Bathurst City Police	30	Beretta	92D	9
BNPP Regional Police	21	Beretta	92D	9
Edmundston Police Force	33	Smith & Wesson	Sigma	40
Fredericton Police Force	105	Sig Sauer	P226	9
Miramichi Police Service	45	Smith & Wesson	4046	40
New Brunswick Natural Resources	160	Sig Sauer	P226	40
Rothsay Regional Police Force	40	Sig Sauer	P226	9
St. John Police Force	165	Beretta	92D	9
NEWFOUNDLAND AND LABRADOR				
Royal Newfoundland Constabulary	400	Sig Sauer	P226	40
NOVA SCOTIA				
Amherst Police Department	25	Sig Sauer	P226	9
Bridgewater Police Service	20	Sig Sauer	P229	9
Cape Breton Regional Police	198	Sig Sauer	P226	9
Halifax Regional Police	485	Sig Sauer	P226	9
Kentville Police Service	18	Sig Sauer	P228	9
New Glasgow Police Service	30	Sig Sauer	P226	9
Stellarton Police Service	12	Sig Sauer	P226	9
Trenton Police Service	6	Sig Sauer	P229	9
Truro Police Service	36	Sig Sauer	P226	9
Westville Police	8	Sig Sauer	P226	9
ONTARIO				
Anishinabek Police	70	Beretta	96D	40
Atikokan Police Service	14	Glock	22	40
Aylmer Police	13	Glock	22	40
Barrie Police Service	199	Glock	22	40
Belleville Police	90	Glock	17	9
Brantford Police Service	137	Glock	22	40
Brockville Police Service	42	Sig Sauer	P229	40
Chatham-Kent Police Service	157	Glock	22	40
Cornwall Community Police Service	80	Beretta	96D	40
Cornwall Police Service	88	Beretta	96D	40
Coburg Police Service	35	Glock	17	9
Deep River Police	7	Glock	22	40
Dryden Police Service	35	Glock	22	40
Durham Regional Police	750	Glock	22	40
Essex Police Service	28	Sig Sauer	P229	40
Greater Sudbury Police	266	Beretta	96D	40
Guelph Police Service	180	Glock	22	40
Halton Regional Police Service	500	Beretta	96D	40
Hamilton Police Service	724	Glock	22	40

Agency	Guns	Make	Model	Calibre
Kawartha Lakes Police Service	42	Smith & Wesson	4046	40
Kenora Police Service	35	Glock	22	40
Kingston Police Service	180	Sig Sauer	P229	40
Lac Seul Police Service	10	Sig Sauer	P229	40
LaSalle Police Service	12	Glock	22	40
Leamington Police Service	41	Smith & Wesson	4046	40
London Police Service	460	Glock	22	40
Michipicoten Township Police Service	10	Smith & Wesson	4046	40
Niagara Regional Police	648	Glock	22	40
Nishnawbe-Aski Police Service	105	Sig Sauer	P229	40
North Bay Police	111	Glock	22	40
Ontario Ministry Natural Resources	350	Heckler & Koch	USP	40
Ontario Provincial Police	6385	Sig Sauer	P229	40
Ottawa Police Service	1284	Glock	22 23	40
Orangeville Police Services	37	Smith & Wesson	4053	40
Owen Sound Police Service	42	Sig Sauer	P229	40
Oxford Community Police	81	Sig Sauer	P229	40
Peel Regional Police Service	1560	Smith & Wesson	4046	40
Pembroke Police Service	28	Beretta	96D	40
Perth Police Service	15	Beretta	96D	40
Peterborough Lakefield Police	125	Glock	22	40
Port Hope Police Service	23	Sig Sauer	P226	9
Sarnia Police Service	121	Glock	22	40
Sault Ste Marie Police Service	130	Smith & Wesson	4043	40
Shelburne Police Service	11	Glock	22	40
Six Nations Police Service	24	Glock	19	9
Smiths Falls Police Service	23	Beretta	96D	40
South Simcoe Police Service	100	Glock	22	40
Stirling-Rawdon Police Service	8	Glock	17	9
St. Thomas Police Service	66	Smith & Wesson	4046	40
Stratford Police Service	51	Glock	22	40
Strathroy-Caradoc Police Service	32	Sig Sauer	P229	9
Sudbury Police Service	255	Beretta	96D	40
Thunder Bay Police Service	225	Glock	17	9
Treaty Three Police	80	Sig Sauer	P229	40
Timmins Police Service	86	Sig Sauer	P229	40
Toronto Police Service	6000	Glock	22	40
Waterloo Police Service	600	Glock	22	40
West Grey Police Service	19	Sig Sauer	P229	40
Wickwemikong Tribal Police Service	16	Sig Sauer	P229	40
Windsor Police Service	445	Smith & Wesson	4046	40
York Regional Police	1287	Glock	22	40
PRINCE EDWARD ISLAND				
Charlottetown Police Department	59	Beretta	92D	9
Summerside Police Service	27	Ruger	P85	9
Ministry of Environment		Glock	22	40
QUEBEC				
Gatineau Police Service	377	Smith & Wesson	5946	9
Granby Police Department	120	Glock	22	40
Joliette de Police Service	200	Glock	22	40
Laval Police Service	700	Sig Sauer	P226	9
Longueuil Police Service	720	Heckler & Koch	P2000	9
Montreal Police	4200	Walther	P99	9
Roussillon Police Service	200	Glock	17	9
Sherbrooke Police Service	260	Glock	19	9
Sureté du Quebec	5500	Glock	17	9
Trois-Rivieres Police	100	Glock	17	9
Ville de Levis	120	Walther	P99	9
SASKATCHEWAN				
Corman Park Police	7	Glock	22	40
Dalmeny Police Service	3	Glock	22	40
Estevan Police Service	19	Glock	22	40
Luseland Police Service	2	Glock	22	40
Moose Jaw Police Service	54	Glock	22	40
Prince Albert Police Service	65	Glock	22	40
Regina Police Service	310	Glock	22	40
Saskatchewan Environment	150	Glock	22	40
Saskatoon Police Service	350	Glock	22	40
Weyburn Police Service	19	Glock	22	40
CANADA				
Canada Border Service Agency	5000	Beretta	PX4	9
Canadian Pacific Railway	170	Glock	22	40
CN Police	83	Sig Sauer	P229	40
Military Police	1200	Sig Sauer	P225	9
Royal Canadian Mounted Police	17400	Smith & Wesson	5946	9

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TRANS-CANADA FIREARMS SURVEY

Why DAO is the way to go

by Dave Brown

Consider the following two scenarios:

1) It was over in seconds. Six gang members, all part of three organized crime families and known 'cop haters,' ambushed three police officers and a civilian witness investigating the alleged possession of illegal weapons. Thirty seconds later, three of the assailants were dead, two injured and one was escaping. The whole thing was over before the officers even had time to take cover behind a vehicle only two steps away, and more than 30 rounds were exchanged at distances ranging from one to three meters.

2) Two police officers investigating males fighting outside a downtown nightclub were suddenly confronted by one of the males, who charged toward them firing a handgun. The officers drew their sidearms and one shot the

assailant, dropping him with a shot to the lower body. The subject survived and was eventually charged with attempted murder.

Both these situations were life threatening, and both were solved by the immediate deployment of a sidearm. In fact, the handgun has been closely allied with law enforcement since long before cartridges were invented. Limited as a military weapon, its purpose – a short-range defensive weapon – makes it ideally suited to front line officers. Nothing beats the simple and reliable handgun for a direct response in an immediate life-threatening situation.

When human life hangs in the balance, officers are forced to rely on that ultimate defensive weapon to deliver an impact to the centre mass of an assailant in the most efficient, effective and immediate way possible. For example, officers in both of the above scenarios were forced to respond to situations that were over in a heartbeat; none of them had any opportunity to take cover, let alone call for backup or consider less lethal options.

By the way, the first incident happened in October, 1881, the second in July, 2007. The modern sidearm has evolved to become even more simple and reliable in the 126 years between those two situations, and Canadian police today have access to some of the finest handguns on the market.

atically cocked for each shot by the rearward movement of the slide; the shooter merely had to aim and pull the trigger.

The single-action semi-auto was a huge step forward as a military sidearm but its use in law enforcement was more limited. Police commonly carried with a loaded magazine and an empty chamber, meaning the shooter first had to draw their gun from the holster and manually cycle the slide once just to chamber the first round.

Interestingly, while the single-action semi-automatic had limited use in law enforcement, the neophyte's view that a gun must always be first loaded by racking the action before it can be fired prevails today in just about every Hollywood action movie.

Double-action pistols

The handgun of choice for most 20th century law enforcement officers was the ubiquitous double-action revolver. It got its name because pulling the trigger caused two things to happen – as the trigger moves rearward, it cocks the hammer back and then, once it reaches the rear of its travel, the hammer falls forward, striking the firing pin against the primer of the top cartridge. It is characterized by larger trigger guards and triggers placed closer to the centre of the guard to allow full travel of the trigger finger. Rugged and reliable, it had a point-it-at-the-bad-guy-and-pull-the-trigger simplicity.

The entire cylinder swings out to the side, allowing officers to unload and then reload all six chambers at one time. While a significant improvement over the laborious one-at-a-time unloading and reloading procedure of the single-action revolver, the reload still required a certain amount of fine motor skills unlikely to be present in high stress situations. While it persisted for 100 years, this one drawback would eventually lead to its demise in most Canadian law enforcement agencies.

In an effort to improve firepower, manufacturers began to look anew at the semi-automatic in the 1970s. While it had the major advantage of not needing fine motor skills to reload, designs still suffered from being slow into action, as officers had to be trained to first chamber the round before they could fire it. This may have been acceptable to the military because the handgun wasn't its primary weapon, but not to police officers.

Handgun manufacturers turned to designs first perfected in Germany during the Second World War and began integrating a double-action trigger function into their semi-automatics. This allowed officers to safely carry them with a round in the chamber and the hammer in the down position. The magazine was first loaded into the grip and a round chambered; the officer then simply rotated a decocking lever to safely lower the hammer to the forward position.

Pulling the trigger to fire the first round caused the hammer to move back to the cocked position and then to fall forward. This double-action function was only required for the first round; all subsequent rounds were fired in the single-action mode because the rearward



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Single-action pistols

The handgun of choice back in 1881 was the single-action revolver. Slow to unload and reload, it nevertheless could fire five shots in reasonably rapid succession (most "six-gun" revolvers were carried with one empty chamber simply because there were no safety mechanisms at the time; the firing pin would rest directly on the primer of the top cartridge if the gun was carried with six rounds).

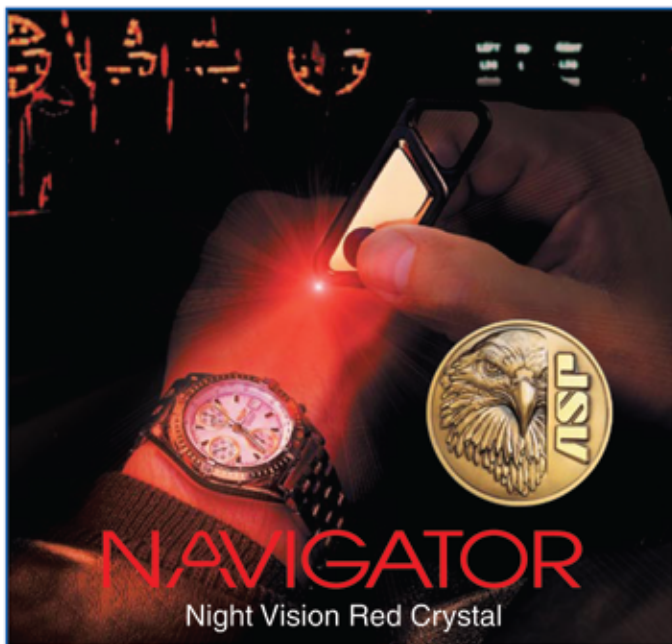
Characterized by small trigger guards and cylinders that were fixed to the frame, the revolvers were loaded simply by opening a loading gate at the side and inserting one round at a time into each chamber. The shooter manually cocked the hammer for each shot. The gun was termed 'single-action' because when the trigger was pulled, the hammer merely fell forward, causing the firing pin to strike the top cartridge.

There were rapid improvements in cartridge design. In the early years of the 20th century, and the shift to more powerful smokeless gunpowder made possible the design of a practical semi-automatic pistol. It had only one chamber at the back of the barrel and subsequent cartridges were contained in a magazine, but their trigger function was still single action.

Pulling the trigger caused the hammer to simply fall forward, striking the firing pin against the cartridge in the chamber. The bullet's momentum caused the spring-loaded slide to fly backwards, ejecting the now-empty cartridge case. As the slide sprung forward, it stripped the next round from the top of the magazine and inserted it into the chamber.

Unlike the single-action revolver, the hammer of a single-action semi-auto was auto-

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Guns versus cars

Be thankful you're not issued an "Eddie Bauer" Beretta or a Colt "Avalon"

by Dave Brown

I love teaching, talking and writing about guns. There are worse ways to make some semblance of what my patient wife laughingly refers to as "a living" (she always insists on adding the air-quotation marks).

I suppose I could write about cars instead. I actually know my way around most bits and pieces under the hood and can steer a vehicle with some degree of accuracy, but I have trouble getting around all those dumb car names.

