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by Morley Lymburner



The nails and hammer solution

Given its peculiar prosecutorial system, which tells cops they're not qualified to lay charges and Crown Counsels who are too busy to take the situation seriously, it's no surprise that British Columbia is illegally legalizing pot.

One of the first lessons I learned in the detective office is that there are three legal realities. Things are legal, illegal or simply "not legal."

Legal and illegal are simple enough but "not legal" is a whole new realm where:

- A. No one has yet thought up a law;
- B. No one can enforce the law; or
- C. There is a law but no one wants to enforce it or they are "encouraged" to overlook violations.

The arrival of radar detectors, affordable drones and electric motor scooters are examples of the first scenario. Regulations did not exist and lawmakers looked the other way.

Scenario B occurs when legislators prohibit something but don't include a consequence.

The *Ontario Highway Traffic Act* once made it illegal to raise a suspension 15 cm above the manufacturers norm. No penalty was prescribed. Officers could tell a driver about the dangers but do nothing if they chose not to listen.

Federal marijuana laws not enforced in BC because of systemic intimidation is a fine example of the third scenario. Some may question why the "left coast" is the hot bed for open use and sale of a substance that is illegal in the rest of the country.

BC's prosecutorial system discourages laying charges and bureaucrats keep an ever watchful eye on those who are charged. The system punishes officers who make arrests with a heavy burden of paper work and red tape to make the case for a charge. Even more troublesome is the media apathy about it all.

Yes, this may free up the judicial system and reduce pressure on prisons but it also masks from the public eye the true nature of crime in a community.

This secret level of rejected prosecutions makes for a very creative system of police crime prevention.

Spot an impaired driver? Prepare to spend many, many hours doing paperwork to make your case in the hope Crown Counsel will look favourably upon your request. This results in a diminished police presence in the community and a severe delay in process.

Cops looking the other way to encourage scofflaws. The down-side of non enforcement is that police, not the prosecutorial system, looks bad.

Criminals know there's a good chance

second-guessing Crowns will decide not to proceed with charges. This means they will not only not be prosecuted but their name will not be released to the media.

They may continue on in this limbo of semi-illegality for years, often in perpetuity. A law-abiding resident could live next door to a very bad person but unless a bureaucrat in the prosecutor's office wants to lay a charge they will never know about it.

The best part for the BC Crown Counsel is that they never have to go out and deal with the law breaker on the street and, unlike the hapless copper, are not answerable for increased crime levels.

Cops can only take so many fingers and snide looks from a crook before they alter the way they do their job.

Good crime prevention techniques do not always translate into less crime and many forget that laying a charge is also an effective way to deter a criminal.

The basic problem in BC is that well educated lawyers make a de facto determination of how street cops should do their jobs from the comfort of their offices. A similarly well educated cop finds himself feeding a system with few rewards and little encouragement beyond their ability to type reports and statements. Beyond this the officer faces a frustrating career watching the crime rate increase and walking past mocking offenders.

Here's the grassroots solution. No one should prop up a system by working around it. Follow procedures to the letter and do your job. This might mean actually recommending charges when you feel they're necessary, even if there's little chance they will be laid, and taking the time to fill out all the paper work.

Ensure each Crown Counsel is kept busy preparing a response. They should not be sheltered from what is happening on the streets through officers finding alternative methods of getting the job done. Just like a hammer's only solution is a nail, you must go for it.

When charges are not laid, take every opportunity to point out that you did your part. Suggest victims and other concerned citizens contact the prosecution service with their questions and concerns about community safety and the increasing crime rate.

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Getting the job done

Keeping ahead of problems in a festive city

by François Moisan



Québec City has been booming in the last few years, vaulting to the forefront as one of Canada's most attractive cities.

The economy is approaching full employment and the population grows every year. The good news gets even better, as city hall goes all out to bring in and foster activities of all kinds all over town. It's a festive city and a great place to live.

This kind of exuberance is a real plus, but for the police it calls for new approaches that provide the right response in new situations.

A new vision of public safety

An attractive city is a place where people feel confident. Québec City has a low crime rate and people feel highly secure wherever they live or go, thanks in large part to the hard work and effectiveness of the Service de police de la Ville de Québec (SPVQ). This benefits everyone.

A city that works is a city that constantly seeks to provide its residents with better and

more efficient services. For years, the SPVQ has put itself under a microscope, studying best practices and implementing the latest proven approaches.

This is an essential task because policing is a key part of Québec City's vision of public safety. The city wants to migrate from a silo-based approach to policing, firefighting, emergency management and civil security. It wants to embrace a holistic concept of urban safety that treats the public's sense of security as both a priority and motivator of growth and development.

