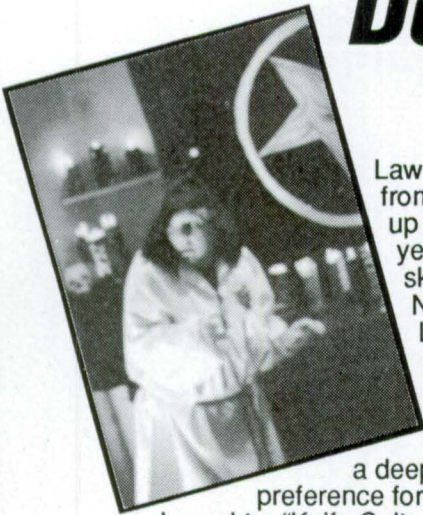


Blue Line Magazine

April 1989

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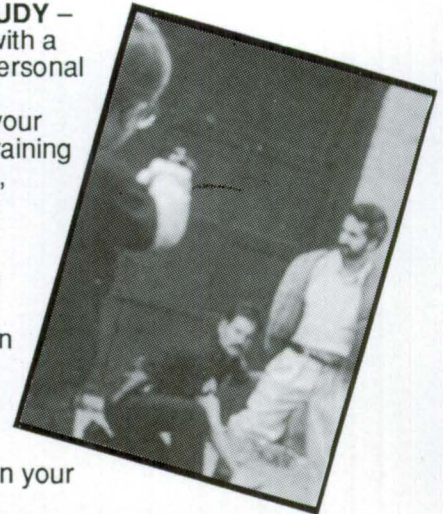
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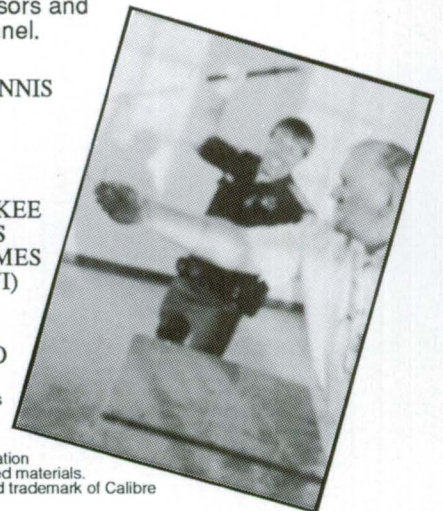


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The role of women in the police profession has changed dramatically over the past 25 years. This month's cover shot of Provincial Constable Lori Ducharme typifies today's woman in policing. No longer looked upon for their strengths by gender, the female officer of today is seen as a rank and file officer capable of day to day street work.

Blue Line Magazine, in the next three issues, will discuss the role of women in policing. To accomplish this task our feature writer, Louise Dueck, has interviewed three police officers covering three different generations, ranks, and police forces.

What we would wish to accomplish by these stories is a better understanding of women as they perceive their work - past, present, and future. It is important in this day and age that the police community realize that the profession is not a gender oriented job. We feel we have picked the best people to tell their stories. Each of these officers is recognized for her police skill and abilities.

We hope you enjoy these three stories. They are stories never told in this manner or to such an audience. But there never has been a proper method to tell this story up to now. This is a task that could only be accomplished by a publication like Blue Line Magazine. We encourage you to respond to this series by writing to us with your own understanding and insight on this topic.

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Second class mail registration pending

President of C.P.A. speaks out

Don't shoot the messenger

Editor's Note:

Blue Line Magazine is dedicated to improving the officer's professional life. For this reason we do not publish items that would be handled by the popular press in their questionable manner.

The following, however, is a letter sent in to the Toronto Sun by James M. Kingston, President of the Canadian Police Association. I have not read anything that can compare with this for its straightforward message and common sense. We feel that it falls within our mandate as a professional magazine to reprint it here for you.

Police officers are normal, well-educated, public spirited individuals who have joined their forces because they thought it would be an exciting and rewarding career. They are, in the main, neither racists nor bigots, just people who love Canada and believe the safe orderly society we have is worth protecting and, if necessary, dying for.

The constant media battering of police is eroding their confidence and making them question their chosen career. Many

are taking early retirement or seeking other employment. Our members are urging their associations to speak up on their behalf.

Insensitive governments at all levels, who react by calling public hearings that turn into public media circuses, don't help. I know of no police administration or police officer who would not welcome qualified women and ethnic minorities onto their force. However, press gangs and conscription are no longer legal. The only way we will change the face of policing to mirror our society is if policing is viewed as an attractive occupation.

Militant ethnic and minority leaders cannot have it both ways. They cannot continue to call us gun happy, brutal, racist bigots and expect their sons and daughters to join us.

I assure you that contrary to recent statements, ethnic members are not seeking employment by making official application. In support I have included the 1988 applications for the Ontario Provincial Police: Male Caucasian - 2,502 applied, 245 accepted, 9.8%; Female - 368 applied, 35 accepted, 9.5%; Ethnic Minorities - 87 applied, 8 accepted, 9.2%

It would also be most instructional if our critics attended a training video called "Shoot, Don't Shoot." They would quickly see in that split second before acting, that we are all colour blind. A kinder, less sensational media would be truly appreciated.

Blue Line Magazine Flash Cards

The Judge's Rules - Number 2

Whenever a police officer has made up his mind to charge a person with a crime, he should first caution such person before asking him any questions, or further questions, as the case may be.

This generally means that when an officer concludes that a person is to be charged with an offence then he is required to advise the person that he has the right to remain silent etc. If the officer ignores the giving of the caution he is open to judicial review as to when he should have made the caution.

Women in policing - Part 1

Jean Boyd: The police profession's woman of "firsts"

- Louise Dueck -

Etobicoke's new Staff Superintendent, Jean Boyd, is a shining example of achievement through dedication and hard work. Boyd has moved through the ranks briskly since her first promotion to Sergeant in 1975 to arrive at her present position in just under twenty five years. She now enjoys the status of being the highest ranking woman in policing in Canada.

Boyd has seen a lot of action and many changes during those 25 years. One of these is the elimination of a weight requirement, a thorny problem for her which necessitated bi-annual applications for six years until she was finally accepted and sworn in as a Police Constable of the Metropolitan Toronto Police Force in November, 1963.

A native of Scotland, Boyd had dreamed in high school of becoming a police officer. Always interested in mysteries, she began drawing her own conclusions as to guilt in some of the most notorious murders of the time, and often she was right. "I just had a natural inclination towards criminal work," Boyd concedes.

Too young to enter the force in Scotland, Boyd combined her interest in policing with an urge to travel and came to work for Trans Canada Pipelines. But her natural inclination soon reasserted itself and she

began what was to become a lengthy application process to achieve her cherished goal.

More shocks were to follow. While

her initial training was exactly the same as her male counterparts, the sameness disappeared once qualified. Boyd was issued a navy fitted suit (like an airline stewardess!) she exclaims indignantly, a shoulder bag (male officers placed items into their patch pockets), and - no firearms. This unarmed state was to last until 1975.

Duties were also restricted. Boyd spent her first two years working out of the Women's Bureau to which the majority of female officers were assigned, doing traffic duty, searching of female prisoners and juveniles, general patrol and decoy work.

"Enterprising women officers", Boyd recalls, "followed their noses on such things as suspicious cars and thus partici-



pated in arrests. But they were never detailed to such work due to being unarmed." These few women officers (32 out of 1481 uniformed officers) had all of Toronto to patrol by car, on call to any male officer who radioed for assistance.

After two years Boyd was one of a few women chosen for an experiment in placing a woman in selected divisions. Boyd was sent to old 56 Division (Pape and Queen) where she was the only woman in the station. Though still un-

armed, it was intended these selected women would work along with male officers. While paid the same as their male counterparts, Boyd found not all officers allowed her to do her share. Often she was little more than a chauffeur.

In 1966 Boyd was transferred to the Youth Bureau, spending the next seven years in active community work with juveniles. This entailed investigative work in break-ins and shoplifting, with the emphasis on helping youth before they turned into adult criminals, via referrals to supporting agencies.

While she was thoroughly enjoying this work, Boyd was seconded in 1973 to the Canadian Law Reform Commission to determine whether the referral

system was working. If it proved to be working, the intent was to try it with adult offenders.

To her chagrin, Boyd perceived the end result to be increasing involvement, not a lessening, as the youth received more and more chances. Intervention had not accomplished the desired goals, the study concluded.

After serving a further year in the Youth Bureau, Boyd was assigned to the Metro Police Citizens Complaint Bureau where she investigated complaints against police officers. Boyd relished the opportunity to do in-depth investigative work and claims any officer found guilty was disciplined. She also made it clear that often complaints were unjustified. If it was determined that complaints were fabricated, public mischief charges were laid.

Boyd also relished the opportunity this position provided to improve procedures and make things better for all officers. "Those were the best three years of my life," Boyd stated.