Pity those poor car writers. Put ten of them in a bar, add some tequila shooters and off they go debating the virtues of panhard rods, live axles and MacPherson struts. Us gun writers rarely drink, never sit in bars all night scheming of ways to add it to our expense accounts – and think a MacPherson strut is what fashion models do on catwalks.

When gun writers want to compare the merits of the various police sidearms, we talk about the accuracy of a G17 against the P99 and debate the grip size of the 226 versus an M&P. It's all pretty straightforward. When gun folks want a quiet moment of appreciation, we quote certain famous handguns just by citing their model numbers: the popular 686; the accurate Mark II; the ubiquitous 1911. All have almost legendary quality and accuracy and – most important – all were the right gun



at the right time.

Nothing is as simple in the world of automobile journalism. If I were to suddenly become a car writer, I would not only have to actually know the proper names for all those doohickeys hanging from a chassis. I would also need to memorize all those stupid model names that designers dream up in some marketing-induced stupor and change about as often as their underwear. What, for example, is a Solara? Has anyone actually seen an Escalade bounding through the woods? What connection to royalty does a Regal or a Crown Victoria actually hold?

Why do some names sound more like hair-care products? I think you are just as likely to find bottles of CR-V cleaner, Avalon shampoo and STS hairspray (with Maxima holding-power, no doubt) on your bathroom shelf as in your driveway.

Why do some manufacturers make model names that sound like their tech support hours, such as the 9-3 and 9-5, or invent overly-optimistic monikers that are the direct opposite of what most people think when they see the cars? The Fit or Smart car come to mind.

How could anyone possibly dream up something like the Grand Vitara? It sounds more like a South Seas island potentate than an automobile. The rule should be that if a spell checker flags a car's new name, it's time to send it back to the focus groups.

Give me a good old Model 10 versus Model 59 debate any day. If I want to really rile gun writers, I can always bring up the stopping power of the 9mm versus the .40 calibre.

I like life simple, like these uncomplicated alphanumeric designations. I like that writing for *Blue Line* may prematurely wear out the number keys on my laptop but at least doesn't overly tax my rapidly aging memory for incomprehensible model names.

Now excuse me; I have to figure out where to fudge my expense account and how to explain all those tequila shooters for the car guys in the corner to my boss.

Dave Brown is Blue Line Magazine's Firearms Editor. He is a tactical firearms trainer and consultant. He can be reached at firearms@blueline.ca

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SPURS offers youth an alternative



by Elvin Klassen

An innovative RCMP program gives youth a first-hand look at what it's like to be a Mountie while helping them build character and develop life skills.

The North Vancouver RCMP detachment developed SPURS by updating an existing program to meet current regulations, making it youth friendly while maintaining the force's high values, principles and beliefs.

RCMP officers have always worked closely with young people in their communities, volunteering thousands of hours as coaches, referees, managers and sports association directors. North Vancouver built on that history.

Officers often find themselves in classrooms or field settings discussing and demonstrating police work to youth. The young people get a rare insight into what police actually do each day in their community, which dispel the myths they see on 'shoot 'em up' police

shows. In exchange, RCMP members find out how the youth view life in today's diverse, demanding and fast paced society, learning their frustrations, challenges and the way they deal with issues. This shared knowledge can build a common bond between youth, police and the community.

All members of the detachment offer youth alternative ways to deal with real life challenges and ways to socialize and cope with peers and daily pressures. Enhancing leadership and team building skills and becoming more involved with the community are important parts of the SPURS program.

North Vancouver residents demand stringent controls on their police force and these high expectations also apply to youth in the SPURS program. They are expected to follow a code of conduct and are taught the RCMP values of compassion, honesty, integrity, respect, professionalism and accountability.

"We the police feel the best way to make a difference in our community is to have dedicated youth making a difference in their community," explains SPURS Commissioner and North Vancouver detachment Supt. Gord Tomlinson.

"We have sought and obtained the support for SPURS from all aspects of the community. We are extremely pleased to work with the school districts so that this program is recognized and the efforts exerted by the students will be recognized within the scope of their schoolwork."

Support from local government, businesses and the Royal Canadian Legion is also crucial, says Tomlinson, who notes the community is already getting a return on its investment. Youth cadets recently witnessed an accident and, thanks to their training, were able to give responding police accurate information which led to a suspect being arrested and charged.

In another instance, trained cadets understood why police had to act in an aggressive manner with their friends and were able to explain it to them, avoiding misunderstandings.

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SPURS candidates must meet the following criteria:

- Be 14-18 years old,
- Interested in police work as a career,
- Good standing in all classes and good attendance,
- Willingness to work,
- Recommended by school staff,
- Physically fit, healthy and injury free,
- Non-smoker for the length of the program,
- Pass a criminal record check and agree to an interview.

SPURS members meet Tuesday evenings to learn about RCMP history, policy, regulations and procedures; drill and deportment; first aid; local, civil and criminal law; crime prevention and police science; leadership, self-confidence and team building and community volunteer and service opportunities.

This year the youth cadets are learning about police and the justice system through an extensive role-play project. Actors stage a homicide and the youth act as patrol officers, forensic specialists and supervisors to investigate. After collecting evidence, they prepare a report for Crown council. A judge has volunteered to preside at a mock trial if charges are laid.

Cadets also gain valuable knowledge by assisting with minor traffic patrol at special events, developing impromptu and formal



speaking skills in a variety of settings, learning how to conduct interviews and becoming familiar with radio techniques and 10 codes.

Detachment members have eagerly volunteered to help. They find the work very rewarding and get as much out of it as the youth do. SPURS experience on a resume also helps when it comes to promotion time. With plenty of staff available, Tomlinson says the program can accommodate all interested area youth.

The program has 32 participants this year, up from 15 last year. Many of the new cadets learned of the program through the good word spread by peers, parents and teachers, school presentations and mall booths.

The cadets wear uniforms similar to the blue serge worn by regular RCMP members, and operate within a similar rank structure so they're easy to identify at the booths.

"If youth are looking for something new, exciting and never the same, this is the program in which to get involved," says Ryan Moore, a 16 year old high school student. "I like meeting new cadet members. Everyone has a story and I like hearing those stories. After my experiences with the SPURS, I want to pursue a career with the RCMP."

"It gets your foot in the door to actually explore police work as a career," notes recent high school graduate Rona Wilson. "You get to know what it is like to be an actual police officer. The program is interesting. You learn something new at every meeting."

Wilson says SPURS convinced her to pursue a career with the RCMP. She is presently studying computer science and psychology at Simon Fraser University.

Other cadets say the program has helped them make new friends, learn about law enforcement and become a role model for their peers while having fun and taking on new challenges. Other benefits mentioned include learning how to lead, speak, resolve and manage conflict and make a difference in the community.

Non-police volunteers are welcomed. Simon Fraser University security officer and SPURS Insp. Sam Bowen became involved after being asked to teach martial arts to the group. "I love teaching; probably one of the best things I have ever done in my life," he says.

"I love to help people and have made application to join the RCMP."

"I have been involved in many community volunteer efforts but this one is the most rewarding," says Dep. Comm. Ross Gulkison. Retired from a long law enforcement career, he played a major role in developing SPURS and currently serves as administration officer.

The program, "will set the example for other organizations and agencies within the law enforcement community that wish to reach out to youth and make a difference," Gulkison says.

"We have a training program with policies, standards and materials that is transferable to any community in Canada. We will be pleased to share any of this information to help other law enforcement agencies to assist them in relating to youth and organizing a cadet program."

He also welcomes suggestions or ideas from any interested person or group, "that may enhance the program here and nationally.... (SPURS is) a great alternative for kids as opposed to gangs and such that are constantly recruiting our youth. Lets help these kids have better choices."



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Elvin Klassen is *Blue Line Magazine's* west coast correspondent. He may be contact by email to Elvin@BlueLine.ca.



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Negligent police investigations come of age

by John Burchill

The number and types of civil proceedings lodged against police have grown dramatically over the past decade. Historically, most involved excessive use of force or false arrest/imprisonment, but they have grown to include such things as misfeasance in public office, intentional infliction of mental distress and malicious prosecution.

The most recent addition to the list, negligent investigation, was confirmed recently by the Supreme Court in *Hill v. Hamilton-Wentworth Police Services Board*. This type of law suit had its beginnings in Ontario back in 1995. In fact, until the judgment in *Beckstead v. Ottawa (City) Chief of Police*, no common law jurisdiction anywhere had found that officers, as individuals, owed a legal duty of care to suspects in a criminal investigation.

In *Beckstead*, an experienced Ottawa city police officer charged Roxanne Beckstead with fraudulently using a friend's bank card based solely on a bank security picture. A bank investigator showed the security photos to the cardholder, who identified Beckstead as a possible suspect; the investigator then forwarded the information to police.

Police charged Beckstead without re-interviewing the cardholder, even though she indicated she might have been working at the time of the transactions and didn't look like the person in the photos. After six months and eight court appearances, the Crown withdrew the charges. Beckstead subsequently sued the Ottawa Police Service for negligent investigation and was awarded \$20,000.00. On appeal, Ontario's highest court held that:

(The officer) was negligent in the manner in which he investigated the complaint. The officer owed a duty to Roxanne Beckstead to perform a careful investigation of the complaint before charging her; was negligent in the performance of that duty and therefore her claim must succeed for such negligence.

On our analysis of the evidence... the police officer acted with indifference to the consequences of laying the charge and fell short of even the rudimentary steps which might have been taken to establish reasonable and probable grounds.

The court commented again on the issue of negligent police investigation in January 2001 in *Oniel v. Toronto Police Service*. Police charged Michael Oniel with stealing a man's \$40 wristwatch at a Yonge Street bookstore. The jury deliberated just 10 minutes before acquitting Oniel, who subsequently sued the two arresting officers for malicious prosecution.

The two officers failed to conduct a proper investigation, he claimed. Had they done so, he would not have been charged or the prosecution would have been terminated.

After several false starts the case went before a jury in 1998. The jurors found the two officers had reasonable and probable grounds for beginning to investigate Oniel but no grounds for continuing to do so, however they



concluded their actions were without malice.

Oniel appealed to the Ontario Court of Appeal, which set aside the decision and awarded him \$79,000.00. In his majority opinion, Justice Borins found that:

In my view, from the foregoing analysis, it is apparent that the evidence clearly supports a finding that the (police) proceeded with reckless indifference to the guilt or innocence of the appellant and that malice should be inferred. In so finding, I once again make reference to the jury's finding that the respondents lacked reasonable and probable cause to continue the prosecution and that aggravated damages should be awarded.

These examples suggest that the courts (in Ontario at least) will not tolerate poor investigations and are willing to find fault with officers beyond just staying or dismissing charges.

In *Johnson v. Anishinabek Police Services (2004)*, Justice MacDougall of the Ontario Superior Court of Justice went even further. He held a detachment commander, who was responsible for supervising an investigation, liable for his subordinate's negligent work. The commander and police service were each ordered to pay \$25,000 in damages.

Although Ontario and Quebec judges have found a duty of care exists under the Civil Code to conduct a proper investigation, this is not the general consensus elsewhere. Courts in other provinces recognize the duty of police to investigate crimes but not to individual suspects, and have questioned whether such a cause of action even existed. For example, in Alberta it was held that "negligent investigation does not exist as a common law tort" in *Dix v. Canada (Attorney General) (2002)*.

Justice Ritter found that only malicious prosecution and its related suits were available against police carrying out a criminal investigation, holding that such a finding:

(A)llows police to function effectively in society without fear of being sued in every case for alleged deficiencies in the investigation. There is, accordingly, no duty of care in negligence owed by police investigators toward a suspect.

In Manitoba, the issue of negligent investigation has been commented on twice – once in *Kleysen v. Canada (Attorney General) (2001)* regarding an investigation by Revenue Canada

officials and again in *A.A.D. v. Tanner (2004)*, which involved the RCMP and child and family services. A tort known as negligent investigation wasn't found to exist in either case.

The Ontario Court of Appeal revisited the issue of negligent investigations in 2005 in *Hill v. Hamilton-Wentworth Police Services Board*. Since there was some dispute as to whether such a cause of action actually existed, a five member panel of the court heard the appeal (in case they had to overturn their previous decision in *Beckstead*). All five members agreed that such a cause of action existed, however a majority (3:2) dismissed the actual suit, finding police had not been negligent in their investigation.

This case revolved around a series of bank robberies. Hill became a suspect after police received a Crimestoppers tip. An officer identified him from a surveillance photo taken at one robbery scene and a detective theorized one person committed all the robberies. Other witnesses described the robber as an aboriginal (as was Hill). His picture was shown in the newspaper and on television and he was included in a line-up with 11 Caucasian males.

Two more robberies occurred after Hill's arrest and another Crimestoppers tip informed police that a Spaniard and Cuban were behind the crimes. The descriptions of the bandit and his modus operandi were similar to the previous robberies.

Another tip named the robber and said he laughed about Hill taking the rap. This other man, Sotomayer, could be the robber, one officer told the investigating detective. His description was similar to Hill. Ultimately some of the robbery charges were stayed or withdrawn and Hill was acquitted at trial of the rest.

He subsequently sued the officers, alleging they had conducted a negligent investigation. While the court found police had a legal duty of care in how they perform their professional duties and thus could be subject to claims for negligent investigation, it concluded they had not been negligent in this case. While the line-up was troubling, in light of the practices at the time, the police investigation met the standard of a reasonable officer in similar circumstances.