The SPVQ has charted a course to meet these objectives as it works to foster further public safety enhancements in the years to come.

Structures for major events

A provincial capital hosts numerous international events and political functions, but Québec City really got into festive gear after celebrating its 400th anniversary in 2008. Today, it hosts some 500 large and small events every year; all call on the police for support.

"The events boom was one of the reasons we decided to fine-tune our policing methods," explains SPVQ Chief Michel Desgagne. "We need to be able to deal with all the possible situations that might arise during events. We

have to be ready to respond both to incidents at the event itself and to anything else that might happen around town at the same time.

"We developed an approach that keeps participants and police officers safe, facilitates event organization and keeps vehicular traffic moving."

It all begins with planning for the event, which is done jointly by the police department and all its partners, both private and public. For cultural and sporting events, for instance, police officials meet with the promoter. The city has even produced a "Promoters Guide" that summarizes main responsibilities and thoroughly explains the initial steps in developing and planning an event.

Then SPVQ trains and mobilizes its officers to make sure the necessary personnel are available to face any possible scenario that calls for police intervention.

"Depending on the size of the event," explains Insp. Serge Morin of the Operations Support Section, home of the operational planning and management module, "we can deploy up to four levels of co-ordination and



control to keep a handle on the overall situation and still maintain our response capacity and resilience. There's the command post, onsite event co-ordination centre, mission operations centre and operational planning centre.”

The Mission Operations Centre (COM) is a dedicated space reserved for use by the SPVQ and partner officers so they can deal with the potential impacts of an event on the rest of the city.

Members of the fire department, public works department, RTC transit corporation and the city transportation division might work jointly with SPVQ officers to keep an eye out to make sure everything goes according to plan. The COM is in constant contact with officers at the Onsite Event Coordination Centre (OECC).

The OECC brings together those directly involved in the event at the location. In addition to police officers and partners, representatives of the promoter are on hand so that direct contact can be maintained throughout the event and any necessary decisions can be made jointly.

Closer yet to the event is the command post, which is set up in the SPVQ's mobile command unit. This is where officers direct police operations in the field. The SPVQ just updated its unit to incorporate the latest high tech equipment to manage police operations, including computer hardware and software, specialized apps, maps, cameras, etc.

In addition to the structures immediately



involved in co-ordinating the event, there is also the operations planning centre (OPC), which meets for events that may have a major impact on the city. In such cases, staff officers meet in the chief's office to assess the event's medium and long-term impact on the public and the organization and decide on appropriate policing strategies.

During the terrorist attack in Ottawa for example, OPC members met to assess the risks and trace possible short-term implications in Québec City. Decisions and concrete measures may be based on the OPC assessment of the situation.

“These structures are all multifunctional,” says Morin, “and can also be used for unforeseen events such as floods and snowstorms, criminal situations or for large-scale sports or cultural events.”

Use-of-force framework

The SPVQ makes sure it is always prepared for any events or situations that may occur. The department spends a lot of time and energy to ensure officers are as well equipped as possible to do their jobs safely. Human resources are a key part of an organization's success, which makes training and technical support for officers the top priority.

One issue the SPVQ has been working continuously on in recent years is implementing a use-of-force structure designed to provide officers with the support they need for certain interventions.

The structure, the only one its kind in North America, is staffed by a lieutenant and 15 counsellors – all police officers – who support officers involved in potential use-of-force situations in the field.

The team is deployed throughout the city and available 24/7. All members have

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advanced training so they can back up their colleagues in situations involving potentially armed suspects or where there is a high risk of confrontation.

Since its implementation in 2012, occupational health incidents and complaints against officers have both declined.

“Having specialists in the department available to support officers on these kinds of interventions means we can serve the public better while providing a safer environment for our members in the fulfilment of their mission,” says Desgagne.

Upcoming changes

In the months ahead, the SPVQ will be taking a new look at one of its primary missions: local surveillance.

The current model of work organization for local surveillance was instituted in 2002 after municipal amalgamation. It is high time to reassess how things are done from a continuous improvement perspective.

Numerous changes have occurred in the policing environment over those 13 years, including changes in the nature and forms of crime, public needs and expectations and

information and communications technologies. New policing methods and approaches have been introduced, urban development has increased, events in the metropolitan area have multiplied and client profiles have changed.

Organizational changes over the last few years have increased the effectiveness of various departments. The restructuring of the special investigations and services assistant directorate and the consolidation of youth workers have both produced concrete results.