While at the Complaints Bureau, after twelve years on the force, Boyd was promoted to Sergeant. In 1977 she was transferred to No. 51 Division as a uniformed Patrol Sergeant in the Regent Park area of Toronto. Once more Boyd found herself the only female officer at the station, but this time she was the second-in-command of a 42-man platoon and in charge of an eight-man foot patrol. The dedication and hard work which were to become her trademark soon earned her the loyalty and respect of her male counterparts.

Just 11 months later Boyd was promoted to the rank of Staff Sergeant and transferred back to the Youth Bureau, this time as a Supervisor.

In 1979, 16 months later, Boyd was transferred to No. 14 Division as a uniform Staff Sergeant in charge of a 65-man platoon. A year later Boyd received another transfer, this time to the Intelligence Bureau as Administrative Staff Sergeant in charge of 150 male and female officers. This also was

Continued on Page 16

Below left: Staff Superintendent Jean Boyd - achievement through dedication and hard work. Below right: Caution - women at work. Jean Boyd at a 1964 demonstration. Helping her is Fern Alexander, who advanced to the rank of Inspector before retiring from the force.



Guidelines in place for curative treatment

(R. Vs. Ashberry) (R. Vs. Mills)

The Ontario Court of Appeal has set out the criteria to be used when considering an offender for curative treatment under the drinking driving sections of the Criminal Code. This is the first court to make a majority decision in the matter and it is generally felt that these guidelines would survive Supreme Court of Canada scrutiny.

The section of the Criminal Code that enacts this section [Section 255(5) 1989 - or 239(5) 1988] states in part that a court may "instead of convicting a person..., after hearing medical or other evidence, if it considers that the person is in need of curative treatment in relation to his consumption of alcohol or drugs and that it would not be contrary to the public interest, by order direct that the person be discharged... on the condi-

tions prescribed in a probation order,..."

Mr. Justice David Griffiths summed up the five rules to determine if a person should receive the benefits of this section:

- The judge should consider circumstances such as whether death or injury was caused by the offender. If it was, the offender may not benefit from this consideration due to the need to show the social repudiation of this type of offence.

- The judge can consider the accused's motivation for requesting the treatment provisions. The court can consider if the accused is merely using this as a ploy to evade jail term.

- The court can consider the availability and caliber of the treatment proposed. It can also consider the participant's ability to complete the treatment.

- The court should consider if it believes the offender will repeat the drinking driving offence and how successful the treatment will be.

- The court must also consider if there has been a previous conviction for the offence.

It is felt that these alternative sentencing procedures will create more incentive for individual offenders to receive curative treatment for drinking illnesses rather than simple incarceration. The court made it equally clear that it was not going to be conned into letting offenders off lightly by using the alternative treatment provisions. The court reaffirmed the need to consider the public interest in such offenders and that it will be the public interest that will be paramount in sentencing.



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In Canada more and more officers are being disarmed. Sometimes the offender flees with the weapon, sometimes the offender uses it on the officer or himself. The disrespect for authority is becoming greater and suspects are grabbing the first weapon they see in a struggle for freedom or for other reasons such as revenge or suicide. We know that today's lifestyle breeds stress and sometimes depression. Why then, if we see the number of officers nationally who lose their weapons to offenders, is there no real training in handgun retention and handgun awareness by so many forces?

Far too many officers can be seen at a restaurant sitting at the counter with their gun poised neatly in the small of their back or not far from it. Officers tend to become complacent with their guns as the years go by. The gun becomes just a weight on their belt because they seldom have to use it. We must teach them to keep a proper mental attitude toward their weapons.

Complacency in the way you sit at restaurants or even at the station can cost you your weapon and possibly your life. It is so easy to walk past an officer who is distracted for whatever reason and grab his/her gun from its holster... even the new security type. Officers get disarmed in many different situations. Being from

Bleed Line Magazine

Featured writer: **Craig Best**

Craig Best is an eight year member of the Canadian Pacific Police Force. He is the Quebec director of the American Society of Law Enforcement Trainers. He is considered an expert in the use of the PR-24 police baton, Pressure Point Control, and police defensive tactics instructor. Craig instructs at the Montreal Training Academy for CP Police and is a graduate of Concordia University's Security Administration. He is also the founder of the Officer Survival Institute in Montreal, Quebec.

Handgun retention: **The weakest link in the chain**

- Craig Best -

Montreal, I know of many attacks on officers from my area over the past few years. I know of three officers who were

There are a couple of very good systems of handgun retention available to police forces. There are also schools



Complacency is an enemy to be fought at all times. Taking a firearm for granted puts you at risk, as some officers have found out the hard way.

that teach officer survival awareness and handgun retention. If we care about our officers, then we owe it to them to ensure that they get the training that could save their lives.

I realize that police

work can be very routine and that officers can get caught by surprise when nothing has ever happened to them before, but it only takes a second or two to change all that. There are too many "two second" periods in an officer's career for him to know which "two second" period is his turn.

work can be very routine and that officers can get caught by surprise when nothing has ever happened to them before, but it only takes a second or two to change all that. There are too many "two second" periods in an officer's career for him to know which "two second" period is his turn.

It has been proven that officers revert back to their basic training when under stress, therefore if they get survival awareness and handgun retention training we could possibly reduce considerably the amount of successful attacks on officers' guns.

I know that budgets are tight everywhere and that administrators do not always have training as their main priority, but I do see a need to prepare our officers with the awareness and the training that will allow them to win if they are targeted for this type of attack.

Administrators are sometimes led to believe that if they buy a certain holster that their men will be safe against such attacks. I must agree that the security holsters on the market do help in many cases but guns can and are taken away from all types of holsters. We should not be fooled into thinking that training and awareness is not necessary.

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CASE LAW:
Right to Counsel

Police not required to re-Charter accused

(Regina Vs. Bain)(Regina Vs. Logan et al)

"The police are not the guardians of the solicitor-client relationship. Although there are well settled restrictions on their treatment of detained persons and certain affirmative obligations set out in the Charter and the Code, the primary function of the police is to investigate an alleged crime with a view to solving it and obtaining a conviction."

These were the words of Ontario Court of Appeal Justice George Finlayson in his January decision that effectively clarifies some conflict regarding this matter.

In the first matter (R. Vs. Bain) the accused had been arrested for sexual assault and given his 10(b) rights. The accused's father advised his son to say nothing to police until he had spoken to a lawyer. Bain was taken to a police station at that point.

After arriving at the police station the investigating officer received a phone call from a lawyer who advised the officer he did not want any questions put to his client until he arrived at the station. The lawyer did not speak to the accused nor did he leave a message for his client to return his call.

The officer returned to the accused and did not tell him his lawyer had called and continued to ask him questions. The accused gave a damaging statement to the officer who later placed the evidence before the court.

A lower court had thrown out the evidence but the Court of Appeal reinstated the evidence stating the right to counsel "confuses the role of the police, which is investigative, with that of defence counsel, which is protective and essentially adversarial to the role of the police."

The court subsequently ruled that the police did not breach the accused's right to counsel by not telling him his lawyer had phoned. It was up to the lawyer to speak to his client and relay that message to the accused. The lawyer can not expect the police to be his messenger in such matters.

In the second matter (Regina Vs. Logan et al.) two police officers were

placed in a detention centre in an undercover operation. The police had heard that two of the three persons charged in a vicious robbery were bragging openly about the offence to inmates.

The officers were planted under the guise of being held on trafficking charges. Their instructions were to say nothing to the accused persons but just stay in the proximity to them. Before long one of the accused began talking to the officers about their adventures.

The statements were accepted by the Court of Appeal. The court advised that the statements were not given as a result of any threats or inducements and were completely voluntary.

The Court of Appeal ruled that officers are obligated to advise an accused that he has the right to counsel and the right to remain silent. They are not required, however, to re-advise the accused each and every time they wish to question the accused or take another statement. It is up to the accused to ask for his counsel to be present and to determine if he should remain silent. The lawyer on speaking to the accused is obliged to explain that the accused is not required to say anything to the police. He can not tell his client to say nothing as this is tantamount to obstructing justice.

In coming to their decision in these matters the Ontario Court of Appeal reviewed extensive case law and determined that the American right to remain silent has a wider interpreta-

tion than does the Canadian counterpart. Due to this American case law can not be used to interpret Canadian law.

The court also determined that "the very wording of section 10(b) appears clearly to focus on the rights of an accused to retain and instruct counsel at the time of the initial arrest or detention." It does not provide "a continuing right to be re-instructed before every occasion on which the police obtain a statement from the accused."

It is obvious that this new ruling will place further responsibilities upon defence lawyers. Due to many lower court rulings many officers have been doing a lot of extra work that places them in a position of being an assistant to the lawyer. These rulings clearly state that police are not bound to take their instructions from defence lawyers.

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Product review

New traffic counter/classifier

It costs police departments a great deal of time and money to monitor traffic to determine where the most serious speeding problems exist and at what times of the day. But how do you determine where the most serious speeding problems are without sending a radar-equipped police vehicle to various locations to monitor the traffic?