The case was appealed to the Supreme

Court of Canada in 2006 to determine once and for all whether police owe a duty of care to a suspect in an investigation – and if so, what that standard is.

The court released its decision October 4, 2007 after sitting on reserve for nearly eleven months. It confirmed in a 6:3 ruling that the tort of negligent investigation exists in Canada and that police officers do owe a duty of care to suspects they investigate. Nevertheless, while such a cause of action exists, the police investigation in this case met the standard of a reasonable officer in similar circumstances at the time.

The majority found that there was no compelling policy reasons to negate the duty of care, contrary to Justice Ritter's concerns in *Dix* that such a duty would impede police from functioning effectively for fear of being sued for alleged deficiencies. In fact, the court reasoned, it was conceivable police might take greater care in conducting investigations if such a duty was recognized.

The majority also rejected the argument that limited resources would force officers to choose between investigating crime in the public interest and in a manner that an individual suspect might conceivably prefer.

The standard of care is based on what a reasonable police officer would do in similar circumstances. The fact that funds are limited must also be considered, however **the effective and responsible investigation of crime is one of the basic duties of the state which cannot be abdicated**, the court held.

The standard is not perfection or even the

optimum judged from the vantage of hindsight. It is that of a reasonable officer, judged in the circumstances prevailing at the time the decision was made – circumstances that may include urgency and deficiencies of information.

The law of negligence does not require perfection; nor does it guarantee desired results. Rather, it accepts that police officers, like other professionals, may make minor errors which cause unfortunate results without breaching the standard of care. The law distinguishes between unreasonable mistakes breaching the standard of care and mere "errors in judgment" which any reasonable professional may make.

While the court did not describe the test for a "reasonable officer," common law has recognized for over a century that police actions should be assessed based on what occurred up to the point of the incident. This includes those facts known and available when the officer forms their belief and not those which arose later. As first noted by the British courts in *Hicks v. Faulkner (1878)*:

It does not, however, flow that because the supposed fact had no real existence, the belief was unreasonable. The question of reasonable and probable cause depends in all cases, not upon the actual existence, but upon the reasonable bona fide (honest) belief in the existence of such a state of things as would amount to a justification of the course pursued.

Hicks has been cited with approval by all levels of Canadian courts, including the trial judge in *Hill*, however one recent statement on this point was made by the Alberta Court of

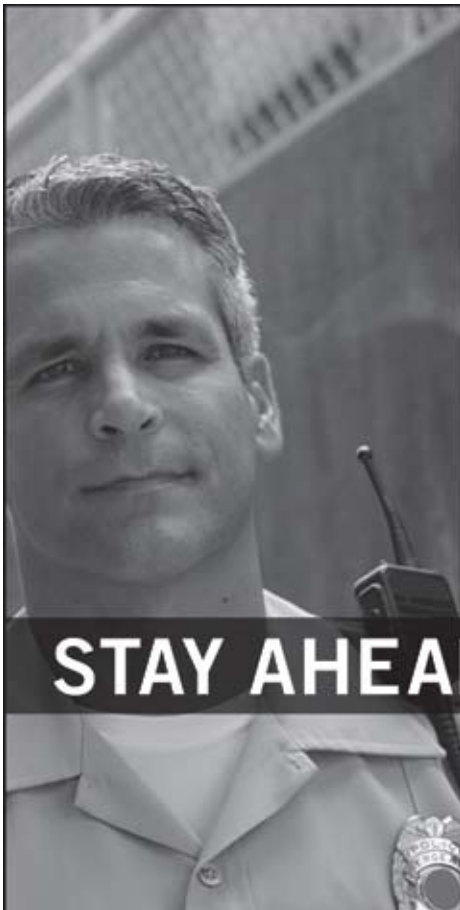
Appeal in *R. v. Musurichan (1990)*:

The important fact is not whether the peace officer's belief was accurate or not, it is whether it was reasonable. That it was drawn from hearsay, incomplete sources or that it contains assumptions will not result in its legal rejection by resort to facts which emerged later. What must be measured are the facts as understood by the peace officer when the belief was formed.

However, as demonstrated in the Driskell Inquiry and various other cases, police have a continuing obligation to disclose information that might be relevant to the defence. Similar standards are in place for other professions; drug manufacturers, for example, have a continuing duty to inform prescribing physicians of dangerous side effects they may discover, even if the drug is ordinarily safe and any danger rare. The courts have rejected arguments that physicians should learn this information from other sources; such duties can not be delegated to others and the same is true for police who learn information after an incident.

It is likely complaints against officers will increase as people become more aware of this case, their rights and the obligation of police to conduct proper investigations. Front line members and supervisors need to properly document and articulate their course of actions to ward off such suits in the first place.

Footnotes omitted. Sergeant **John Burchill** is the Winnipeg Police Services' major crimes analyst and hate crimes unit coordinator. He can be reached at jburchill@winnipeg.ca.



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CHAMPIONS FOR THE FUTURE

Reaching back 175 years for a new beginning



by Barry V. King

The Brockville Police Service was formed in 1832 when the hamlet was created as a police village under a board of police. James Kennedy was appointed high bailiff and William Smith was the first constable.

There were few changes in the force composition over the next 40 years except those caused by death. Henry Mitchell of St. Catharines was hired as the first police chief in 1876, directing a sergeant and five constables.

The force expanded steadily with the growth of the town, which obtained city status in 1962, to meet increasing demands for service, hiring two constables between 1929 and 1938. By 1945 it boasted a chief, three sergeants, six constables and a clerk and its strength swelled to 15 in 1947 with the advent of the eight-hour day and 48-hour work week.

Sixty two years later, with the work week reduced to 40 hours and the advent of 12 hour shifts, 63 sworn members and 22 civilian staff police the city's more than 22,000 residents.

Brockville history

Items of interest include:

- The Brockville Rifles were called out to defend the city in 1866 when Irish-American Fenians from Niagara Falls attacked Canada.

- In 1893, a 26-year-old man who murdered his family became the last person hanged at the Brockville gall.

- Bandits escaped with more than \$18 million in cash, jewellery and bonds in the 1958 Brockville Trust Robbery. The break-in occurred over the May long weekend. The culprits rifled through hundreds of safety deposit boxes.

Some of the bonds showed up in Switzerland within 48 hours while others went on sale in Toronto, New York, Chicago, Hamilton and Vancouver. Another \$50,000 in stolen bonds were discovered at a bank in New Jersey after they were used as collateral for a loan.

Brockville Police travelled to Switzerland and Australia during the investigation and soon arrested a Montreal prison escapee. A document dropped at the scene and a license number noted by a sharp-eyed beat officer led to his arrest. One accused was sentenced to 12 years in prison and the attorney general summoned the city's police chief to chastise him for publicly blaming the crime on 'organized crime.' Government officials stated that there was "no organized crime in Ontario." After being released from prison, the thief returned to Brockville to ask police for protection, fearing his partners in crime would kill to prevent him revealing the whereabouts of the rest of the loot.

The Brockville Police Service (BPS) is progressive and community oriented, owing much of its success to police services board guidance, citizen cooperation, support from city council and civic staff and the dedication of its officers and civilian employees.

Adequate and effective policing is a basic right and necessity, important to the quality of life in any community. BPS officers are well trained and equipped with the latest technology. Police and civilian members are dedicated to protecting and maintaining their community's quality of life – a dedication reinforced by a strong community patrol and investigative capability and further enhanced by beat, bicycle, canine and mobile patrols.

The BPS takes pride in its involvement with the Criminal Intelligence Service of Ontario, its forensic and technical expertise and enhanced 911 system. Members devote much time to community youth, which is favourably reflected in positive public relations and partnerships.

Local high school students designed and created a large sculpture of the BPS badge to celebrate the 175th Anniversary of both the city and police service. Made of stainless steel and laser cut using equipment from a local shop, the impressive sculpture is valued at \$25,000 and mounted at the entrance to BPS headquarters.

Designed by 16 year-old media arts student Jim Stinson, the 5' high, 4' wide, 1,000 pound, 3D, double sided badge was crafted by co-op students from two classes, overseen by teacher Dave Sheridan. The project was undertaken to demonstrate the close relationship between the police and local students, Sheridan said.

Other BPS youth initiatives include Adopt-A-Cop programs with elementary and secondary schools, chief for a day, racing against drugs, risk watch, anti-bullying and safe schools.

The BPS recognizes and values youth, who make up 20 per cent of the population but 100 per cent of the future. Positive youth development through asset building champions is a proactive and meaningful philosophy, providing young people with what they need and deserve – hopefully for the next 175 years.

Barry King, OOM, retired this year after 12 years as Brockville's police chief.

Vancouver chief wants criminals home for the holidays



Chief Jim Chu

Vancouver's new police chief is proposing an innovative solution to dealing with the large number of fugitives from other provinces - put them on a plane and ship them home.

Vancouver Chief Jim Chu said the Vancouver police department is considering a "home-for-the-holidays" program that partly uses donated travel miles from local businesses to ship out

criminals wanted by other jurisdictions.

Chu told a business crowd last October that criminals often flee their own province when there's a warrant for their arrest and come to Vancouver to commit more offences. The existing warrants are usually listed with a discretionary return notice. This means the originating police agency will only cover expenses from a specified radius from where the offender is found.

"We do need some national leadership on this issue because people should not be able to evade justice just by leaving the jurisdiction that they were charged in," he said.

Chu says his plan of effectively deporting non-resident criminals would save British Columbia social-services, health-care and court costs. He pointed out that there is some recourse for Vancouver Police to fund the expenses for sending criminals back to where a local jurisdiction can arrest them for outstanding warrants.

Darcy Rezac, spokesman for the Vancouver Board of Trade, said his group is aiming to collect a million travel miles to send people back to where they came from. Board chair Henry Lee has already donated 100,000 miles.

LETTERS

I enjoyed your article on "The Lemcke Legacy." (October 2007)



Great stuff! Especially so since Carmen and his sons are well known around our county. However they missed Carmen's other son Bill Lemcke who is a well respected uniformed special constable with our service. Bill has been a special constable with our court security unit since 1997. He is the son of Carmen Lemcke of Shelburne and a brother to Bruce.

*Mike Robinson Acting Chief,
Orangeville Police Service*

I very much enjoyed reading your story on "The Lemcke Legacy." (October 2007).



I also just checked our family tree and confirmed we are related! The legacy continues on the west coast.

*Supt. Warren Lemcke,
Vancouver Police Department*

I compliment Mark Giles in his "Getting Closer to Reality" article in the November edition of *Blue Line*. I especially liked its honesty about police recruitment. In my opinion the Hollywood style policing image that's portrayed in our mass media world bastardizes the realities of policing. As Randolph Hearse said a century ago; "Give me the pictures and I'll give you the war!" There are many sides to an image. In this case I believe it attracts the wrong personality type while turning off the right one! Police chiefs are the ones that should be leading the charge on getting the truth out to the media & public but as the saying goes; "beware of the prophet whose dogma generates his paycheck!" Keep your articles coming!

Chris Braiden St. Albert, Alberta

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Fingerprinting 101

by Brian Ward

One of the most valuable weapons in a police investigator's arsenal, fingerprinting and its various applications have solved more crimes than any other process. This is especially true in Canada, where law enforcement has used the science for almost 100 years.

A serious flaw in another identification system led to fingerprints being adopted as the world standard. Late in the 19th century, Alphonse Bertillion, a records clerk in the Prefecture of Police in France, decided he did not like the way criminals were identified and records maintained. He introduced a comparison system based on body and head measurements. Each criminal taken into custody was weighed and measured, including the length of their arms and distance between their nose and ears.

Bertillion identified the first repeat offender in 1883 and, by the next year, had identified 241 criminals using his unique scientific method. The world of policing and record keeping had changed forever.

Serious mistakes

Unfortunately for Bertillion, not all officers



took their measuring duties seriously. Different measurements were taken of the same criminal at different times. Child criminals grew up and adult criminals aged. Arms and legs grew in children while elderly criminals shrunk.

Matching measurements on file became increasingly difficult and some people were wrongly identified. A famous 1903 case of mistaken identity in the United States using Bertillion's system led to its demise as a method of recording criminal identities.

All wasn't lost however, and in Canada the legacy of Bertillion's identification system

still allows police to photograph and take measurements (height, weight) of persons who may be fingerprinted, according to the Identification of Criminals Act.

Historic perspective

A fingerprint identity is the only thing a person will ever own that belongs to them and no one else. Fingerprints are formed while an unborn child is still in the womb and never change, even after death. This uniqueness has been recognized for thousands of years. A trade contract written on a Sumerian clay tablet dating back to 2000 B.C. was completed using finger impressions.

One of the earliest known European publications dealing with fingerprint observation was written by Dr. Nehemiah Grew in 1684. The British scientist intensely studied the skin and described the pores and friction ridges found on the tips of fingers, palms and soles of the feet. Two years later, Italian scientist Marcello Malpighi published a paper that examined the human skin; one skin layer still bears his name.

A German physician named Mayer was the first to publicly recognize that fingerprints are not duplicated by nature. His 1788 work was soon supplemented by a young German university student, Evangelist Purkinje, who classified nine major groups of fingerprints, which have not changed to this day.