For local surveillance, the SPVQ hopes to establish a team with the flexibility to handle a variety of situations. It is seeking to improve day-to-day performance to adjust to the needs and expectations of clientele while meeting the demands of a modern police organization.

To this end the SPVQ is presently looking at whether it makes sense to maintain four police stations in different parts of the city, as is currently the case. Other aspects of the work environment are also being examined in the search for potential improvements.

The SPVQ is ready to take on these challenges as it works to remain a police department that not only gets the job done but does so effectively and appropriately.

François Moisan is a media relations officer with the Québec City Police. Contact him at françois.moisan@ville.quebec.qc.ca for more information.



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THE TOWN OF MANY TIMES



Québec City's colourful past

Québec City was founded by the French explorer and navigator Samuel de Champlain in 1608, commencing a string of French colonies along the St. Lawrence River, creating a region named “le Canada.”

Prior to the arrival of the French, the location that would become Québec City was the home of a small Iroquois village called “Stadacona.” Jacques Cartier, a French explorer, was the first European to ascend the St. Lawrence Gulf, claiming “le Canada” for France to create a dominion known as “New France.”

Jacques Cartier and his crew spent a harsh winter near Stadacona during his second voyage in 1535. The word “Kebec” is an Algonquin word meaning “where the river narrows.” But by the time Champlain came to this site, the Iroquois population had disappeared and was replaced by Montagnais and Algonquins.

Champlain and his crew built a wooden fort which they called “l’habitation” within only a few days of their arrival. This early fort and trading post exists today as an historic site in Old Québec.

Québec City’s maritime position and the presence of cliffs overlooking the St. Lawrence River made it an important location for economic exchanges between the Amerindians and the French. In 1620, Champlain built Fort Saint-Louis on the top of Cape Diamond, near the present location of the Chateau Frontenac in the Upper Town.

Québec City’s 400th anniversary was celebrated in 2008 and it is the oldest city in North America that has a French-speaking community.

Demographics and population

By 1615, the first four missionaries arrived in Québec. Among the first successful French settlers were Marie Rollet and her husband, Louis Hebert, credited as “les premiers agriculteurs du Canada” by 1617. The first French child born in Québec was Helene Desportes, in 1620, to Pierre Desportes and Francoise Langlois.

The population of Québec City arrived at 100 in 1627, less than a dozen of whom were women. However, with the invasion of Québec by David Kirke and his brothers in 1628, Champlain returned to France with approximately 60 out of 80 settlers.

When the French returned to Québec in 1632, they constructed a city based on the framework of a traditional French “ville” in which “the 17th century city was a reflection of its society.” Québec remained an outpost until well into the 1650s. As in other locations throughout New France, the population could be split into the colonial elites, including clergy and government officials, the craftsmen and artisans, and the indentured servants.

Québec was designed so that the inhabitants of better quality lived in the upper city, closer to the centers of power such as the government and Jesuit college, whereas the lower town was primarily populated by merchants, sailors and artisans. The city contained only about thirty homes in 1650, and one hundred by 1663, for a population of over 500. Jean Bourdon, the first engineer and surveyor of New France, helped plan the city, almost from his arrival in 1634.

Despite attempts to utilize urban planning, the city quickly outgrew its planned area. Population continually increased, with the city boasting 1,300 inhabitants by 1681. The city quickly experienced overcrowding, especially in the lower town, which contained two-thirds of the population of the city by 1700. The numbers became more evenly distributed by 1744, with the lower town housing only a third of the population, and the upper town containing almost half the inhabitants.

By the 18th century, Québec also saw a rise in the number of rental dwellings, to help accommodate a mobile population of seamen, sailors, and merchants, aptly described by historian Yvon Desloges as “a town of tenants.” As a whole, approximately 27,000 immigrants came to New France during the French regime, only 32 per cent of whom remained. Despite

this, by the time of British occupation in 1759, New France had evolved to a colony of over 60,000 with Québec as the principal city.

Military and warfare

In 1620, the construction of a wooden fort called Fort Saint-Louis started under the orders of Samuel de Champlain; it was completed in 1626. In 1629, the Kirke brothers under English order captured Québec City, holding the town until 1632 when the French resumed possession.

In 1662, to save the colony from frequent Iroquois attacks during the Beaver Wars, Louis XIV dispatched one hundred regulars to the colony. Three years later, in 1665, Lieutenant-General de Tracy arrived at Québec City with four companies of regular troops. Before long, troop strength had risen to 1,300.

In 1690, Admiral Phipps’ Anglo-American invasion force failed to capture Québec City during King William’s War. Under heavy French artillery fire, the English fleet was considerably damaged and an open battle never took place. After having used most of their ammunition, the British became discouraged and retreated. In 1691, Governor Louis de Buade de Frontenac constructed the Royal Battery.