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TC/C operation is easy and effective. An officer or technician sets up a TC/C on a street where police believe a traffic problem exists. Once the TC/C is set up, the officer leaves the unit in place to automatically collect vehicle speed data for a specified time. The data time period could be hours, days or weeks.

The TC/C will never replace a police officer. It will, however, allow the officer

to make more efficient use of his/her time. It will do the traffic counts and observations of a potential traffic problem while the officer goes about his normal duties. When the count is finished a simple analysis of the data will help supervisors to detail the appropriate manpower at the most effective time periods to deter potential traffic problems.

A secondary benefit of the TC/C is to give the police some accurate data to show citizens groups or other agencies who complain. The decision to deploy or not to deploy expensive manpower to a complaint is always easier when accurate support data is available. The Traffic Counter/Classifier and Speed Monitor will provide this essential data.

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A range of clothing and equipment from Britain is said to protect the user from nuclear fallout and biological and chemical hazards.

The equipment, from Intcon, is a complete kit and includes protective suit and overboots, respirator and gloves. It is said to provide complete protection to the body and inner clothing. The kit includes a chemical vapour detector to detect small concentrations of both vapour and gaseous agents. Paper for de-

tecting the presence of liquid chemical agents, by a simple colour change from grey/green to dark blue is also provided, with a decontamination kit claimed to provide effective decontamination against all known chemical agents.

The respirator is a light, small, durable mask which allows the user to operate more effectively by providing an undistorted field of vision. It incorporates an air-ducting system to prevent condensation forming inside the eyepieces, and also allows for the use of glasses. The mask will allow normal voice communication.

For more information contact;
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171 Harehills Lane
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Digital speech recorder and analyzer

A new digital recording system makes the transcription of recorded speech easier, quicker and more accurate.

'Besom II' from Racal Canada Inc. makes it possible to extract the intelligible speech from faint or crackly distant radio or telecommunications transmissions.

The voice information is recorded digitally on to a hard disk memory. Through advanced software any point of the disk may be precisely indexed so that it can be returned to and repeated as often as required. The use of digital recording ensures that there is no loss of fidelity throughout the process.

The recorder is controlled from a computer. Digital speech can be loaded and saved through the computer, which is also used for further analysis of the signals. Recordings downloaded from the instrument can be reloaded to provide instant access and analysis.

For further information contact;
Richard Howes
Racal Canada Inc.
1806 Woodward Drive
Ottawa, Ontario
K2C 0P7 (613)225-4640

Accident and crime scene measuring

Conventional measuring methods for accident and crime scene reconstruction are time consuming and inefficient. International Road Dynamics, of Saskatoon, has developed a new Radial Measuring Device, the RMS-8010, to counteract these problems.



IRD's RMS-8010

Conventional baseline and angle methodology is time consuming, delays traffic, increases congestion, and heightens the possibility of an additional accident. The RMS-8010 system gathers the accident scene data in half the time of traditional methods. It eliminates the "right angle" requirements of the Baseline method, and is particularly valuable when investigating or reconstructing a scene composed of irregular curb lines and topography.

The RMS-8010 system operates on standard surveying principles and requires minimal training. The system is used by the investigator at the scene to measure and record the angle and distance to each item of evidence. The officer places the field unit on the road surface at a reference point central to all others (in the middle of the intersection for instance). The device is then rotated to point to the magnetic North Pole. The actual direction is of no consequence to the measurements themselves; it merely establishes one main reference point.

The tape measure is then pivoted on a pointer to the various points of the

scene to be measured. Both the angle and distance are recorded on a waterproof notepad.

Back at the station, these reference points are transferred using the Polar Needle Graph Board. This device effectively transfers the road markings to paper in a ready-made, scale version, using at its center a calibrated needle that simulates the taper sweep used at the accident scene. The RMS-8010 system is fast, accurate, and easy to use.

The new unit is improved over an older model in that it only requires one officer to operate the system, features both metric and imperial measurements, and may be mounted on an ordinary tripod. Another notable improvement over the previous model is the significantly lower price.

The system has been used by police departments, police colleges, and private consultants across North America. It has been enthusiastically adopted as a superior alternative to traditional measuring methods. The RMS-8010 has also been used for criminal investigations and ballistic measurements and can be used in any instance where quick and accurate measurement is required.

For further information contact:
Rod Klashinsky
International Road Dynamics
A5-116, 103rd Street
Saskatoon, Sask.
S7N 1Y7 (306) 955-3626

Easy-to-wear suits for divers

A diver's suit and an undersuit from Britain are designed for convenience in dressing as well as for warmth and comfort.

The dry suit, from Polar Bears (Diving Equipment), has a diagonal front zipper that can be donned without assistance. A quick-change cuff system allows the diver to renew the seals when necessary without having to return the suit to a repairer. It is made from two layers of high-tenacity nylon with a butyl membrane between them and has leg shields and hard-soled boots. Options include latex socks, angle seals, pockets and elasticated waist.

The lightweight 'Thinsulare' undersuit is windproof and weatherproof so that it can be worn as an outer garment on the surface. The polyurethane-coated-nylon outer suit has an insulating inner core quilted to a polyester lining. It has a double-ended zip fastener, thumb loops, foot straps, two handwarming pockets, a top safety pocket and an elasticated waist. It is available in six sizes and a choice of three colours. Enquiries are welcomed by the company.



The dry suit from Polar Bears (Diving Equipment)

Polar Bears (Diving Equipment) Ltd.
The Old Chapel - Tower Street
Launceston, Cornwall
England, PL15 8BQ

Accused must prove licence exists

(Shwartz Vs. Regina)

A police officer stopping a motorist demands that he produces his driver's licence. The motorist advises that he does not have it with him. The officer then lays a charge of "Driving without a licence." What would be required of the officer to prove in court - that a licence does not exist for this person?

The answer to this question was given this past December by the Supreme Court of Canada. Using Shwartz Versus Regina all the officer would state is that the man was afforded the opportunity to produce his licence and he failed to produce it. The court can then determine that a prima facie case exists that the accused was not licenced. This would

require the accused to take the stand and produce the document.

This sort of Reverse Onus situation has a long history going back to the mid-30s in Canadian law. It basically states that where the government has received application for a licence or permit and that permit is issued, the onus of proving that it exists is on the person who obtained the document. It is not on the government agency to prove that they approved or sent one.

The matter brought to the Supreme Court was that of a person found in possession of a restricted firearm who was asked for his gun permit. The accused advised the officer that he had "lost it." The officer seized the weapon and charged the man with failure to have a permit to carry the weapon. At trial the accused was advised not to take the stand in his defence and after conviction they appealed.

The Supreme Court of Canada concluded that the production of the certificate by the accused removes all doubt in favour of the accused. The defence argued that it would not be difficult for the government agencies to produce a computer document from a registrar indicating that a licence or permit did not exist. In response the Supreme Court stated: "To authenticate the accuracy of a computer file could involve extensive evidentiary procedures and much would need to be proven in order to verify the completeness of the computer record and the absence of a certificate for an accused."

"This would be an inordinate burden on the Crown in criminal enforcement when Parliament itself adopted the reasonable alternative of providing the accused with a certificate which would establish his innocence by its mere production."

This ruling concurs with many previous lower court rulings from across Canada. Most notable of which is Bibeau Vs. Regina (C.C. Northumberland 1984)

in which the defendant was operating a car without insurance. The evidence before the court was that the accused was given an opportunity to produce an insurance certificate, as required by an Ontario Act, and failed to do so. In the court's decision it went to the Provincial Offences Act (Ontario) and read Section 48(3);

"The burden of proving that an authorization, exception, exemption or qualification prescribed by law operates in favour of the defendant, and the prosecutor is not required, except by way of rebuttal, to prove that the authorization, exception, exemption or qualification does not operate in favour of the defendant, whether or not it is set out in the information."

This section parallels section 730(2) of the Criminal Code. This section has been upheld previously by Regina Vs. Hundt (1971) 3 C.C.C.(2d) pg. 279 as well as Regina Vs. Park Hotel (Sudbury) Ltd., (1966) 4 C.C.C. pg. 158. These matters involved the applications of the Optometrists Act and the Liquor Licence Act respectively. Other matters under the Lord's Day Act include Gordon Vs. The Queen (1961), 131 C.C.C. and under the the Insurance Act of 1933 we find consistent rulings under Williams Vs. Russell, 29 Cox.C.C. pg. 640.

In all such cases, and now including the Supreme Court of Canada, it was determined that whether or not an accused has a licence or permit to do something is knowledge that is peculiarly within his knowledge and that burden of proof lies upon him. Therefore a charge could be laid under any Act that has a requirement to produce a licence, permit or certificate when the person fails to do so. The only evidence that need be brought before the court is simply that person failed upon demand to produce it. The officer could come to no other conclusion than it did not exist.

Regional correspondents wanted

Do you have an interest in the police profession? If you do and you have a talent or interest in some facet of police work we would like to hear from you.