More than a half century went by before two British men, Sir William Herschel and Sir Francis Galton, agreed on the premise that a person's fingerprint patterns never change. As proof, they demonstrated the lack of change in their own fingerprints over a period of 31 years. Although this study was accepted by the public, the judiciary chose not to take notice.

Undaunted, Galton kept up his studies and in 1893, published a book titled *Fingerprints*. Hardly a best seller, it was read by Sir Edward Henry, Inspector General of India's lower provinces. Finding some of Galton's theories to be flawed, Henry refined the science. The Henry Fingerprint Classification System remains the universally accepted method of classifying and identifying fingerprints.

Revealing the secret

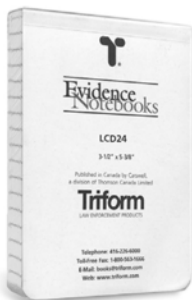
Even identical twins do not share the same prints, although they have identical DNA. It is universally agreed that there are only nine different types of print patterns, including the arch, tented arch, loop, radial loop, centre pocket loop, double loop, whorl, composite (two patterns in the same print) and accidental (does not follow any other classification rules).

Examining a fingerprint is done much the same way as reading a map and reveals unique characteristics formed by the ridges. A ridge may begin as one and then split into two



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(bifurcation), which may then come together again in the outline of a lake. Short ridges or islands may exist in the same print adjacent to longer ridges and at times, tiny ridges called ridge dots may be seen.

Human genetics determines the positions in which these ridge characteristics appear, hence no print is ever the same. It is this certainty that remains the hallmark of fingerprints as a positive means of identification.

The Canadian experience

Scotland Yard was using fingerprints to identify criminals by the turn of the 20th century. A chance conversation in 1904 between John Ferrier of Scotland Yard and Canadian Dominion Police (RCMP) Cst Edward Foster at the St. Louis World Fair was the catalyst for change in Canada.

Foster saw the value in establishing a national fingerprint bureau to join police agencies in a common bond. He became a "man with a mission" and by 1908, had convinced the Canadian government to pass an order in council sanctioning a fingerprinting system and applying the Identification of Criminals Act to it. The science was slow to evolve and it wasn't until April 25th, 1932, that a criminal conviction was registered based solely on fingerprint evidence.

Forensic identification eventually became a police specialty for sworn and civilian members. Many of these pioneers developed amazing abilities to search tens of thousands of individual fingerprint cards as they laboured



to match them to crime scene prints. Investigators came to rely on fingerprints as one of the primary means of solving crime.

The technological age

By the 1970's, computers forced police agencies to change. Companies such as Printrack, NEC and Cogent Systems developed computerized fingerprint identification programs (AFIS) which scanned individual ridge characteristics.

Manual fingerprint searches that previously took days and even weeks to complete were now being done in minutes. Competition among computer vendors was fierce and improvements in scanning and filing systems continues to this day, but it is the human eye and brain that must work together to positively match a criminal to their fingerprint records. The machine is able to provide the best results but evidence from a qualified fingerprint expert

is still the only recognized means of confirming a print match.

The latest evolution of the RCMP's national AFIS technology is expected to be running by the end of this year, RCMP civilian member and 38 year veteran Don Harrison says. The force recently contracted with Cogent Systems to provide Canadian police agencies with the ability to search fingerprint records almost instantaneously.

The company's AFIS systems are in use worldwide and allows users to record electronic images of a charged person's fingerprints using Live Scan technology. The prints are simultaneously compared with the national database, allowing police to link previously committed crimes to a suspect almost immediately.

The company's system is almost universally compatible with other systems around the world. Should Canadian police need to check a criminal's identity with the FBI, for example, all they need to do is send a request to the RCMP, Harrison points out.

AFIS improvements allow technicians to identify decades old cold case crimes. A fingerprint I developed more than 20 years ago was recently identified. It would be a pleasure to be with the arrest team but the identified perpetrator died two years after committing the crime.

Monsieur Bertillon probably would have just shrugged and said "C'est la vie mon ami!"

Brian Ward is *Blue Line Magazine's* Forensic Science Editor and he can be reached at forensic@blueline.ca.

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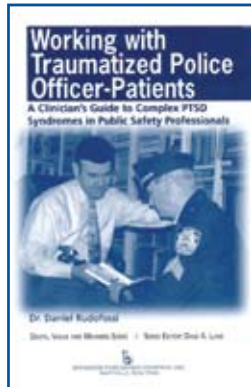
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Working with traumatized police officer-patients

Reviewed by Antoon Leenaars

The killing of four RCMP officers in Mayerthorpe, 9-11, the London officer homicide-suicide – all are traumatic events outside the range of normal human experience, even for public-safety personnel.



Police officers are more frequently traumatized than the general public; the very nature of their job exposes them to ongoing

trauma throughout their career. In *Working with traumatized police officer patients* (Amityville, NY: Baywood, 2006), Dr. Daniel Rudofossi not only explains post traumatic stress disorder (PTSD) in officers but also offers clinicians a guide to treating the complex syndrome.

Rudofossi is unique; an NYPD officer with more than a decade of experience on the street, he is the department's first uniformed psychologist – a 'Doc-Cop.' As "one of us," he has interviewed, assessed and treated hundreds of officers, many suffering from PTSD, including survivors of 9-11. This alone is reason enough for all public safety and the mental health professionals who treat them and their families to read this book. 'Doc Dan's' guide will make policing easier.

PTSD is not rare, of course; it is a normal (not crazy or mental) response for a person: 1. Whose experiences, witnesses or is confronted with actual or threatened death, serious injury or physical threat to themselves or others; 2. Whose response

includes intense fear, helplessness or horror.

Since traumatic events, "horrify, repulse, disgust and infuriate any sane person," Doc Dan asks, why should police officers be any different? Regrettably, officers are often urged to 'snap out of it, don't talk about it' or 'just get over it' after traumatic experiences. Many of us do not – avoiding or forgetting about it, phobias and inhibition only exacerbates the problem, as was well documented in survivors of the Vietnam War.

Doc Dan breaks down the blue wall of silence. The loss or trauma all too often results in an officer becoming disenfranchised, caught in a no-win cycle of persistently re-experiencing the event (recurrent and intrusive distressing recollections, disturbing dreams and acting as if the event was reoccurring) and persistent avoidance (avoiding or restricting activities and duties, having an affair, resigning).

Symptoms can include difficulty falling or staying asleep, irritability, difficulty concentrating, hypervigilance and/or exaggerated startle response and, in some, even suicide or homicide. Doc Dan offers hope, suggesting that; despite taboos ('you have to be the tough guy'), clinicians can help. An officer's ability to adjust to a trauma is largely affected by the type of response provided. A supportive environment is the critical factor. In this unique guide to healing and thus, better policing, he explains how co-workers can support not only the officer but also the mental health professional.

The first step to hope for officers is developing a working alliance; the therapeutic relationship between 'officer-doctor' is critical. Clinicians need to understand the officer; effective treatment is person or officer-centred (Leenaars, 2004). You have to know whom you are treating and Doc Dan teaches clinicians who officers are. Empathy and officer-therapist goal consensus are essential.

A collaborative-based approach is needed, yet all need to get beyond the blue wall (officer), red wall (firefighter) and white wall (therapist). We all have our myths. Doc Dan reveals not only the walls, such as 'It's just a matter of fact, standard operating procedure (SOP),' but also how to lessen and prevent the aftershocks – the unbearable pain – not only for the officer but also for his/her family – and sometimes, for the whole department. How does a department cope with the death of four officers?

There is much more in this book, including applied theory with clinical examples, practical intervention and handouts. You get to meet the real cops, and learn how to make an environment supportive. Clinicians at all levels of training, education and expertise will benefit, as will police, border security officers, firefighters, correction officers, etc. As Doc Dan notes at the end of his book:

Casting the glow of our own private dreams as human beings without mediocrity, apologetics or being patronizing is one of the liberating gifts that may be shared. By sharing some of our hopefully optimistic, positive myths through self-disclosure as a model for our officer-patients to choose, modify, or reject in their public or private myths, clinicians as public and private service professionals offer a priceless gift as well.

Clinicians can also learn a great deal through the fascinating resilience and insights police and public-safety officers offer through their lens of experience as pilots of their safety and ours as well. They must remain our number one priority! To paraphrase Hillel, "If not by us, by whom? If not now, when."

'Doc' Antoon A. Leenaars is a Windsor psychologist who has worked clinically with public safety officers and their families and assisted forensically in major crime scene investigations. His latest book is *Psychotherapy with suicidal people* (Wiley, 2004).

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Duty - The life of a cop

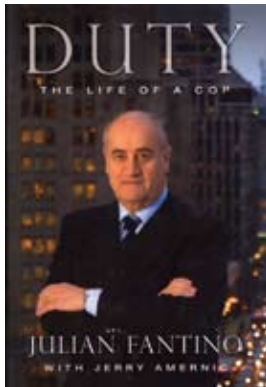
AUTHORS: Julian Fantino with Jerry Amernic
REVIEWER: Morley Lyburner

Julian Fantino is the universal cop. Loyal to the profession without regard for the patch on the shoulder. When it comes to policing, he sees the big picture.

That's how I described Julian Fantino to the International Association of Chiefs of Police back in 2003 when he was being nominated as vice president at large. After reading his new book, *Duty - The life of a cop* and reviewing his career, it's clear this descriptor still holds true. Never have I seen a police officer whose 'best before' date keeps extending, not only in policing but also increasingly wider areas of interest.

Fantino was Toronto's police chief from 2000 to 2005 and previously headed the London and York Region services. He left policing to become Ontario's commissioner of emergency management, returning to the fold in 2006 as commissioner of the Ontario Provincial Police. Born in Italy, he moved to Canada with his parents when he was 11 and began his career with Toronto police in 1969.

Long known to be a no nonsense police officer who does not hesitate to get his hands dirty, his book will take you through a roller coaster ride of emotions, beginning with a case that galvanized and strengthened Fantino's spirit toward police work. Cst. Michael Sweet's death had a heavy impact on Fantino and this book looks at this incident



in great detail. The investigation required considerable fortitude, professionalism and restraint. Many officers were emotionally stunned by the sequences of events and it stands as a textbook process which is a must read by any one involved in police work. This case alone helped both lead investigators, Fantino and David Boothby, finally reach the top position in the Toronto Police Service.

This book is also a tell-it-like-it-is platform for Fantino's

opinions on a wide range of law enforcement issues. The following excerpt is an excellent example:

Who has reaped the greatest benefits from the Charter of Rights and Freedoms? I would argue that if it isn't common criminals, then it must be the Hells Angels. Canada and especially its politicians have spent 30 years underestimating the problem of biker gangs. Never has there been a proactive strategy on the part of the government to fight bikers.

Biker gangs grew and eventually became bigger than the Mafia. Today, outlaw motorcycle gangs are by far our biggest problem with organized crime, but it took the death of a young innocent boy on the streets of Montreal to wake the country up.

If you want to get your head around who Fantino is and what drives him, read this book. The only downside is that it is not complete. There are many more chapters to come, but they have not been written yet – he is still creating the content.

DISPATCHES

RCMP Cst. **Douglas Scott** was shot and killed on



November 6th while responding to a call about a drunk driver in the tiny community of Kimmirut, Nunavut. The 20 year-old-officer, originally from Brockville Ontario, graduated from RCMP Depot last April and this was his first posting. A 37 year-old local resident, **Ping Kolola**, was arrested after a four hour standoff at his residence. The officer was reported as working alone on night shift when he received a call of a truck hitting a house in the village.

RCMP Chief Superintendent **Bud Mercer** will head up the Integrated Security Unit for the 2010 Winter Olympics. The Unit is made up of members of the RCMP, Vancouver Police Department, West Vancouver Police Department and the Canadian Forces.



A 30-year member of the RCMP Mercer was formerly responsible for integrated units composed of RCMP and other police and security agencies investigating complex criminal activities, national security, drug enforcement, border integrity and economic crime investigations.

Mercer takes over from Chief Supt. **Bob Hariman**, who began work on the 2010 Winter Games before Vancouver and Whistler won the bid in 2003.

A Windsor, Ontario, jury quickly brought back a guilty verdict last month in the first-degree murder trial of **Nikkolas Brennan** accused of killing Cst. **John Atkinson** in May 2006.



The jury spent just over seven hours deliberating before reaching their decision which sends Brennan to prison for life and no chance of parole for 25 years.

Brennan's defence hinged on whether he knew the man he was shooting at was a police officer. Atkinson was working in plain clothes at the time and was confronting Brennan as a drug trafficker. Evidence showed the officer had clearly identified himself with his badge as he was being gunned down by Brennan. Atkinson, a married father of two, was the first officer killed in the line of duty in the more than 120-year history of the city's police force.

West Vancouver Police Chief **Kash Heed** is the latest person advocating for a regional police force for the greater Vancouver area. Heed, a recognized expert on gang violence, says his call for a regional force to fight gangs is an attempt to confront a difficult issue. He says leaders should not be afraid to make changes if they are in the public interest. British Columbia Solicitor General **John Les** says discussion of a regional force is not his "primary interest" and he doubts municipal councils want to lose control of their local police departments. Heed responds that police must be able to act independently of political considerations.