In 1711, during Queen Anne’s War, Admiral Walker’s fleet also failed in its attempt to besiege Québec City, in this case due to a navigational accident.

During the Seven Years War, in 1759, the British, under the command of General James Wolfe, besieged Québec City for three months. The city was defended by French general the Marquis de Montcalm. The battle of the Plains of Abraham lasted only 15 minutes culminating in a British victory and surrender of Québec.

Seat of government

Throughout the French period Québec City served as the hub of religious and government authority and was the main administrative centre of the Company of New France. During this period, Québec City was the home

of the company's official representative, the Governor, along with his lieutenant and other administrative officials, and a small number of soldiers.

Following the Royal Takeover of 1663 by King Louis XIV and his minister Jean Baptiste Colbert, Québec City became the seat of a reformed colonial government which included the Governor General of New France.

The first Governor to arrive in Québec City directly appointed by the King was Augustin de Saffray de Mesy in 1663. Québec City became the seat of Sovereign Council which served legislative and legal functions in the colony through its role in the ratification of royal edicts and as final court of appeal. Noteworthy is the fact that, under the French regime, Québec did not have a municipal government; the centralizing Bourbon monarchy was determined to prevent the emergence of autonomous centres of power in the colony, even local city councils.

Economics

As Québec was settled for its location on the St. Lawrence River with a deep-water harbour, shipping and import/exports dominated the economy. As a port city, Québec ran a flourishing trade with the French West Indies and with ports in France. However, trade was restricted to French vessels only trading in officially French ports. In trade with France, Québec received wine, textiles and cloth, metal products such as guns and knives, salt, and other small consumer and luxury goods not manufactured in the colony. From the French West Indies, Québec received sugar, molasses, and coffee.

In order to offset its debts, Québec City exported furs to France, as well as lumber and fish to the West Indies. The peace experienced in the early 1720s caused a spike in shipping, with 20 to 80 ships arriving annually at the port of Québec, with an average of 40 a year. However, Québec was constantly faced with a trade imbalance, debt, and a certain amount of financial insecurity.

Religion

The Catholic faith played a significant role in the settling and development of Québec City. With the first missionaries arriving in 1615, Québec was, almost from its founding, a Catholic city. Although those of other faiths were permitted to practice their faith in private, the city embraced Catholicism as an integral part of daily life. The granting of seigneuries to religious orders helped solidify their place as a facet of society. Indeed, much of the upper town of Québec came to be held by religious orders. The arrival of Francois de Laval as the vicar apostolic to Québec in 1658 cemented the place of religion in Québec City. The city would become a formal parish in 1664, and a diocese by 1674.

British rule

The British and French had co-existed in North America, but the threat of French expansion into the Ohio Valley caused the British

to attempt to eradicate New France from the map completely. In the Battle of the Plains of Abraham (1759), the city was permanently lost by the French. In 1763, France formally ceded its claims to le Canada, and Québec City's French-speaking Catholic population came under the rule of Protestant Britain.

The Québec Act, passed in 1774, allowed 'les Canadiens' to have religious and linguistic freedoms, to openly practice their Catholicism and use their French.

Without Canadian co-operation against the British, during the American Revolution, the U.S. 13 colonies attempted to invade Canada. The city was therefore once again under siege when the Battle of Québec occurred in 1775. The initial attack was a failure due to American inexperience with the extreme cold temperatures of the city in December. Benedict Arnold refused to accept this defeat a siege against the city continued until May 6, 1776, when the American army finally retreated.

The Constitutional Act of 1791 divided Canada into an "Upper," English-speaking colony, and a "Lower," French-speaking colony. Québec City was made the capital of Lower Canada and enjoyed more self-rule following the passage of this act. The city's industry began to grow, and by the early 19th century it was the third largest port city in North America.

The business boom continued for most of the century and Québec City began welcoming thousands of immigrants.

{Sourced from Wikipedia}



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WHAT'S NEXT

The meter is ticking for a labour relations solution

by Ian Johnstone and Patrick Simon

In its first decision of 2015, the Supreme Court of Canada held that the labour relations scheme that applies to RCMP members violated their constitutional guarantee of freedom of association. It gave parliament one year to pass new legislation.

Historically, RCMP members were forbidden from participating in any union activities. Even after collective bargaining was introduced for federal public employees in the 1960s, they were excluded from the general labour relations legislation, including the current Public Service Labour Relations Act (the PSLRA), and from the right to unionize or engage in collective bargaining.