We are interested in people who can write to communicate and not just to impress. Whether you would like to write about your specialty, experience, training, humour or become a freelance writer from your area we would like to hear from you.

If you are interested we would like you to send us a brief resume about yourself, a photograph if available, and a sample of your writing or material. Please send to

Blue Line Magazine,
118 Main Street North,
Markham, Ontario,
L3P1Y1.

Montreal officer criticized for charter breach

A youth court judge in Montreal has lashed out at an officer's forcible termination of a young offender's phone conversation with his mother. The subsequent Assault Police charge that had been laid was dismissed with the judge adding that a conviction under the circumstances would be a mockery of justice.

The 17-year-old offender was arrested for causing a disturbance. He was taken to a police station described as "very busy." The youth asked to use the telephone and was taken by the officer to a counter in a busy hallway and given the desk telephone. The youth spoke with his mother while the officer stood by listening to the conversation.

After talking to his mother for about 10 minutes the officer determined that the conversation was "going in circles" and he interrupted the offender and hung up the phone. The offender resisted this interruption by grabbing for the telephone again. As he did so the officer grabbed hold of the youth's arm and the youth shrugged off the hand. The youth was placed in a headlock and taken to the holding cell. He was then charged with the additional charge of assault with intent to resist arrest.

In dismissing the charge the court lashed out at the police practices by stating, "access to this right does not depend on age, appearance, attitude and, above all, it does not depend on whether someone else approves of the substance and manner of discussion."

Judge Brown continued by saying that there is "more than ample jurisprudence that the necessary communication is to be confidential, neither overheard nor monitored." Yet in this case it was pointed out that the officers were outside all limits in making determinations as to the location of the conversation and the nature and quality of it.

It was pointed out further that all the

rights afforded to adults are to be afforded to young offenders. It is highly recommended that officers review the physical layout of their stations to determine under what circumstances the accused can use a telephone. It has been pointed out by many courts in the past that the police officer is as duty bound to ensure the accused's rights as he is to ensure the safety of the public and perform his other duties. This conversation is as privileged as the lawyer-client relationship.

"Annie Oakley" judge receives reprimand

A Houston, Texas Judge, Marsha Anthony, has been publicly rebuked for her behaviour and court room practices by the Texas Commission on Judicial Review. Several lawyers complained to the Texas watchdog agency about the conduct of District Judge Marsha Anthony. The 43 year-old Judge was elected to her position on a Republican sweep of the Texas judiciary in 1984. She most recently failed in her attempts to retain her position after changing to a Democratic ticket.

Judge Anthony was in the habit of bringing her four-year-old son to the courtroom with her. The complaint alleged that the boy would distract the lawyers and the Judge by making noises and crawling around and under chairs in the court room. In one complaint she was alleged to have picked up her son and stated in open court; "Son, you see these people out here, they're trash, they're pure trash - all of 'em."

Other complaints included leaving the bench crying and shouting threats to lawyers. Once she tore up a document presented to her as evidence and then told the bailiff to eject the lawyer from the court. On another occasion she advised an attorney that she had a gun behind the bench and she could put two shots between his shoulder blades before he

reached the door.

In another matter the judge had charges dismissed against her in January after a complaint that she had threatened a neighbour and her child with a gun over a broken toy.

Police officer loses pregnancy discrimination suit

A female Fort Francis police officer has failed in her attempt to sue the Force for sex discrimination when she was pregnant.

Constable Kathleen Pattison, that force's first female officer, brought the suit against her force before the Ontario Human Rights Commission after the Fort Francis Police Commission refused to permit her to wear plain clothes to work while she was pregnant. The officer felt she could not wear such items as the gun belt and due to the pressure brought to bear on her she took a six month leave of absence without pay.

Pattison argued before the Commission that the police force had erred in not accommodating her pregnancy by putting her on light duties or else equipping her with a proper uniform.

The Commission argued that there was no requirement for them to do so. They felt that it was possible for her to wear a uniform and gun belt.

Mr. Justice Montgomery ultimately ruled that the principal point before him was not sex discrimination but rather a handicap discrimination. He added that the officer had indeed been "directly" discriminated against by not offering her part-time clerical duties as this was routinely offered to male counterparts. However it was found that her admitted intention of using up her sick time and then resign was confrontational. It was agreed that she could have worn a gun belt and a uniform and that it was reasonable for the Force to order her to wear them as a requirement of her employment.

Alberta considering instant licence suspensions

Alberta is considering immediate licence suspensions for motorists charged with impaired driving causing death or injury, the province's solicitor-general said.

He said the time it takes for the courts to deal with an impaired driving charge leaves the public at risk. Some individuals are now driving several months after an occurrence because they haven't been through the court system.

The government is considering suspending licences right away where there is clear evidence that the impaired driver was at fault and where death or injury occurred.

Ticket tossed due to low fly

A woman's speeding ticket was dismissed after she testified she couldn't discuss it with a cop whose fly was unzipped.

Kim Harrison said she was too flustered to discuss the ticket with a Halifax Police Constable. "It was most uncom-

fortable," she said.

Provincial Court Judge Hughes Randall dismissed the charge. The justice felt that the defendant could have given an explanation that may have mitigated the issuing of the ticket had she felt more comfortable speaking with the officer.

Day pass granted to feed cats

A federal court judge in Fargo, North Dakota recently ruled a woman could leave jail once a day to feed her four cats.

The unusual decision brought down by Judge Patrick Conmy permits 50 year-old Daisy Salsman to take two hours per day to go to her house and feed the animals. The retired telephone worker was serving a 30-day sentence for tax evasion. The judge ordered her transferred from the county jail to a half-way house near where she lives so she could take the day passes.

The judge explained that there was no other means of taking care of the cats as the State did not allow for such matters to be taken care of. There were no funds in any other budget to cover such a need so the judge determined that she should be permitted to do it herself.

Letters to the Editor

Please be advised that I ran across a copy of Blue Line Magazine dated February 1989.

I thought the magazine was well constructed and I found it to be a very interesting magazine to read. Being an ex-police officer, I like to stay in touch with what is happening, especially when I can see familiar faces in the magazine and see the different aspects your magazine offers.

Grant Egan
Detect Investigations
168 Lakeshore Dr.,
Toronto, Ontario

Please find enclosed a cheque for \$20.00 to cover a subscription to the Blue Line Magazine for one year. Please send the Blue Line Magazine to Ms. Monica Gutschl, C/O Kitchener-Waterloo Record, at the above address.

Thank you for your help.
Yours truly,
Rosmary Hentges
Editorial Secretary

Dear Ms. Hentges;

I am returning your cheque for a subscription to Blue Line Magazine. We wish to thank you for your interest in our publication. We do not feel, however, that it is appropriate for our magazine to actively engage in "official" communication with the public media.

The contents of the magazine are not privileged or secret in any way but I do feel a duty to discourage mass public distribution. It is understandable that many elements in society would be interested in the daily training and skill level of their police forces. However Blue Line Magazine is a "profession" oriented publication that has a mandate to encourage police officers in their trade. We feel that making an official recognition that the public media would have open access to this information could discourage professional contributions.

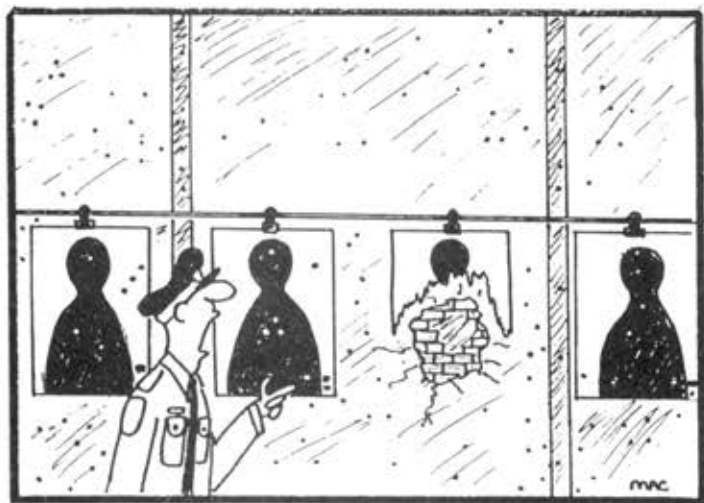
We would suggest that you contact your local office of the Chief of Police or the police force's media relations office to obtain a copy in future.

Again, thank you for your interest in our publication.

Yours truly
Morley S. Lymburner
Editor/Publisher

FLASHES by Tony MacKinnon

"It would appear somebody here isn't using issue ammunition!"



Jean Boyd

Continued from Page 7

a job Boyd enjoyed and worked hard at, and after one year she assumed command of the Intelligence Bureau as Acting Inspector:

Six months later, in June, 1982, Boyd was promoted to Inspector and assigned to the Duty Desk at Police Headquarters, the first woman to achieve this position.

"Here," Boyd explains, "you're on call for the whole city, 24 hours a day, while waiting for an assignment."