Releasing his annual report about conditions in federal prisons last month, correctional investigator **Howard Sapers** identified barriers to public safety in the prison system, most of which will require a hefty infusion of federal money to remedy. In particular, Sapers says, too many offenders are spending time in prison without access to the programs they need to reintegrate into society. Correctional Service Canada is currently responsible for 21,695 offenders and has an annual budget of \$1.8 billion.



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Volunteers travel North America finding the dead

by Danette Dooley

An Idaho couple who recently found the body of a Newfoundland canoeist have spent two decades helping police across North America locate drowning and murder victims.

Gene and Sandy Ralston of Boise used their own submersible equipment to find 19-year-old Stephan Hopkins in the waters of Little Bonne Bay Pond, near Deer Lake, Newfoundland in September. They were contacted by the family after local efforts were unsuccessful.

"The loss of a child is probably the worst nightmare any family could experience," says Terry, Stephan's father.

"Couple with that not being able to find the body of your loved one. With the help and expertise of people like the Ralstons, and the usage of their equipment, they were able to recover Stephan in just 29 minutes. Prior to that, we were searching for 73 days via the help of the RCMP, search and rescue and many volunteers. This couple is to be commended."

The Ralstons never ask for anything more than money to cover their expenses. *Blue Line* interviewed Gene via e-mail about the work done by his company, Ralston & Associates, an environmental consulting firm that specializes in water-related services.

Q: What did you use to find Stephan's body?

We actually used two pieces of equipment. The side scan sonar is a torpedo looking device which is towed by the boat about 10 to 12 feet above the bottom. The transducer transmits pings of sound through the water and receives the return sound reflection. The computer on-board the boat processes the return reflections into an image of the bottom, as if you were looking straight down. Harder, more dense objects reflect more of the sound energy than the softer bottom sediments. The denser objects appear very bright in comparison with the soft bottom. Objects protruding above the bottom also have a shadow relative to the height and



shape of the object. Drowning victims usually have a very distinct reflection, as well as shadow detail. The shadows are caused by the person blocking the sound behind them.

We began searching a swath width of 50 metres because the bottom was fairly clean and did not have many features which could hide a drowning victim. After finding something of interest, we recorded the location of the object in the plotter portion of the software and made another pass at a shorter range. The shorter range provides a much more detailed and larger image, for better identification of the object. In this case, we knew from the first long range image that we had found a person, but the shorter range image just confirmed our identification.

We then placed a device on the bottom near the person. We made another scan of the person and our marker to determine distance and direction between the marker and the person. The ROV (remotely operated vehicle) is then deployed down the line to the marker and navigated the distance and direction to the person... grabs the victim and (is) raised to the surface by pulling on an attached cable.

(The Ralstons' equipment can scan a 20-60 metre-wide swath at about three kilometres per hour).

Q: How many bodies have you located?

Our official number found is 53 in the last

seven years using side scan. We found other victims prior to that, but they were on the surface. Not all of the ones we have found have been recovered.

We found four homicide victims in a deep lake in California for the FBI. Two were under a bridge in about 350 feet of water, while the other two were in about 250 feet of water under another bridge on the same reservoir. A fifth victim was found on the surface shortly after he had been pushed off one of the bridges. All five were kidnap victims who were held for substantial ransoms, which were paid, but the perpetrators murdered them anyway. All four were weighted with one or more 50 pound barbell weights. A dive team from the New York FBI office recovered the victims using an ROV. The perpetrators were convicted and sentenced variously to death or life without parole.

Q: I read that you found the remains of a person who had been missing for as long as 100 years (in nearly 350 feet of water).

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We were very surprised ourselves about that discovery. When we made the original side scan image, I thought it may have been a bear because of its short legs and “bulky” body. It was not until our friend’s search dog went wild in the area that we decided it needed to be investigated further. The video showed a distinct body shape lying on its side with an arm extended. We could see a hand and fingers quite well in the video. The remains were still very intact but much like caked salt in that when disturbed, they crumbled.

We did recover a portion of the remains but the forensic lab could not recover any DNA from it. They believe the portion recovered is hardened fat tissue. We want to return someday to inspect the small boat we found nearby and try to get more information, which may lead to an identification.

Q: You also assisted the Modesto Police Department in finding Laci Peterson and her unborn baby, Connor.

We were initially contacted by the Modesto PD on January 6, 2003, about two weeks after Laci had been reported missing. We were on two other searches at the time and could not respond until later in January.

(Their initial searches, including one on San Francisco Bay, were unsuccessful. Police had only a general area of interest, so the couple requested water trained search dogs be brought in to narrow the search area while they headed to Texas to recover debris from the space shuttle Columbia. They returned to the bay in March, after dogs had identified an area of greater interest).

Focusing our search efforts in the area of the dog indication, we discovered an interesting object on March 11th. The following two days were spent with a county sheriff dive team getting video of the object and making one unsuccessful dive to recover it.

Several additional attempts to recover the object failed over the next two weeks. When Laci’s remains were recovered on shore one month later, evidence on her remains matched that which we saw on the underwater video. We were not present when she was recovered on shore, but we were asked to return in May to continue searching for additional evidence. We spent a little more than 30 days total on the search. This has been our most frustrating search, knowing we found her but could not recover her. This is one of the many reasons we purchased our own ROV for underwater recoveries.

Q: What drives you to do this work, and how does it feel to provide a family with closure?

What motivates us to do this is difficult to describe. Perhaps it is best described as the result of having seen the anguish families go through waiting for their loved one to be found when the official search has been ended, and not knowing if they will ever be found. It is a long, agonizing and wearisome time for a family to go through.

The feeling is likewise hard to describe. We are very elated we can bring some measure of resolution – I don’t like the word “closure” (since

there is never a “close” to incidents like this – to a family’s grief but it is a bitter sweet feeling. Many families we have helped stay in contact with us to let us know how they are doing and continue to express their appreciation for our efforts.

Q: Do any Canadian police agencies have this equipment?

As far as I know, the Ontario Provincial Police is the only Canadian governmental organization to have Marine Sonic or similar equipment. The Deer Lake community is hoping to fund purchase of similar equipment and the RCMP in Newfoundland and Labrador is also now investigating purchasing it. Quite often it takes a quick success on a search in a local area for the local folks to get interested in it.

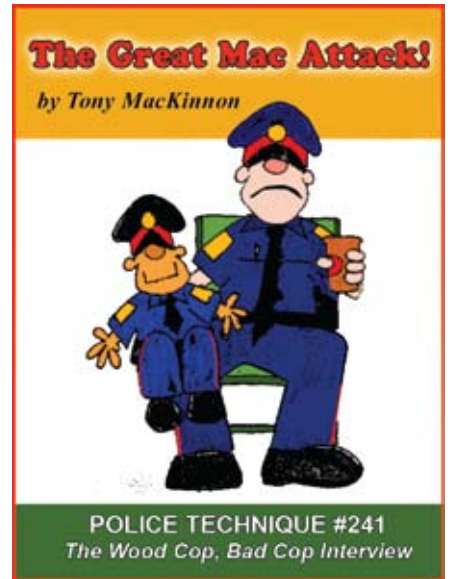
Many times we have sensed that agencies not aware of the benefits of side scan sonar regard it as a “smoke-and-mirrors” tool that seldom works. In some cases that may be true but it is not the fault of the equipment. Generally a team using sonar gets discouraged quickly because it can be a long and boring process to scan large areas with nothing of interest on the bottom.

Sometimes it is only with dedication and perseverance that a search is successful. Training and lots of experience are both critical to the success of a search mission. For instance, we have found three drowning victims in side scan images made by other operators because they did not have the experience interpreting images and did not know what a drowning victim would look like.

We offer our assistance in reviewing im-

ages for others as well as inexpensive training in both sonar operation and image interpretation. We are more than happy to provide whatever assistance an agency needs. We are working with a family foundation which is interested in helping to fund side scan sonar training for other agencies. We hope to start this program in 2008.

For more information, visit <http://gralston1.home.mindspring.com/> or contact **Gene Ralston** at gralston1@mindspring.com or 208 362-1303.



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by Tom Rataj

wth? pmfji! :-)

Written language is under attack by the nearly universal availability and popularity of text messaging. Originating from devices without full keyboards, it has reduced language to a collection of at times unrecognizable abbreviations, short forms and expressions.

Generally only the first five or six letters of expressions are used and collections of punctuation marks and symbols are cobbled together to resemble facial expressions (also called emoticons – for emotional icons, such as the famous “smiley” seen in the headline). For the uninitiated, trying to read a text message can be like trying to read a foreign language, interspersed with a few words in one’s native tongue. Typos, misspellings and non-existent punctuation often add to the confusion.

Like any other technology, those up to no good have also embraced electronic communications to conduct their “business.” Any police officer conducting investigations involving pre-teens, teens and many 20 and 30-somethings has encountered this new electronic language – no doubt uttering ‘what the heck (wth)’ or its impolite variant, ‘what the f--? (wtf?).’

Most everyone abbreviates longer phrases, especially police officers. To keep the length of extensive handwritten notes manageable (and speed up the task), terms such as O/S (on scene),



GP (general patrol), AIO (all in order), GOA (gone on arrival), R/C (radio call), VS (vehicle stop) and everyone’s favourite after a long busy day, ROD (report off duty) are common.

Instant messaging

Text-message language got its popular foothold with instant messaging on the Internet.

There are several dozen IM programs (more correctly called ‘clients’) available. The most popular include AIM (America Online Messenger), Windows Live Messenger (formerly MSN Messenger) and Yahoo! Messenger. In simple terms, they allow two or more people to communicate in real-time by typing and sending messages to each other virtually instantaneously.

Most IM clients allow users to create screen names, which many youth constantly change, even during a conversation. Many screen names also include a wide variety of symbols and punctuation marks fashioned into a variety of facial expressions or simple pictures. This adds to the confusion when conducting investigations and needs to be clarified by one or more of the users involved in the conversation.

Several conversations can be conducted simultaneously between an IM user’s various groups and individual contacts and each occurs only within the particular group. Individuals in one group can readily be removed or blocked, or added into different groups.

Most IM software is proprietary and can only communicate with other users of the same client. This is due to the way the programs handle the text data, but also has a lot to do with marketing and advertising. Almost all IM clients and their use are completely free to the end user because of the ever present advertising in the client interface.

Several independent IM clients have been designed to be compatible with a wide variety of otherwise proprietary software. They include translation software that allows them to understand and communicate with other clients.

Other features offered include live two-way video using small dedicated web-cameras (web-cams) and virtual white-boards (allow users to send and receive graphical information such as pictures using a mouse or digitizing tablet). Two or more users can share a virtual white-board to collaborate on a drawing or sketch. Computer files can also be exchanged.

While many programs have been designed with personal users in mind, they also offer some serious business advantages. With the appropriate equipment and Internet connections at both or several locations, virtual meetings can be held, eliminating the need for travel. A multi-jurisdictional meeting can be staged and held in a matter of minutes in much the same way as a conference call is set-up.

Internet chat rooms use a form of IM technology, where users connect join an open virtual room to communicate on a wide variety of topics. Chat rooms have unfortunately become a favourite haunt of paedophiles and should be strictly monitored when used by children.

The most popular IM software is available for a wide range of computer operating systems and mobile devices such as smart phones, Blackberries and Palms. Mobile cell phones generally use a completely different IM technology, although the increasing availability of handsets with always-on Internet access support IM clients.

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SMS

Short message service was originally created for sending short text messages to cell phones. The original standard was established in 1985 but really only became mainstream in the mid-1990s when cellular phones became increasingly more affordable.

Originally designed to allow cell companies and other commercial operators to send text message alerts to subscribers, it quickly became popular among users who wanted to exchange text messages. SMS messages are limited to 160 characters.

Because cell phones generally lack proper keyboards and text messaging was initially relatively expensive, users economized with creative abbreviations and other symbols. Most cell companies now offer plans with fixed rates for both limited and unlimited SMS messages and many cell phones include text messaging software with predictive text applications.

Problems & solutions

IM has become another effective tool in school-yard bullying cases. Paedophiles have also taken a liking to it because it gives them an effective and somewhat private and anonymous tool to find, manipulate or groom potential victims.

Some IM software allows users to automatically create a log file of all their conversations. Parents should enable this feature and monitor it on a continual basis to ensure their children behave in an appropriate manner when "IMing" with their friends.

Log files can be a very helpful, though challenging to read, record of a conversation in criminal investigations. They generally follow a simple columnar format which shows date and time, each user's screen name and the text of the conversation.

Parents should establish and strictly enforce rules for appropriate behaviour. The simplest rule for anyone, especially children, is to not type anything you would not be willing to say to a person face-to-face. This helps eliminate bullying behaviour and other inappropriate conversations.

Another basic rule – children should only IM with people they actually know and have physically met and anyone in a conversation who behaves inappropriately should be blocked and removed from a child's contact list.

Most IM client providers have extensive lists of recommended safe-use tips on their websites.

IM gobbledygook

Much of the apparently incomprehensible IM language is actually quite understandable when one gets over the initial shock of jumbles of letters, numbers and symbols. There's a lot of help available on the Internet; just search for "IM language" for an endless supply of dictionaries and guides, although there is probably no one definitive guide. Some abbreviations can have more than one meaning, depending on the context, so you may need to talk to the participants in a conversation to understand what really was said.

By the way (BTW), the headline to this article means "What the heck? Pardon me for jumping in! smiley-face."