Within a year Boyd was on the move again, assigned as the Liaison Officer to the Metropolitan Toronto Police Commission, at the time chaired by His Honour Judge Phillip Givens. Boyd's role was to lend expertise and advice to the Commission based on her own knowledge and experience, as well as act for the chairman at Council meetings, Multicultural meetings, etc., to discover what was relevant to the police.

While in this position Boyd participated in two major studies, the Task Force on Violence Against Women and Children, chaired by Jane Pepino, and the Special Committee on Child Abuse chaired by Paul Godfrey. Both, Boyd comments, took extensive time. Out of the latter was developed a protocol which remains in use today with the Children's Aid Societies and the schools. From the former Boyd was able to advise the force of initiatives which should be taken, such as an emphasis on sensitivity in police

training for dealing with abused women and children.

In 1984 Boyd became the first female officer to become a Divisional Commander. She was assigned to No.31 Division in the Jane/Finch area of North York, as the officer in charge of 260 officers. Once more Boyd earned the respect of the officers and takes pride in being known as "tough but fair." She was

Boyd earned the respect of the officers and takes pride in being known as "tough but fair."

always ready to listen, Boyd claims, and allowed the officers to vent. She also took action on identified problems, including alleviating the crowded office conditions. Boyd extended her listening stance to the community, attending meetings and achieving a recognized improvement in morale.

In August, 1985, Boyd's promotion to Superintendent removed her from this vital community when she was assigned to Personnel Services. Her new duties included recruitment, training, counselling and responsibility for the general well-being of the entire force.

Here too Boyd was given a mandate to implement an Employment Equity Program for the Police Force. Boyd set goals and timetables annually, and met

them every year. The first year she targeted 15 visible minorities and hired 35 representatives of these groups.

"This Employment Equity Program," Boyd states proudly, "is second to none in Canada."

Boyd also implemented a new promotional process which makes the system more equal, she claims; a new staff development program encompassing all uniformed officers; and a new cross-cultural training program for all members of the Police Force.

The gains made during her three year tenure in Personnel Services are the same ones currently under attack by Ontario's Race Relations and Policing Task Force. Boyd maintains the Metropolitan Toronto Police Force's recruitment program is the best anywhere in Canada.

In 1988 Boyd's years of hard work were rewarded when she was promoted to the rank of Staff Superintendent.

"I didn't get here by tokenism," Boyd says simply. "It was sheer hard work."

She is rightfully proud of her achievements. Throughout her career Boyd has set a high standard. She works hard herself and expects the same from others. She leads by example.

In September, 1988, Boyd assumed command of No.2 District which encompasses all three police Divisions in the City of Etobicoke.

Boyd continues to maintain an open-door policy and to listen. She is ready and willing to make changes as her staff identify needs and offer recommendations.

As the highest ranking female police officer in Canada, Boyd is still one of only 385 women in a police force of 5,621 officers. Undaunted, she offers encouragement to women who are contemplating their career in policing.

"There is no end to opportunities in policing for women today," Boyd says. "All you need to do is apply yourself and build up credibility."

It is good advice from a woman who has done just that.

NEXT MONTH: O.P.P. Staff Sergeant Irena Lawrenson - A provincial perspective on "Women in Policing."

FLASHES

by Tony MacKinnon



"You'll have to speak up, Sir; some of us 'dumb broads' are a little hard of hearing."

This is the second part of our presentation of the trial of Edith Thompson and Frederick Bywaters in January of 1923. We have often heard that just as there are two sides to a coin there are also two sides to any story. In this issue, we will discuss the second and third sides to this coin. In total, you will discover three different angles as presented by the prosecution, the popular press and the defence, all of whom felt sincere beliefs.

**The second side of the coin:
As publicized by the press**

Beverly Baxter was a Canadian who had a chequered career in Canada before moving to England. He served in the first World War and afterwards got a job with Lord Beaverbrook's paper, the Daily Express. He wrote leader articles for the Express and became editor of the Sunday Express.

There was tremendous competition between the Sunday papers. The tremendous interest evoked by the Bywaters-Thompson murder case was a bonanza for the papers. To the people of the press, there was no doubt as to the guilt of Bywaters and Baxter himself held this view. It was the capital charge of murder against Mrs. Thompson to which the press took exception.

Baxter, and through him, the Daily Express supported Mrs. Thompson. She had cried out during the attack for Bywaters to stop. They believed she had no previous knowledge of the attack. She was a flighty, silly housewife who had allowed herself to fall for a younger man and her emotions and passions were expressed in the letters she wrote to him. Written, indeed, in a way that left no doubt not only as to her feelings towards Bywaters but also, in a very unfortunate and fatal way, her feelings about Mr. Thompson. References to bits of glass in his food, poison and sinister plans were contained in these letters.

The Daily Express and the Sunday Express supported the contention that the letters were romantic fiction, expressing of a character she never was. There was never any intent these things should come to pass, that her lover might take them so literally as to act on them to rid them both of the one person who stood between them.

True Crime Three sides of the coin

(Part II)

- Geoffrey Cates Books -

Baxter expected Bywaters to be found guilty. He fully expected Mrs. Thompson would not be found guilty. However both were found to be guilty of the crime of murder and were sentenced to hang. Baxter still felt the sentence against Mrs. Thompson was a formality and a reprieve would be forthcoming in short order. It was not and an appeal was launched. It was overturned by the appeal court.

The Daily Express had now swung into high gear. A series of leader articles urging a reprieve was given prominence for days after the failed appeal. A story was featured on the front page of the Sunday Express telling of a "confession" Bywaters had given to a relative. In this confession he had reiterated that he, Bywaters, had no intent to kill Percy Thompson that night and Edith Thompson had nothing to do with the murder. The paper sold out and they could have sold thousands more had they been printed.

In a last ditch effort to save Mrs. Thompson, a copy of the paper was taken by airplane to the residence of the Home Secretary. He alone now had the power to grant a pardon. None was forthcoming and both were hanged, he at Pentonville prison and she at Holloway, on the 9th of January 1923.

In retrospect, Baxter felt he should have done more to use the formidable powers of the press to bring about a change in the judicial outcome of a very controversial case involving the last woman to be hung in Britain.

**The third side:
As presented by the defence**

Sir Henry Curtis Bennett was one of the leading advocates of his day. He

certainly stood in the front ranks of criminal lawyers and had an enviable reputation. It was he who defended Edith Thompson at her trial. Mr. Cecil Whitely was the defence for Frederick Bywaters. The difficulties of his defence were very obvious and we shall deal with this as we come to it.

Edith Thompson was determined to give her own evidence in the case. She refused to listen to contrary advice from her counsel. Possibly she was as eager to save Bywaters from the gallows as he, on his part, was to sacrifice everything to enable her to escape the consequences of her husband's murder.

Sir Henry knew the bulk of the Crown's case lay in the letters written by Edith Thompson to Bywaters. He insisted to the jury that her letters, with their passages relating to poison and ground glass, were nothing more than romantic screeds designed by a foolish woman to keep the love of Bywaters. However the prosecution took the line they were grim evidence of a murderous intent.

The trial opened at the Old Bailey on the 1st of December 1922. The court was crowded with people whose names were familiar to readers of social gossip columns, and was continually packed during the entire time of the trial.

Sir Henry first argued against the admissibility of the letters. One of the points of his argument, and a logical one at that, was the fact only Bywaters had kept copies of HER letters but she, in fact, had kept none of his. As an argument it had certain merits, however the plain fact was the letters were there and they were evidence and therefore admissible. The judge also rejected the argument the letters should not be put in

because Edith Thompson did not strike her husband, only Bywaters. However, as the learned judge pointed out, the letters show intent and motive and were admitted.

Now the question the jury had to ask themselves when the contents of some of the letters were read out was: Are they the letters of a murderous schemer or silly meaningless phrases written for effect?

Mrs. Thompson was taken down the road by the Crown step by step. She did not fare well in giving evidence. She was asked in great detail to explain the many phrases and innuendos regarding her husband's demise. It is this writer's opinion that after denying something for so long any sincerity soon loses effect. I believe this is what happened, at least to a certain degree, with the jury. After hearing all this evidence, obviously pointing to the riddance of her husband and the continuing affair with Bywaters, the bounds of credibility were stretched too far. Her counsel was right. She should never have taken the stand.

The defence counsel for Bywaters, Mr. Whiteley, was in a near hopeless situation. Bywaters' defence, that he acted in self defence, was in fact no defence at all but it was all they had. In his closing speech, much of what Mr. Whiteley said

was in effect more in defence of Edith Thompson than Bywaters. He challenged the prosecution to show that in any of his letters Bywaters had incited Edith Thompson to act against her husband. He asked the jury to separate what was fact from what was fiction. Mr. Whiteley spoke for an hour and a half along these lines then sat down.

Were they the letters of a murderous schemer, or silly meaningless phrases written for effect?

Now came the summing up by Sir Henry Curtis Bennett. He used all his great skills to appeal to the emotion of the jury. He spoke to them as he would to his best friend. He asked them to look inside the woman. He appealed to them as men and women of the world. In one statement he said, "Thank God this is not a court of morals, because if everybody immoral was brought here I would never be out of it, nor would you."

Sir Henry brought out the alleged unhappiness between the Thompsons and the fact Bywaters was there as a

comforter. He pointed out the fact the two had agreed to wait five years before they settled together.

The real key to his summations came near the end as he stated: "The real truth about Mrs. Thompson, as borne out by the letters, was that she was a woman who would go on telling any lies so long as she could keep her lover, Bywaters. You are men of the world and you must know that where there is a liason which includes someone who is married, it will be part of the desire of that person to keep secret the relations from the other partner..."

In his summation Mr. Justice Shearman advised the jury to keep a realistic approach when deciding their verdict, and, most importantly, that they were in a court of law trying a vulgar and common crime, not in a theatre being swayed by the eloquence of the actors.

Bywaters, by keeping her letters, had helped hang himself and Edith Thompson, and she had not helped by insisting on giving evidence herself. Mrs. Thompson made one significant remark from her condemned cell. "Nobody knows what kind of letters he was writing to me."

NEXT MONTH: Summations and conclusions

Alberta seat belt law not constitutional

In a lengthy decision recently brought down in Alberta, the legality of the seat belt law has been brought into question. The ruling involves a complicated maze of rulings that appear to perform a reverse manipulation of established facts and previous rulings.

Alberta Court of Queen's Bench Justice Lutz ruled that the seat belt law constitutes "state interference with bodily integrity." He feels that since the Supreme Court of Canada had thrown out the law forbidding attempted suicide, persons driving cars without seat belts had a similar right to determine their own fate.

In another leap of logic the same judge construed the legislation as being dangerous, if only slightly, as it could force a person into using seat belts that could cause injury or death. He advised

in his ruling that since seat belt injuries can result from improper positioning then the province was forcing people to risk this injury under threat of legal sanctions.

Mr. Justice Lutz concluded with a third point that the section interferes with a person's section 7 Charter Right in that it denied a person his right to life, liberty and security of the person.

There appear to be several flaws in this judgement. The first is that a person wishing to commit suicide has a predisposition to do so. Persons dying from failure to use seat belts do not have an intent to kill themselves.

The use of seat belts has been established as a means to reduce the risk of injury and not the total elimination of them. The extremely low numbers of

people being killed by improper use of the belts have been found to be insignificant when balancing off the numbers of lives saved. Metropolitan Toronto experienced a drop of 50% in deaths when the seat belt law was passed.

In that same year the speed limits in the city increased slightly.

Citizens who inadvertently become injured or disabled because they do not use seat belts are a financial burden on the community at large. They cause insurance costs to rise, and require social services to help them with their disability. It is the opinion of many that these people do not have the right to do this.

It is unknown if the Crown intends to appeal this ruling. It is not binding upon any other jurisdiction.

Gun admitted in evidence but law is no good

(Regina Vs. McDonough)

District Court Judge James H. Clarke recently ruled that a rifle seized by police after an illegal search was not only admissible in evidence but that the officers would have been neglecting their duty if they had not taken the action they did.

In October 1987, the Halton Region Police were called to a Milton Tavern after hearing that a man was brandishing a rifle in the area. Upon arrival the police officers were informed by a bouncer that a man had been waving around a rifle. The officers arrested the suspect for cause disturbance, but the accused refused to tell where the gun had been hidden.

A bystander informed the officers that the gun was in the trunk of a second man's car. When this man was asked to open the car, he refused. The officer

searched the man's pockets and came up with the trunk key and then found a sawed-off 22 calibre rifle.

At an earlier hearing Judge Clarke, after hearing arguments under the Charter regarding section 99(1) of the Code, decided that that section was unconstitutional as it is too liberal in the power that it grants to police. In particular the court had taken issue with the wording "reasonable grounds" as opposed to "reasonable and probable grounds." The court reserved judgement on the admissibility of the gun into evidence against the accused for future argument.

After hearing these arguments the County court judge stated that the gun would be admitted into evidence in spite of the improper statute that it was seized

under. Judge Clarke stated in his summation that the officers "would have been judged derelict in their duty if they had failed to act as they did." He later added: "An emergency involving weapons and potential danger to the public confronted the police. Their overriding and, in my view, reasonable concern was to secure the weapon as soon as possible... The gravity of the offence, the urgency of the situation, the impracticality of obtaining a warrant, and the essential nature of the evidence, all militate against the exclusion of the evidence."

The accused was convicted of the weapons offences and sentenced to four years in prison. In addition he was prohibited from possessing firearms for 15 years.

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OPEN PACKAGE OR LIQUOR

There appears to be some confusion about the offence of Open Bottle or Package of Liquor. Could you clarify this a bit?

Under Section 48(1) of the Liquor Licence Act of Ontario there are three points to prove to obtain a conviction for "Drive Motor Vehicle With Open Bottle or Package of Liquor".

- That it was a motor vehicle as defined in the Highway Traffic Act or snow vehicle as defined in the Motorized Snow Vehicles Act.

- That liquor as defined in the Liquor Licence Act was in the motor vehicle and unsealed. It must also be established that the actual bottle, can, etc., was open and the seal broken, and was readily available to persons in the motor vehicle. It is not sufficient proof if only the outer package, such as a case of beer, is open. The actual bottle or can must be open.

- The accused is the driver or had care or control of the motor vehicle.

ARREST UNDER THE NARCOTIC CONTROL ACT

Does the Narcotic Control Act allow a peace officer to search a person on a street on R&PG that he has drugs in his possession?

No, not exactly! If the reasonable and probable grounds exist then the subject can be arrested. He is given his Charter Rights and then searched under common law. The arrest itself is made under authority of section 450 of the Criminal Code. This is the general arrest powers. It has the same effect but it is important that you understand the subtle difference.

FINES UNDER THE H.T.A.

I noticed that the fines for speeding under the Highway Traffic Act (Ontario) are higher than the fines we give out. I have advised my officers to issue the higher fines under the H.T.A. What is the difference?

You should reverse that order! The section under the Highway Traffic Act is a higher penalty and it would be valid if you could only have a method of enforcing it. Unfortunately the only method given to enforce it is under another provincial statute. This is the Provincial Offences Act. The P.O.A. states that the fine to be levied is to be set by the chief judge. This fine has been set and it is at variance with the H.T.A. So it is a "you just can't get there from here" situation.

IS IT CARELESS OR IS IT DANGEROUS?

I recently had a judge throw out my careless driving charge by saying the offence was clearly dangerous driving but not careless. What the.....?

He is probably right! I would suggest you read the previous three issues of Blue Line Magazine. We featured a three part series that explains this very subject. When you present your evidence you are given one "kick at the cat." If your evidence proves another offence was committed, and not the one charged, your prosecution goes south. That is unless the offence is an included offence.

You should remember that sometimes your evidence on a careless charge can be too good. When you get to the stage where you have proven intent you have now stepped into that twilight zone

called "The Criminal Code." It sounds a little hinkey, but this too is reality. Oh Yes! You have probably found out that you can't lay the dangerous charge now. As I said you get only one "kick at the cat." You took your best shot and you can't use the same evidence twice.

WHAT IS REASONABLE?

The new Criminal Code, just released, has taken out the wording "Reasonable and Probable Grounds" and replaced it with "Reasonable Grounds." What does this mean to us?

Do not go on a search and destroy mission! The best advice we can get up to this point is that it means nothing and it changes nothing. The new Criminal Code was radically revamped. It was reworded so that it could become a little more understandable by the average Joe out there. They even put in periods and commas now. It was felt that the average person (and most cops) had no difficulty grasping what was reasonable but their wheels started spinning a bit on that word "probable." One point of view suggests that it was not necessary (his word was "redundant" but I thought we would start spinning on that one too) to use both words that basically mean the same thing.

As far as the courts are concerned it still means "a set of facts and circumstances that would bring a person of normal care and judgement to have a strong belief." So hold off the storm troopers. Burning and pillaging is still not legal (or is it pillage then burn?)

Do you have a question about laws that are a little obscure or confusing? Drop us a line explaining your problem and we will seek out the proper advice for you. It could be that others are struggling with the same problem. We will not publish the names of the writers but we ask that you give us your name and a return phone number in case we have to call for more details.

If you have some tips that you have found useful please send them along as well. We will print these with names unless you ask to be anonymous. Use the postage paid card which has been included at the front of the magazine.

Errors in warrant and execution dismisses charge

(Genest Vs. Regina)

The Supreme Court of Canada recently determined that errors in a search warrant issued under the Narcotic Control Act along with errors in execution brought the administration of justice into disrepute. The unanimous decision considered the defects to be so great that it excluded the evidence necessary to convict the suspect charged.

The court decision criticized the officer's use of force in executing the warrant. The court set out some basic rules for police to consider when executing such warrants in the future.