Tom Rataj is *Blue Line Magazine's* technology editor and can be reached at technews@blueline.ca

NEWS CLIPS

No privacy rights in garbage

Alberta's Appeals Court has ruled police are entitled to sift through curbside garbage to look for clues to criminal behaviour.

In the November ruling the court said the search of garbage bags of drug suspect Russell Stephen Patrick did not breach his right to privacy because he had abandoned the items and was no longer entitled to believe they would be secure.

In the decision Chief Justice Kieth Ritter said the expectation of privacy respecting

garbage is substantially less than what one would expect for items left, but not abandoned, in a yard. He said the public has no reasonable expectation of privacy for trash left for city workers to remove and take to the dump.

Patrick was convicted in June 2006 of unlawfully producing, possessing and trafficking a form of ecstasy. He had been on bail from a four-year sentence awaiting this appeal court ruling.



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Air guns and the law

by Robert Duttchen

BB and pellet guns are available at most sporting goods stores. Their sale is not regulated and, in most instances, is governed only by store policies. Consequently, street level criminals are more commonly using them in their criminal endeavours.

Often made to look like real firearms, they bear the same manufacturers markings as their full calibre cousins. In fact, it is their genuine appearance that has made them popular with street criminals as tools of intimidation. This phenomenon is leading to increased seizures by police, who are left with the challenge of identifying which charges ought to be laid.

All officers are aware that carrying a weapon or imitation weapon while committing an assault is, in itself, an offence. Less known is that replica firearms are considered prohibited devices, as defined in <Section 84> of the Criminal Code. It's not complicated to determine the charges which can be laid when a gun is capable of firing, but resolving some common questions is important to assist front line officers in determining their course of action.

Are air guns firearms?

Sometimes they are and sometimes they're not! Confused? You're not alone but the answer isn't as difficult as it might seem. A firearm, as defined in s.2 of the Criminal Code, is "a barrelled weapon from which any shot, bullet or other projectile can be discharged and that is capable of causing serious bodily injury or death to a person and includes any frame or receiver of such a barrelled weapon and anything that can be adapted for use as a firearm (emphasis added)."

The principal issue is the gun's ability to cause "serious bodily injury or death to a person."

In the article *Velocity necessary for a BB to penetrate the eye: An experimental study using pig eyes*, the firearms section of the RCMP Forensic Laboratory in Regina conducted a study to determine the muzzle velocity required to penetrate a pig's eye. The study concluded that "due to the nearly identical size and anatomy of the human eye to the pig eyes used in this study, it is felt that 246 ft/sec is a reasonable approximation of the velocity needed to penetrate the human eye."



In essence the result means that any gun with a velocity of 246 ft/sec or greater is capable of causing serious bodily injury and thereby meets the definition of a firearm as outlined in s.2.

It is worthwhile to note that this muzzle velocity is the average at which a projectile will penetrate 50 per cent of the time. Forensic labs may conclude that velocities as low as 214 ft/sec, the lowest at which a penetration was achieved in the study, is capable of causing serious bodily injury.

Determining muzzle velocity

A weapon seized in relation to a criminal investigation should be seized as evidence of the offence. It can then be forwarded to the jurisdictionally appropriate forensic laboratory with a request for a muzzle velocity test, along with the rationale for seeking it. An example: "Please confirm the muzzle velocity of the weapon expressed in feet per second and, based on this, please conclude whether the weapon is capable of causing serious bodily injury."

Paintball guns

Officers should seize a paintball gun discharged at persons not participating in paintball games and send it for muzzle velocity analysis. Based on the results and conclusions of the forensic laboratory, the charging criteria are the same as that laid out below for pellet and BB guns. In *R. v. R.H.S. (2007) (Ont CA)* the Ontario Court of Appeal held that a paintball gun is a firearm as defined in s.2.

Charges

Providing the other facts of the case meet the elements of the offence and the gun has been

identified as a firearm, it can form a substantive element of the following Criminal Code offences:

s.85(1) – Using firearm in the commission of offence
*s.86(1) – Careless use of firearm**
s.87(1) – Pointing a firearm
s.244 – Causing bodily harm with intent – firearm

*It should be noted that *s.86(1)* is laid in relation to firearms which meet the *s.2* definition of a firearm but not the *s.84* definitions as non-restricted, restricted or prohibited. *S.86(1)* states "Every person commits an offence who, without lawful excuse, uses, carries, handles, ships, transports or stores a **firearm**, a prohibited weapon, a restricted weapon, a prohibited device or any ammunition or prohibited ammunition in a **careless manner or without reasonable precautions for the safety of other persons**" (emphasis added). The Supreme Court of Canada has interpreted this statement to mean "Consist of conduct that is a marked departure from the standard of care of a reasonable person in the circumstances" *R. vs. Finlay (SCC) (1993) S.C.R. 867 p 883*.

Charges for non-firearms

A seized gun which doesn't meet the definition of a firearm may still be a weapon as defined in s.2: "Weapon" means any thing used, designed to be used or intended for use (a) in causing death or injury to any person, or (b) for the purpose of threatening or intimidating any person and, without restricting the generality of the foregoing, includes a firearm." Given the facts of the case, the follow charges may be laid:

s.88(1) – Possession of a weapon for a dangerous purpose
s.90(1) – Carrying a concealed weapon
s.244.1 – Causing bodily harm with intent – air gun or pistol

Investigators must always be mindful of the context in which the weapons were seized. It is not enough to sustain a charge of possession of a weapon for a dangerous purpose simply by stating the accused possessed a BB or pellet gun. Officers must include some evidence of the purpose for which the weapon was being possessed and should gather statements as to why the accused had the weapon or the facts about why they were using it.

When in doubt, consult with supervisors, the Crown or investigative support units such as the National Weapons Enforcement Support Team, which can assist frontline officers in charge selection. There are instances where recovered firearms, weapons or apparent imitation firearms may require the laying of other charges than those outlined here, so consultation can be invaluable.

There are few reasonable explanations for possessing air guns in an urban environment. Ensuring appropriate charges are laid against individuals found to have them is an important tool in the fight to curb their use in various crimes.

Cst Robert Duttchen is a member of the Winnipeg Police Service Street Crime Unit and a court recognized expert who has provided technical expertise on firearms prosecutions for the Manitoba Department of Justice. This article first appeared in the Winnipeg Police Service's "Spot Light" newsletter. The opinions expressed in this article do not necessarily represent those of the Winnipeg Police Service.



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by Dorothy Cotton

Sniff and chew for a better memory

Back in the olden days when I was a kid, I used to go to Sunday school. I guess I learned all the general sorts of things one normally learns in Sunday school, but they also taught us some very strange things.

I was okay with all the stuff about being good and doing good, as I am essentially a nauseatingly good person, but they seemed to get a little carried away sometimes about what was okay and what wasn't. For example, we were led to believe that chewing gum was almost as bad as torturing small animals or robbing banks. It would lead to smoking, then drinking, then... well, all kinds of bad things which generally resulted in having children. I will confess to smoking, drinking AND doing things which led to having children. I have never been much of a gum chewer, but perhaps I will take it up.

As it turns out, chewing gum might be good for you. Or, to be more specific, gum-like odours such as cinnamon and peppermint might be good for you. These smells appear to enhance cognitive performance and athletic ability – and unlike many other performance-enhancing substances, they're even legal.

A guy named Bryan Raudenbush at the Wheeling Jesuit University has studied the effects of certain odours on things like thinking, memory, sleep, athletic performance and mood. It's an interesting thing to think about. What if there was a way to improve your performance in all these areas without relying on artificial devices, illegal drugs or excess caffeine? I don't know about you but I could occasionally use a little extra oomph to help me do my job.

I suspect a little extra boost would be even more valuable for police, what with working shifts, sleeping odd hours and having to quickly make really important decisions when overtired – like what to do when someone is charging at you while waving an axe. It would also come in handy when there's absolutely nothing going on, you've just finished a big lunch and are yearning for a nap – or have to do stuff that hurts, like staying in a weird position holding someone down, hiding in a ditch... or waiting for an ambulance.

So what did Dr. Raudenbush find? Well, like all lines of research, it tends to be a bit convoluted and complicated. He did a series of studies that exposed people to painful situations (like sticking your arm in a bucket of ice water and keeping it there until either you can't stand it or your arm falls off). He found people who were exposed to the smell of either peppermint or jasmine were able to tolerate the discomfort longer and actually reported less pain. It didn't feel quite as bad to them either, though it still wasn't a piece of cake.

In another study he had people chew various kinds of gum while doing memory tasks and found that cinnamon gum improved memory performance and response speed. Peppermint also helped a little but not as much as cinnamon.

Just in case you think any old chewing



gum or smell will do the trick, I will point out that Dr. Raudenbush checked that out. There's no doubt that simply chewing gum helps in some circumstances. Chewing cherry gum, for example, kept people a little more alert but did not improve memory performance. Neither did unflavoured gum. The same thing was true for other smells – not just any will do. Smelling lavender, for example, makes you drowsy. It's actually a pretty good relaxant.

It's a funny thing – when we think about human senses and how we use them to guide behaviour, sight and hearing are the first things that come to mind. Humans tend to pay less attention to odours than do most animals, but perhaps that is our loss. Smell has a bigger

impact than we generally acknowledge.

People will pay more for a new car that has been sprayed with a "new car" scent or for a synthetic briefcase sprayed with a "real leather" scent. We can all think of smells that makes us want to turn and run, sometimes because they are simply objectionable and other times because we associate them with something negative (e.g. a cologne worn by someone you really dislike). Many of us like to wear smelly stuff but others react quite negatively to such odours. Whatever the case though, it's clear smells change our behaviour.

I am not an expert in this area, but I can tell you what makes sense to me. If I were a person who needed to be alert and who might need to tolerate pain, I'd keep some gum handy just in case – both cinnamon and peppermint.

If I needed a good night's sleep so I would be alert the next morning, I just might have a jasmine candle or scent in my bedroom – and if I were a guy living with a female type person, that scent may even earn me some brownie points – BONUS!!

For more information, check the commission's website (www.mentalhealthcommission.ca). For more information about joint police/mental health systems ventures, visit www.pmh.ca. Email your ideas about law and mental health issues to **Dorothy Cotton** (deepblue@blueline.ca).

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Toronto Police FIS win two major awards

by Brian Ward

TPS Forensic Identification Service officer Cst John Stewart has captured, for the first time ever, a digital image of a stabbing victim's direct cause of death.

Stewart's image earned him the Canadian Identification Society's 2007 Tiller Award for excellence in evidence photography. Awarded annually, it is named after Chris Tiller, a former RCMP superintendent very active in forensics.

A 32-year Toronto Police veteran, Stewart worked with Dr. Michael Pol-lanen, Ontario's chief forensic pathologist, to obtain the picture of an air embolism (air bubble) escaping from the victim's heart during the autopsy. It was caused by severing the jugular vein, allowing air to enter the vein while the victim's heart was still beating – but the challenge for the team was photographing the bubble to confirm the pathologist's findings.

The well known cause of death had never been visually documented. The chest (pleural and pericardial) cavity was opened and filled with water while Stewart used his Olympus E300 digital camera and built in flash on its continuous setting of three frames per second.

Once the heart was pierced, the bubble



escaped. Stewart's picture was chosen on the basis of its photographic and evidence value and its ingenuity.

Bill Whyte hit of the year

A combination of technology and retaining latent fingerprint evidence paid off for the TPS FIS, resulting in an international award for latent identification by fingerprint technician Dorinda Duhusky

Presented in October at Motorola's 28th annual Worldwide Biometrics Users' Educational Conference in California, the award was

accepted on behalf of the TPS by FIS unit commander S/Insp Cyril Fernandes, himself a qualified forensics investigator.

Whyte, an RCMP C/Supt who died in 1998, was a valued member and past chair of the biometrics executive committee.

As part of her regular duties, Duhusky was performing a 'reverse search' of historical latent fingerprints, comparing them with prints of recently arrested people. One of the new forms matched a latent print from a hold up note TPS had processed for fingerprints in 1984.

Unlike many other police services, Toronto's FIS does not destroy old evidence, especially hold up notes, so the technicians were able to examine others from the same period and matched one other note to the suspect. More prints from the same time and location were identified as belonging to two other people associated with the robberies.

Toronto stores its latents forever, converting them each time it upgrades its AFIS. Its 125,000 unsolved latent prints, including latents back loaded from the 1980s, are checked each time a "reverse search" is performed.

The advanced Motorola AFIS computer, Livescan print technology, accurate latent conversion, diligent work by a technician and accurate recording and storage of crime evidence has solved an entire series of bank robberies from 23 years ago.

Seneca College forensic studies

For the past three years, Seneca College, located just north of Toronto in King City, has been a leader in law enforcement education with its forensic investigative studies program.

Conducted in partnership with the British Columbia Institute of Technology, the program offers training to both career law enforcement members and graduates of police foundations and law and security administration programs. It's aimed at bringing a high degree of practical training to those interested in forensic identification, criminal investigation or private investigation careers, says police foundations program coordinator Jeff Agro.

Consisting of four mandatory and six or seven elective courses, it's designed as a flexible learning program which takes into account the demands of shift work and full time employment.