On June 21, 1984, the Quebec Provincial Police Tactical Squad, accompanied by two neighbouring police forces, broke down the door of a house on the strength of a search warrant for drugs. The officers had searched the premises several weeks prior to this and found some stolen goods but no drugs. On this search they again found no drugs but did find brass knuckles, a .22 pistol and nanchuka sticks. Mr. Genest was charged with several weapons offences.

Mr. Genest had a colourful history including convictions of rape, assault, various weapons violations and drugs. He was also a known member of the Hell's Angels motorcycle gang.

The Supreme Court ruled that the officer's search warrant not only failed to mention the officer's name who was to execute the warrant but also failed to mention what hours it was to be executed and what the search was for.

The Supreme Court further ruled that the officers were duty bound to announce their arrival verbally first. The court stated that to use the type of force used, there must be a reasonable apprehension of violence explained in the evidence in chief. This type of force cannot be automatically presumed simply because the evidence might be destroyed.

Chief Justice Brian Dickson, in summation, stated: "While it is not expected that police officers be versed in the (smallest) detail of the law concerning search warrants, they should be aware of those requirements that the courts have held to be essential for the validity of a warrant.

"The naming requirement of section 10(2) is one such requirement. In addition, a police officer should be put on his guard by a warrant that contains as many blank spaces as the one in this case. Common sense suggests that if a form is used, it should be properly filled out ..."

Justice Brian Dickson stated that the defects on the warrant alone may not have disqualified the evidence. However taking into consideration the manner in which the officers chose to execute the warrant compounded the charter violations enough that the admission of the evidence would bring the administration of justice into disrepute. He advised that the Crown cannot rely on the finding of a gun after the execution of the warrant to justify using the force before they knew the gun was even there.

Chief Justice Dickson added that he is not saying that officers cannot use the type of force that was used in this case. He stated that if this type of force is necessary then the Crown is obliged to explain why at trial. Factors such as previous criminal record, association, and the type of offence can be mitigating factors in using such force. However in this case these factors were not explained in the evidence in chief at the original trial.

The Chief Justice summed up by stating, "The important point is that the justification for the amount of force must be made clear at the beginning, at trial. The Crown cannot try to rehabilitate its case later on appeal."

Calendar of Upcoming Events

May 15 - 19

Police Educators Conference in Halifax, Nova Scotia
Also the Police Video Awards Canada nominees will be presented and awards given.

Contact Ingrid Pipke (604) 228-9771, local 265

• • •

May 16 - 19

National Conference on Victim Assistance, Calgary, Alberta
Skyline Hotel and Convention Centre
Contact John Warden (403) 421-2187

• • •

May 16 - 18

ER '89, Dangerous Goods Emergency

Response Conference, to be held in Halifax, Nova Scotia.

Contact Graham Creedy, (613) 237-6215

• • •

June 10

Combined Police Forces Regimental Ball will be held at the Constellation Hotel in Toronto.

Contact John Simpson or Roy Hagger, (416) 324-3200

• • •

July 26 - 30

Fifth World Congress of Victimology Acapulco, Mexico
Papers and presentations on victims of violence, crime, terrorism, accidents and

disasters. Related themes are invited and welcomed.

Contact World Congress - Arlington, Virginia (703) 536-1750

• • •

September 25 - 28

IPEC '89, International Police Exhibition and Conference
Barbican Centre, London, England
Contact Communication House, London, England 01-446 8211

• • •

November 22 - 25

National Conference on Disaster Management, Hamilton Convention Centre, Hamilton, Ontario
Contact EMO officer (416) 526-2529

Motorcycle Rider Safety Council formed

Since September 1988 concerned motorcycle riders, clubs and other motorcycle organizations in Ontario have had several meetings to discuss ways to heighten motorcycle safety awareness. The objective was to lower the frequency of not only collisions but also needless loss of life on Ontario roads.

These meetings have also included discussions with various representatives including the Ministry of Transportation of Ontario, police forces, and the manufacturers and dealers who have been concerned about these vulnerable vehicles.

As a result of this, many of the participants joined together at a meeting last month to form the Motorcycle Rider Safety Council (M.R.S.C.).

A formal meeting was held in March at Humber College in Etobicoke, and MRSC was formed as a non-profit organization. Donations in support of the Council will be accepted by the Treasurer for the approval of the Council in general.

The Council's Purpose

The purpose of this Council is to augment other motorcycle safety organizations. For the first time all major motorcycle clubs in Ontario will be joined together for the specific purpose of motorcycle safety.



In the classroom or on the road, the accent is on awareness with the formation of the Motorcycle Rider Safety Council.

The objectives of the Council, as outlined at the March meeting, are as follows;

- Collect information useful for the promotion of motorcycle safety;

- Act on safety information obtained from the public and private sector;

- Promote safety and awareness for motorcycle riders and education of other road users towards motorcycle riders;

- Promote all positive aspects of motorcycling, and without limiting the same, to include road riding, vehicle maintenance, and research and development for safer riding.

How to get it done

The methods employed by the Council were also outlined at the meeting and approved as a part of their objectives paper.

- Assemble interested persons from all areas of motorcycle riding dedicated to the sport and who have shown an interest in motorcycle safety by their actions. These persons may be members of the Council;

- Assemble other persons with special skills and/or interests that would be beneficial to the interests of motorcycle safety. These persons may be invited to attend or address a meeting and may be members of the Council.

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The "Cycle '89" motorcycle show was held in February at the C.N.E. Automotive Building. This is the premier display sponsored by the motorcycle industry in major locations across Canada.

Officers from Metropolitan Toronto volunteered their time for the third year running to display information to riders attending this year's motorcycle show in Toronto. Through this and other outreach efforts, the Metro Force has been recognized as the leading police force in Canada to promote motorcycle safety and research.

The message to the riders by the officers manning the booth this year again emphasized the need for riders to be properly licensed and to ride at the correct speed. Special emphasis was placed on the need for riders to be aware of the effects and consequences of even low levels of alcohol consumption.

Graphic photographs

were displayed on the results of all motorcycle collisions in the Metro Toronto area since 1985. The use of a video reconstruction of a recent stolen motorcycle chase certainly put the message across of the consequences that can occur when a rider fails to stop for police. The video was produced by the Metro Force after an inquest recommendation that an effort should be made to make the public aware of this serious and sometimes fatal offence.

The major factors leading to motorcycle deaths are no different in Metro Toronto than they are in national trends.

Cycle '89 big success for police

- Dave Stewart -



A multi-media approach to carrying the message of safety highlighted the Metro Toronto Police Force's booth at Cycle '89 this February at the Canadian National Exhibition's Automotive Building in Toronto.

The high numbers of unlicensed riders, the abuse of speed and alcohol and deaths occurring as the result of single vehicle "kamikaze" style riders are not that different in a well policed urban environment as opposed to the vast areas of rural Canada.

Educational efforts directed by police toward motorcycle riders have been welcomed and encouraged by responsible motorcycle groups. This support has also

been extended to the enforcement of traffic laws on riders who disregard them.

As spring approaches we should be aware of this vulnerable vehicle. These riders have a casualty risk factor in our traffic pattern of seven to twelve times the "norm". We should not ignore the obvious. Strict is fair for this group.



Police bikes are always eye-catchers.

On September 25th, 1988, two Montmagny officers arrested two suspects in connection with a pharmacy break-in. A suspect was wounded and subsequently found to be a hepatitis B carrier. Both officers came into contact with the suspect's blood. Both were given immunoglobulins and later tests indicated no contamination.

The incident alerted the authorities to the dangers of hepatitis B and showed that police officers and other emergency personnel are at high risk of contracting the disease on the job.

"In response, all 18 officers of the Montmagny Police Force are being vaccinated," says mayor Dr. G. Normand. "It is important to protect our officers and their families."

To protect themselves, Montmagny officers are being given "Energix B," a new synthetic vaccine introduced by Smith Kline and French Canada Ltd., that virtually eliminates the risk of contracting hepatitis B.

Entire force to be vaccinated

Hepatitis B is transmitted through blood, semen, saliva and other body fluids.

The risk to police and other emergency personnel has risen due to increased contact with growing numbers of carriers of the disease such as gays, intravenous drug abusers, and prostitutes.

Mayor Normand's concerns were realized in a recent incident. "A nurse in the Quebec City area died recently from hepatitis B contracted on the job. Hepatitis B prevention is now available and the price is small when it can save lives."

Many police forces have an established program of compensation for officers wishing to be vaccinated. Contact your Chief of Police or your Association representative for details.



Montmagny Police Officer Rémi Couillard is vaccinated by Dr. Rémi Frevost while Montmagny Mayor Dr. Gilbert Normand watches.

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It is difficult to isolate the factors that contribute to officer safety and identify just one as being the most important. It can be argued that equipment, tactics, and training all play important roles. Likewise, an argument can be made for the importance of good physical conditioning.