Agro used his 27 years experience in police training to incorporate a crime scene house and the college's 700 acre nature preserve into the curriculum. Forensic anthropology students can experience the sights and smells associated with buried remains, for example, although Agro is quick to point out that health regulations prohibit human remains. Instead, resin skeletons and buried pig carcasses are used.

Seneca also runs a forensic health studies program geared to medical professionals in conjunction with the investigative studies.

Brian Ward is Blue Line Magazine's Forensic Science Editor and he can be reached at forensic@blueline.ca.

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Enhancing our capacity to manage emergencies

by Jay C. Hope

While many of you have adhered to the Incident Command System (ICS) principles for years, it is widely recognized in Ontario that more can be done to closely integrate the numerous response organizations involved in an incident.

Lessons from events such as the 1998 ice storm, SARS, the blackout and disasters such as 9/11 and Hurricane Katrina have demonstrated a clear need for a standard approach, including common terminology, management structures, communications processes, resource management practices and even qualifications. More importantly, we need to develop common expectations of one another.

To build on the good work being done by Ontario responders, I have launched a new project to develop a common framework for response. Called the Incident Management System (IMS) for Ontario project, the goal is to ensure functional interoperability at all levels of emergency response by creating a common understanding of incident terms and tasks.

You are likely already familiar with the core IMS functions – command, operations, planning, logistics and finance and administration – and perhaps with IMS methodology, such as the incident action planning process. I want to ensure that we have an effective, flexible and consistent structure and processes to manage incidents at all levels of government. IMS is primarily a change in the way we think and the agreement to do things a certain way when chaos breaks out around us.

To ensure that Ontario's highly diverse responder cadre is fully represented, we have formed an IMS steering committee which includes more than 30 organizations. This includes all levels of government and response, non-government organizations (NGOs), the private sector, police and security communities and the Canadian Armed Forces. The committee has met several times since the fall of 2006, making considerable progress, including drafting a common principles document and an outline for training programs.

The committee is proposing that Ontario adopt a common incident management doctrine, based on emergency management best practices contained in standards such as the Canadian Standards Association's CSA Z1600 and the National Fire Protection Association's NFPA 1600 and 1561 (available online). It also mirrors other systems being implemented in the US and British Columbia, Canadian wildfire services and by many Ontario police services.



This draft doctrine is available from a variety of sources, including the OACP website. I encourage you to look over it and submit comments as applicable, while keeping in mind that it reflects the whole system and provides a framework for the worst case scenario. As IMS is modular and scaleable, it is not intended that you would activate dozens of positions and all sorts of charts and forms at a simple response.

After the draft doctrine of common principles is approved early in the new year, a variety of training opportunities will be available. In fact, a working group has held several meetings and developed a draft training curriculum that would begin with a self-directed reading/distance learning package and then progress through three additional levels of training. These courses would be matched to various stages within your career. For example, if you are just starting out, you would likely only need to take the first course. As you progress through the ranks, you would be able to take subsequent courses to learn about more advanced management structures. I encourage you to keep an eye out for this, which will begin in the spring.

From my years on the police force, I know your time is in demand and resources are limited. We are certainly "doing more with less." Working closely with the committee and first responders, I will do everything I can to support the implementation of IMS.

We are not looking to 're-invent the wheel' and, where possible, we are building on what already exists, but we sometimes will need to stretch ourselves. Ontario police services have a long history of successfully adapting to meet new challenges and approaches. I ask officers to join me in this effort – whether it is simply by participating in training when available, or in supporting/reinforcing/implementing IMS in your organization.

I will update you on this project again when products and training begin to roll out, but please feel free to e-mail me if you have specific questions about this project.

Jay Hope can be reached at emergency@blueline.ca

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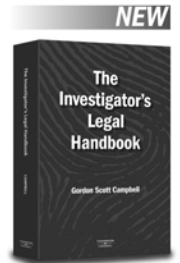
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Top-down intimidation

Workplace bullies harm people and corporate reputations

by Mark Giles

The first time I challenged a bully, I was an 11-year-old elementary student in North Vancouver. Tired of being pushed around during recess, lunch and after school, I was determined to put an end to what had become a daily routine.

Like most victims of bullies, I felt intimidated and scared, and was not sure how to stop it. In those days, reporting a bully to parents or school authorities was not very likely to resolve the problem. Bullying was usually just seen as part of growing up. Adults often ignored the situation – hoping it would go away – and children learned not to complain.

One day the bully followed me home after school, taunting and throwing rocks. This time when he challenged me to fight, however, I responded, moving towards him and what I thought would be a serious physical confrontation. To my surprise, he turned around and walked away.

I learned that day what has now become common knowledge to many – that most bullies are cowards and confrontation is often needed to stop the abuse. Bullying is not a new problem, nor one faced only by children. In fact, it is now seen as a problem in the adult workplace across North America and beyond, and many employees face these cowards on a daily basis.

“Adult bullies, like their schoolyard counterparts, tend to be insecure people with poor or non-existent social skills and little empathy,” the Canada Safety Council’s web site notes. “They turn this insecurity outwards, finding satisfaction in their ability to attack and diminish the capable people around them.”

In many cases, it’s the boss who is the bully. According to the Workplace Bullying Institute, bullying is primarily a ‘top-down’ problem, with more than 70 per cent of bullies holding a higher rank or position than their targets.

Huge payouts

The issue is still not discussed much in the workplace – especially in those work environments dominated by a bully – but it’s starting to generate a lot of buzz elsewhere. CTV Edmonton aired a feature on workplace bullies in November and a September Maclean’s magazine article by Sarah Scott – *Bullying bosses beware: threaten or even intimidate employees and your company could face \$1-million payouts* – addresses the changing landscape. It cites several examples of workplace bullying, its psychological effects and a few of the large payouts awarded by Canadian courts in recent years.

Law enforcement organizations are not immune. As Scott reports, a female constable won nearly \$1 million from the RCMP in 2006 after complaining of her treatment by



former Merritt, B.C., detachment commander – described as “an old-school military guy, abrupt, even rude; a real straight talker.” The sum may seem excessive, but it has certainly attracted attention.

For every case receiving this level of attention, however, there are many that go unreported. In fact, 40 per cent of victims never complain at all, likely due to fear of career repercussions. Many just quietly seek alternative employment. A former employee of one well-known police organization did just that, leaving his position exhausted and emotionally battered after several years of working for a bully. This former employee never complained, at least officially, but later described the behaviour of his boss – a very senior law enforcement official.

“He’s erratic and immature – I’ve never really seen anyone at that level act in such a childish fashion,” he said. “He belittles and exhausts people – I’ve seen him do it to policemen, lawyers and others.”

It’s hard to believe his boss was that bad, but many other former and current employees corroborate his story. Bullying is still tolerated by many organizations, especially by managers driven to get results in competitive work environments, who often don’t want to hear about it. In many cases, they actually protect and reward bullies, even admiring those seen as high performers, says Dr. Gary Namie, a U.S. social psychologist who advises companies on workplace bullying.

Impact on reputation

However, while workplace bullies may intimidate to get things done, their behaviour impacts not only targeted employees, but also reputations. The alleged ‘erratic and immature’ behaviour of one senior official not only impacts his or her reputation, but also that of the organization – destroying morale, encouraging attrition and lawsuits, and hindering recruiting efforts.

At some point – without efforts to curb bullying behaviour – word starts to leak out about these toxic work environments and action becomes necessary. In today’s transparent world of electronic communications – where

bad news travels fast – the fallout can eventually force change, even at the highest levels. The Maclean’s article refers to intimidators who bully to get things done and how “some of them – like Disney’s Michael Eisner, Miramax’s Harvey Weinstein and Hewlett-Packard’s Carly Fiorina – fall from power amid nasty stories about their toxic behaviour.”

Emboldened by the publicity this issue is starting to generate and waiting until the time is right to respond, others are reacting in different ways. One police officer, who recently resigned, says he’s kept several years of abusive emails and plans to write a book to expose the boss. From what I’ve heard about his superior, he’s likely to have a lot of help.

Police organizations and other employers can, however, minimize the impact of workplace bullies by closely monitoring the work environment and behaviour of known offenders. Namie advises companies to monitor bullies – not to try changing the person, but to at least minimize the negative results of their behaviour.

“Usually they leave,” he says. “They don’t like to be monitored. They don’t like to be held accountable.”

In the mid-1990’s, the Calgary Police Association (CPA) took the lead in trying to impose some degree of accountability on senior police officers, asking the general rank-and-file for feedback on their performance. The results were not surprising.

The three receiving the highest (positive) scores: then deputy and now chief of police Rick Hanson, and now retired inspectors Rene Bailly and Pete Jackson, were well known for supporting rank-and-file officers. The lowest (negative) scores went to another inspector; one considered a bully by many frontline officers. Unfortunately, his toxic behaviour didn’t stop him going on to become a chief in another province.

The CPA published the survey results in its internal magazine and they were picked up by local media. Exposure of bullying bosses through such tactics, articles in publications such as Maclean’s, and web sites such as www.bullyinginstitute.org and www.bullybusters.org is starting to have a positive effect – raising awareness of the problem and encouraging employers to deal with it.

Employers that take bullying seriously will likely limit the risk of lawsuits, protect their corporate reputations and, most importantly, create more positive work environments for the organization’s most valuable resource – its employees.

Mark Giles is *Blue Line*’s correspondent for public and media relations, military and international issues. He is also a senior communications analyst for defence and foreign affairs at the Privy Council Office in Ottawa. Contact him at giles@blueline.ca

Right to counsel choice not absolute



Police don't have to wait to collect a breath sample if an arrestee is not diligent in accessing counsel, Ontario's highest court has ruled.

In *R. v. Van Binnendyk*, 2007 ONCA 537, the accused was stopped for speeding and the officer noted signs of impairment. After reading the breathalyser demand, he advised Van Binnendyk about his right to counsel and legal aid and took him to the station, where he re-stated his rights. On both occasions, the accused named his lawyer and said he was "not accepting anyone else," but did not have a telephone number.

Police found a number, called it and left a message that Van Binnendyk was in custody awaiting a breath sample and wanted to speak to the lawyer before doing so. A call back number was also left. After waiting about an hour, the accused was told his lawyer had not called back and asked if he wanted to call someone else. He declined, and was told to let police know if he changed his mind and they would arrange another call. Van Binnendyk never asked to speak with another lawyer. Two breath tests were taken, both with readings exceeding 80mg%.

At trial in the Ontario Court of Justice on charges of impaired driving and over 80mg%,



Van Binnendyk argued police violated his s.10(b) Charter rights so the results should be excluded as evidence. The trial judge ruled that Van Binnendyk only wanted his lawyer of choice and wasn't reasonably diligent in exercising his right to counsel. He had not established that his s.10(b) right had been violated and was convicted of over 80mg%. An appeal to the Ontario Superior Court of Justice was unsuccessful.

Van Binnendyk then appealed to the Ontario Court of Appeal, arguing that the lower courts erred in rejecting his argument. The court unanimously upheld the lower judgments, stating:

A person detained by the police must be provided with a reasonable opportunity to exercise the right to counsel and, except in cases of urgency or danger, the police must refrain from eliciting evidence from the detainee until he or she has had that reasonable opportunity. The detained or arrested person who is offered the

opportunity to contact counsel and asserts his right to a "particular counsel" must, however, exercise that right diligently.

While an accused person has a right to his or her counsel of choice, that right is not absolute. If the lawyer chosen is not available within a reasonable amount of time, the accused person will be expected to exercise the right to counsel by calling a different lawyer...

The (accused) had the onus of proving on a balance of probabilities that his s. 10(b) Charter rights had been violated. The (accused's) onus was to prove that his right to retain and instruct counsel without delay and to be informed of that right, was breached. In discharging that onus, the (accused) had to prove as well that he acted with reasonable diligence in the exercise of his right to choose counsel (reference omitted, paras. 9-11)...

Here, the police informed the (accused) about legal aid duty counsel, they attempted to contact his counsel of choice and they repeatedly offered to contact a different lawyer if he changed his mind. The (accused) refused all these efforts insisting that he would only speak with his counsel of choice. In this context, including the findings of the trial judge that the police discharged their duty, the (accused) did not prove that he acted with reasonable diligence or that his s. 10(b) Charter rights had been violated (para. 13).

Van Binnendyk's appeal was dismissed.



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Traffic stop safety search justified

British Columbia's highest court has upheld a police officer's safety-related search during a non-criminal traffic stop.

In *R. v. Thibodeau*, 2007 BCCA 489, an officer saw the accused drive on the wrong side of the road, then veer back, late one night. He stopped the car and asked the driver, Thibodeau, for her license and registration. She produced the registration but was unable to find her license, despite searching her wallet for some time.

Thibodeau appeared more nervous than most people stopped for a traffic infraction, according to the officer, who also noted she avoided looking in a fanny pack worn around her waist for quite some time. She also turned her body away from the officer at one point, blocking his view of her hands. Nervous and very concerned for his safety, he wondered whether she might be looking for a weapon.

Thibodeau handed him her driver's licence, but again turned so her hands were not visible and the officer asked to see her bag and hands. "I don't think I have to do that," she said. "I need to see your hands and your bag," the officer responded. "I am concerned about what's in the bag." The motorist passed the bag towards him and he reached in the window to take it. The zipper on the smaller of two pouches inside it was open and the officer could plainly see a small baggie of crystal methamphetamine.