Common sense dictates that the best equipment, worn and used by the most highly trained and physically fit police officer, is of diminished value if he lacks a basic survival instinct. There are police officers alive today who, even though they lacked state-of-the-art equipment or training, survived potentially lethal encounters because they had the will to live. Similarly, a number of fit, well equipped and trained police officers have met their Maker because the will to survive a life-threatening incident was absent. The will to live, to overcome adversity, to defeat aggressors and to work safely might well be considered the key ingredient of any effective survival system.

What is a survival attitude?

We all have attitudes, beliefs, and feelings. Some attitudes we develop are more intense and lasting than others. For police officers, no attitude should or can be more deep-rooted than the survival attitude.

An attitude may be defined as a manner of expressing one's beliefs or thoughts. It may also be described as the showing of one's disposition. A "survival attitude" is the firm belief on the part of the individual police officer that he or she will survive any police incident with which he or she might be confronted.

A proper survival attitude is one which projects this belief for all to see and is so convincing that it deters and discourages any act of aggression towards the officer. It includes the knowledge and belief that NO adversary is so well trained, equipped or dedicated as to overcome your skills and your intense desire to prevail.

Survival attitude: what it is not

A proper survival attitude is one which makes no room for complacency. Complacency is smugness, self-satisfaction and contentment. The complacent officer is just too comfortable or too lazy to expend the effort necessary to un-

The winning mind: Developing a survival attitude

- Robert Hotston -

learn dangerous habits and adopt safer techniques.

A proper survival attitude cannot include sloppiness, cutting corners or doing things "the easy way." Sloppiness in the application of training or tactics is indicative of an improper attitude and a lack of the necessary will to live. The murder of four California Highway Patrol officers at Newall, California in 1971 (which was the watershed mark in the "officer survival" movement) resulted, according to one of their two killers, because, in his words, "They got sloppy."

A proper survival attitude does not allow for "routine." The word "routine" has no legitimate place in a police officer's vocabulary. Each call responded to, each vehicle stopped, each crime in progress is in some way unique and far different from any past similar incident.

An appropriate survival attitude does not allow for the making of assumptions. Survival depends upon dealing with all of the available facts concerning a given incident at the time. Making assumptions not based on facts distorts the potential magnitude of the incident and may lead to inappropriate and inadequate safety measures.

Responsibility for survival attitudes

Police officer survival should be everyone's business, from the officer himself to the taxpayer who employs him. However, it is primarily the responsibility of each individual officer to work safely. This being the case, consistency dictates that the development and maintenance of a survival attitude is also a basic duty of each individual officer. We must daily remind ourselves that our occupation is a potentially hazardous one and that we must avoid the temptations of complacency, sloppiness, routine and inflexibility.

The development of a proper survival attitude is also the collective responsibility of police agencies, executives and

supervisors. Police chiefs must guard against their personnel developing a form of paranoia which could result in over aggression and brutality. At the same time they must create an organizational environment which nurtures healthy survival attitudes. Denying the existence of potential danger, saying "it can't happen here," serves no constructive purpose. Police managers have a moral, if not a legal, duty to present factual and accurate information about threats to officer safety, so that correct and responsive attitudes toward actual dangers might be developed.

Police executives who provide the latest in equipment and training but who, at the same time, neglect to establish an environment conducive to developing proper attitudes, do their departments a disservice. Perhaps the best way for police executives and supervisors to create the proper attitude on the part of their subordinates is by example. It is unfortunate that too many police administrators, once removed from the street and safe behind their desks, busy with the paperwork inherent in any bureaucracy, lose sight of this important fact.

Conclusion

Ensuring the ability of police officers to survive life-threatening situations is a multi-step process. Each step is important. As in any system, each step is dependent upon all of the others in order to be effective. Less than entire attention to any one may result in a failure to meet the desired objective.

Development of a proper survival attitude, however, is the most crucial step in the entire process. Ask yourself these questions: "Do I have the will to live? Do I possess an attitude that will contribute to my staying alive? If I don't, how can I develop it?"

Only when you have established the necessary attitude are you ready to consider the other aspects of a meaningful survival system.

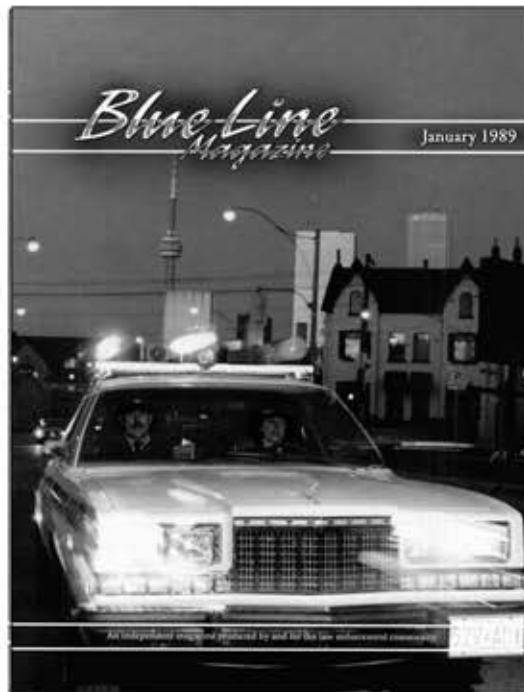
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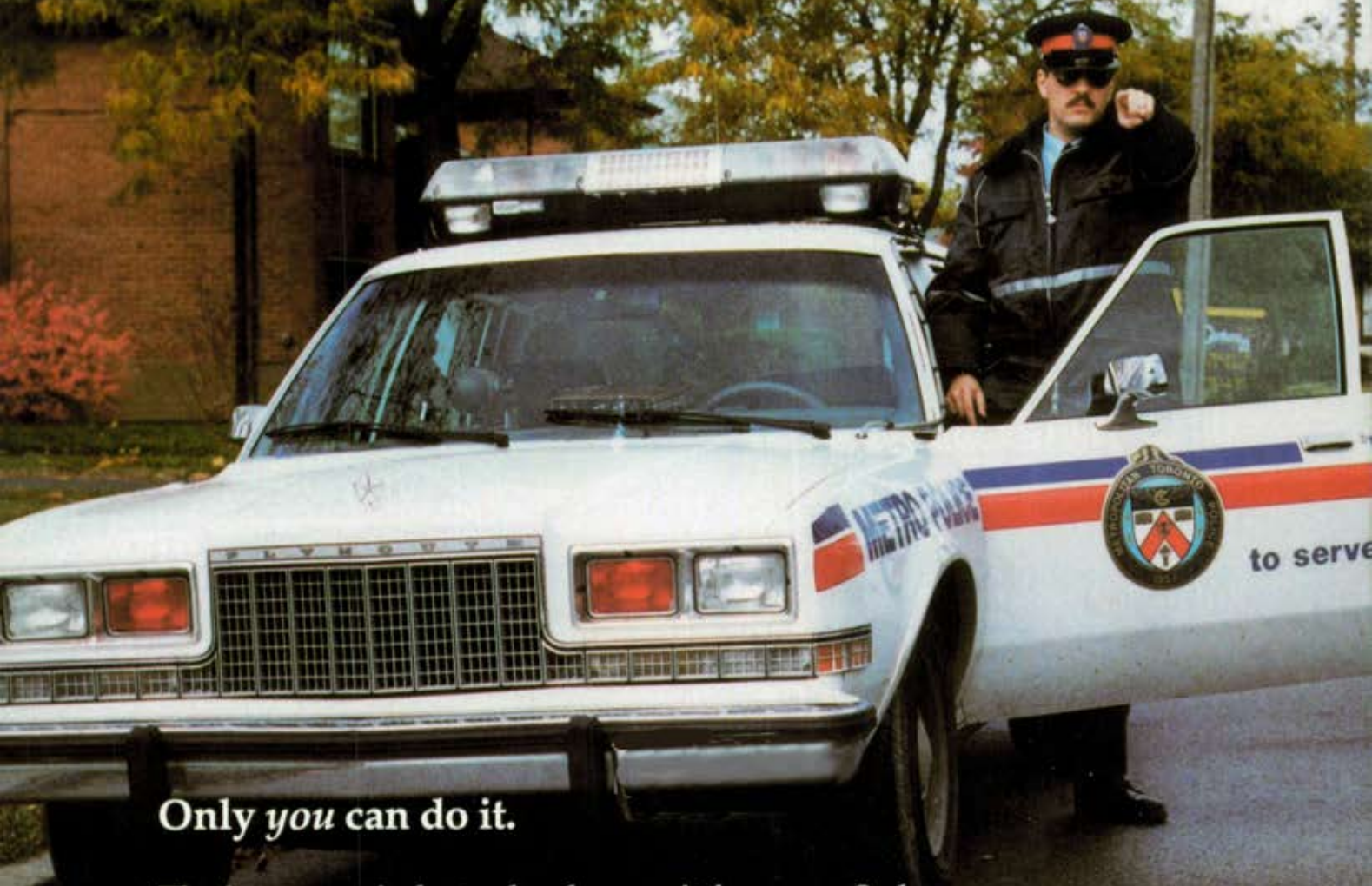
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