Thibodeau was arrested for possessing a controlled substance, escorted to the police vehicle, read her s. 10 Charter rights and warned that she didn't have to say anything. A yellow backpack, scale, more drugs, cell phones and notebooks were found in a search of her vehicle as an incident to lawful arrest. Thibodeau was arrested for possession for the purpose of trafficking and again informed of her rights.

A BC Supreme Court trial judge admitted the methamphetamine and drug paraphernalia during a voir dire, finding Thibodeau's initial detention wasn't arbitrary because the officer had witnessed a traffic infraction. The fanny pack search wasn't a fishing expedition for evidence; the officer was looking for weapons, not drugs. Nor was the search unreasonable. The officer was justified in concluding, objectively, that the search was reasonably necessary to confirm that Thibodeau wasn't looking for a weapon.

In the judge's view (1) Thibodeau seemed more nervous than the circumstances, in the officer's opinion, would warrant; (2) she had turned her body away from him; (3) she had looked in her wallet for one or two minutes before looking in her fanny pack for her driver's

licence; and (4) the officer could not see her hands and what she was doing with the fanny pack. As for the search of the backpack, it was proper as an incident to arrest.

Thibodeau was convicted and appealed to the British Columbia Court of Appeal, arguing the trial judge erred in failing to consider the totality of the circumstances when the officer took the fanny pack. First, she argued that once she made her hands visible and gave him the fanny pack there was no need to search it because he would no longer have a safety concern. Second, there was no suspicion of criminal activity, unlike the leading case on investigative detentions and searches in the Supreme Court of Canada decision *R. v. Mann*, (2004) 3 S.C.R. 59.

Delivering the court's unanimous opinion, Justice Newbury agreed that the search was reasonable, stating on the first point:

(T)he constable was concerned for his safety, based on the four factors outlined ... these constituted objective grounds for that concern. The request to see (the accused's) hands and fanny pack then began a course of steps – her bringing the fanny pack forward, making her hands visible, the officer's reaching and taking the fanny pack from her – that it would be unreasonable to try to divide such that at some point before he looked into the fanny pack with his flashlight, the legal situation suddenly changed and the search became improper. In other words, it would be unreasonable, in my view, to require the officer to have suddenly said "never mind" once he could see (the accused's) hands (if indeed he could, apart from the fanny pack). The factors listed by the trial judge still obtained throughout the few seconds this series of steps would have taken (para. 9).

On the second point, Newbury upheld the trial judge's ruling that the officer acted reasonable even though he was not investigating a criminal offence:

With respect to Mann, I am not persuaded... the Supreme Court's concern generally for balancing privacy expectations with concerns for officer safety do not have application, or have very diminished application, where only a Motor Vehicle Act offence is concerned.

Certainly, the fact (the officer) was dealing with this type of offence as opposed to a murder or bank robbery is one of the circumstances to be considered as part of the "totality," but the fact remains that police officers may have valid safety concerns even where the offence is not a crime, and even where the person detained seems polite and co-operative (para. 10).

The search of the backpack was also valid as an incident to arrest.

Intermediary guilty if specific trafficking act committed

The Manitoba Court of Appeal has overturned an acquittal after holding that an accused who helped an undercover officer buy drugs actually committed acts of trafficking.

In *R. v. Wood*, 2007 ABCA 65, two undercover officers met Wood, who was panhandling, and asked about buying "an hour of hard," slang for a gram of crack cocaine. Wood used an officer's cell phone and the three walked four blocks to a grocery store parking lot. There, a vehicle arrived and Wood took the buy money from an officer, went to the vehicle and returned with the drugs (walking a block or two). In exchange for his help, Wood was given a small piece of crack, known as a hoot, and was charged with trafficking cocaine.

Wood was acquitted at trial in Alberta Provincial Court. The judge found he gave only incidental assistance, lacking the necessary mens rea for trafficking, and his assistance wasn't necessary for the purchase to be consummated. The Crown appealed to the Alberta Court of Appeal.

Writing the judgment, Justice Cote first examined what trafficking entails and found it did not necessarily require a sale. Section 2(1) of the CDSA defines trafficking as any of a number of acts – including to sell, give, transfer, send, deliver, or offer to do any of these. The mens rea component for trafficking is knowledge that an item is a controlled substance and intent to commit the forbidden act (such as transporting):

Mens rea is a type of intent ... (F)or trafficking, it is the intent to do the act, such as sell, offer to sell, transport, deliver or offer to deliver, etc. (It also requires knowledge that the chattel is an illegal drug or substance.)

Very different is motive. That is the ultimate result expected or hoped from the act or transaction, such as making a profit, harming someone, having fun, fooling someone, gaining attention, relieving boredom, getting exercise, gaining admiration of someone or achieving some political aim.

No particular or any motive is needed for a criminal conviction for trafficking. Indeed, motivation is usually not needed for criminal liability and is often mysterious or disputed (references omitted, paras. 36-39).

Cote found Wood had personally committed all the elements of a trafficking offence, stating:

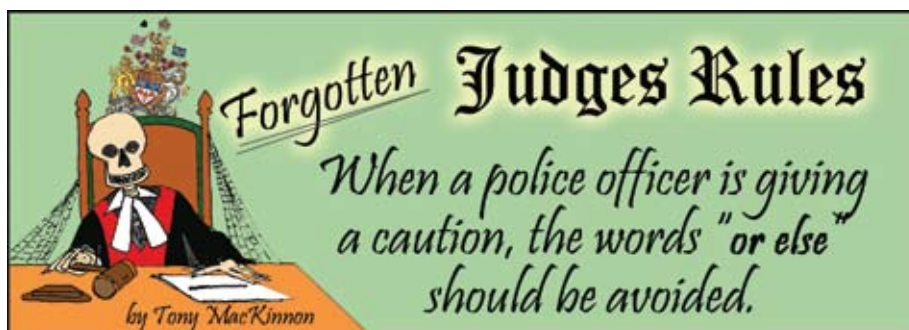
Here, the accused... kept the seller and buyer separate and shuttled between the two with the money. I will assume that the accused wasn't himself a seller... however, it is at least arguable that he "gave" the cocaine to the buying undercover constables. He certainly "transferred" and "delivered" the cocaine. He carried it first across the parking lot and then part of the distance up (the street) to the park, and he certainly "offered to do" those things (before and at this time) (para. 28).

The court rejected the argument that Wood could use "buyer's agent" as a free standing defence. When someone buys illegal narcotics through an intermediary, that intermediary will not be guilty of trafficking if they were merely the buyer's agent or helper (solely aiding the buyer) and did not commit any of the acts defined as trafficking. However, if the intermediary does commit an act defined as trafficking (as Wood did in this case), the fact he was helping the buyer is no defence.

"Whom the accused assisted or intended to assist, is irrelevant where the accused personally committed forbidden acts," said Cote.

The Crown's appeal was allowed, a conviction for trafficking entered and the case sent back to provincial court for sentencing.

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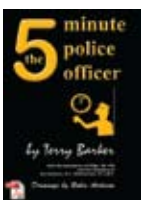


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Risk, ruin or redemption

by Robert Lunney

For all the emphasis on recruiting police officers who want to serve and are genuinely devoted to helping the community in a sensitive and thoughtful way, many of the best candidates – and current officers – remain powerfully attracted to the excitement and unpredictability of the job.

For the adventurous of mind, encounters with the unexpected and exposure to risk has genuine appeal. While collaborative problem solving and community building is now a vital part of modern policing, public safety and protection tops the list at the first threat of real danger.

That's when society depends on resolute and courageous police officers rising to the occasion. Often that responsibility falls to those willing and capable of accepting some greater degree of risk.

Policing will never be a predictable occupation. Every situation has differing elements and, while policies can be devised to give direction in ordinary circumstances, it's up to street officers to interpret policy depending on what they encounter. That means accepting risks.

There are several kinds of risk takers: The inexperienced, those who are conservative by nature in all circumstances, people who take reckless and unjustifiable gambles (count them among the truly dangerous) and those who weigh the balance of probabilities, make rapid but calculated decisions and then turn them into action.

A talent for successful risk taking is developed through personal experience and learning from others. Luck is sometimes cited as a factor, but good luck favours the prepared mind. Joseph Wambaugh explained it this way in 'The onion field':

"Twenty minutes later the communications



operator re-broadcast the information on the stolen Plymouth. This time more was added. "Above vehicle possibly occupied by two male suspects wanted for kidnapping and murder of a police officer."

The sergeant, anticipating the reaction of young aggressive officers, came on the air and ordered all units to remain on their beats, but officers Odom and Crist looked at each other and Crist said, "Screw the beat. Let's hump." Odom drove toward Highway 99, across the Taft Highway to the new freeway and south. He drove 140 miles per hour."

Odom and Crist stopped a car on the freeway, arrested two suspects and seized the murder weapon. This time, impulsive risk-taking paid off – big time – but had they smashed into an innocent party while speeding across country, what would be the verdict?

Tracey Gove of the West Hartford Police commented on the balance between risk and responsibility in an *FBI Bulletin* article:

Empowerment and accountability hold great importance for law enforcement

officers, who possess a tremendous amount of responsibility and significantly less line-of-sight supervision than employees in most other occupations. Thus, the inherently autonomous nature of law enforcement work carries a strong need for independent decision making. Similarly, the potential consequences – including liability – of police-citizen encounters necessitate careful accountability.

Further, today's officers are highly educated in a variety of subjects and have a wealth of knowledge and diverse backgrounds. They have learned to think and make decisions independently. A work environment that fails to empower these individuals will erode their motivation, direction and self-initiation. The effects of this devitalized work spirit can become exacerbated among some of the younger police officers in the current workforce who may require considerable motivation...

Only through empowerment will officers become fully engaged, motivated and willing to follow leaders. Supervisors must carefully design and orchestrate the empowerment process. Too much freedom will result in officers feeling alienated or confused and will leave them open to guessing in uncertain situations.

Hero or zero, risk taking is not for the inexperienced, rash or irresponsible. Ultimately, the risk taker is accountable for the outcome and management is accountable for their training and supervision. Too much supervision stifles the initiative police services need their officers to take, while too little leaves the agency exposed to community criticism and court actions.

It's risk, ruin or redemption, but calculated judgment based on knowledge and experience makes all the difference.

Bob Lunney is the former Chief of Police of Edmonton and Peel Regional Police. He was a former member of the RCMP and Director of Public Safety for the city of Winnipeg. He is an occasional contributor to *Blue Line Magazine* and the publication's advisor on police management and leadership. He may be contact by email: lunney@blueline.ca

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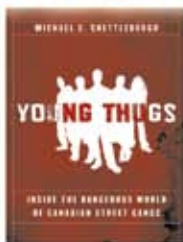


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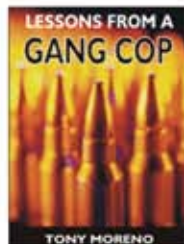
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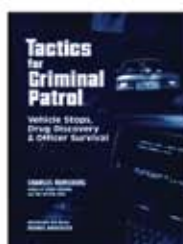
Revised in 2006, this foundational text on leadership performance, organizational change and optimization provides a self-assessment and planning process for public safety, justice and security members who want to make leadership and organizational development a priority.

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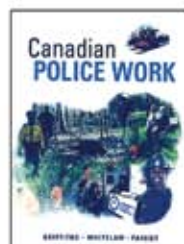
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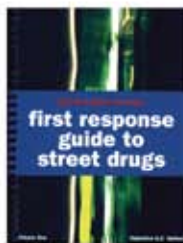
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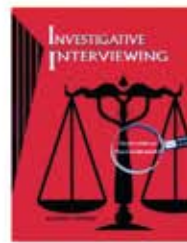
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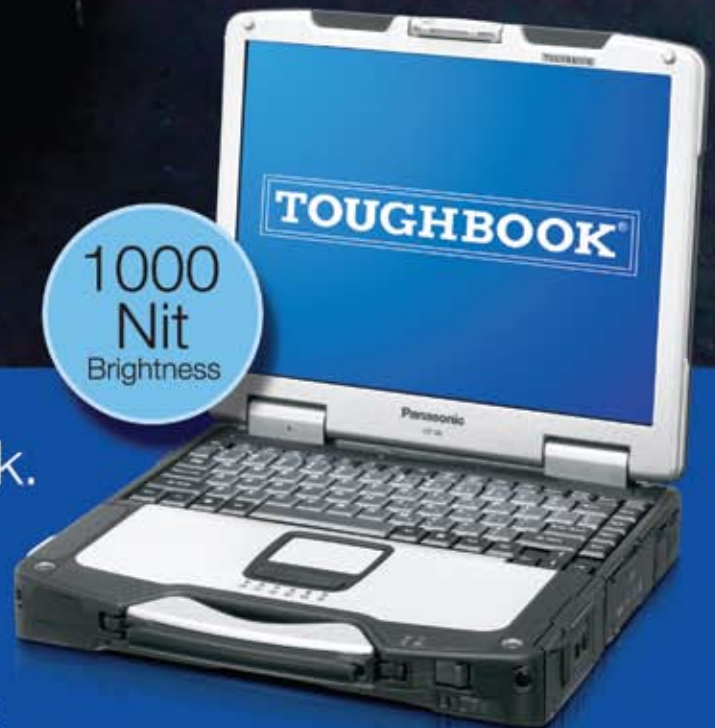
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