Instead, members consult with management through 34 elected representatives under the Staff Relations Representative Program (SRRP). Two SRRP representatives sit on the RCMP Pay Council, a forum in which pay and benefits are discussed. RCMP members also benefit from legal assistance on matters relating to their employment through the Mounted Police Members' Legal Fund.

The Mounted Police Association of Ontario (MPAO), a voluntary association of RCMP members, challenged this limited labour relations framework in May 2006 on the basis that it infringed freedom of association, guaranteed under section 2(d) of the *Charter of Rights and Freedoms*. An Ontario judge

upheld their claim, but the Ontario Court of Appeal reversed that decision. The MPAO appealed to the Supreme Court.

A six to one majority held that the regulations establishing the SRRP and the exclusion of members from the PSLRA were unconstitutional.

In the majority judgment, Chief Justice Beverley McLachlin and Justice Louis LeBel wrote that *Section 2(d)* protects a number of association-related activities, including joining with others to form associations to deal on a more even footing with more powerful groups. It is unconstitutional for Parliament to put in place a labour relations scheme that substantially interferes with employees' ability to act collectively in pursuing common workplace goals through meaningful collective bargaining.

The court explained that the section does not guarantee that all employees must be able to engage in conventional, adversarial collective bargaining incorporating the right to strike. Rather, to qualify as meaningful collective bargaining, a labour relations system must allow employees a degree of choice over who represents them in discussions with management.

Further, the association through which employees pursue their workplace goals must be reasonably independent from the control or influence of the employer, in order to ensure that the association is aligned with

the interests of employees.

Viewed in light of these constitutional principles, the labour relations arrangements for RCMP members amounted to an unjustifiable infringement of their freedom of association. Although SRRP representatives are elected, RCMP members did not choose the SRRP as their preferred association to advance their interests.

Further, the SRRP is not independent from RCMP management. The scheme is an internal human resources discussion forum, rather than an independent avenue through which meaningful consultation may take place.

Likewise, the court held that the purpose of excluding members from the PSLRA is to deny them the opportunity to exercise their freedom to associate in order to pursue their workplace goals. Such a purpose is unconstitutional.

The court ruled that the offending legislation would become invalid one year after the judgment, in order to give Parliament time to craft a legislative scheme that complies with the Charter.

The government has not publicized how it intends to proceed. The Supreme Court's judgment contains clues as to what sort of solution might be acceptable from a constitutional perspective.

The court explicitly stated that the Charter does not protect any particular model of labour relations, and that even though

Camera phone 'pervasiveness' reduces police violence, study finds

excluding RCMP members from the PSLRA was unconstitutional, there is no constitutional requirement to include them within the framework. It would therefore be open to Parliament to devise an alternative collective bargaining procedure, provided the scheme adopted offers RCMP members the opportunity to engage in meaningful collective bargaining through a reasonably independent organization.

As noted in the judgment, the RCMP is the only Canadian police force in which the terms of members' employment are not regulated by a collective agreement.

However, the approach taken in respect of other Canadian police forces varies between, and even within, provinces. This presents various models that the government may choose to adopt in any proposed new legislation. For example:

- In Ontario, municipal police force members are specifically excluded from the application of the Labour Relations Act, and are prohibited from joining trade unions without the consent of their police chief. Members may, however, join associations not affiliated with trade unions, and such associations may bargain collectively with municipal police services boards.
- Legislation may direct that a particular association represents employees in collective bargaining. For example, the Ontario Provincial Police Association is, by law, the exclusive bargaining agent for OPP members. Neither the association nor individual members may affiliate with a trade union.
- In some other provinces, including New Brunswick and British Columbia, police officers are covered by the regular labour relations legislation, and may join trade unions in the same manner as other employees.

There are also some similarities across the country, including the curtailment of the ability of police officers to engage in industrial action, with compulsory arbitration often substituted as a means of getting beyond an impasse in collective agreement negotiations.

Another issue that will need to be addressed is whether bargaining for RCMP members will be decentralized. Centralized bargaining would entail one set of negotiations, and one resulting agreement, for the entire force.

However, bargaining could take place, in respect of some or all issues, at a local level. For example, separate negotiations could take place for each RCMP division.

Regardless of what path the government proposes to follow, it is plain that the status quo will not persist for more than a few more months.

From next year, if not sooner, RCMP members are likely to be subject to collective bargaining procedures that more closely resemble those in place in other Canadian jurisdictions.

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OTTAWA - One night five years ago, Greg Brown was patrolling a busy Ottawa street when he was attacked while subduing a violent man.

"I was going to punch the person. I was going to use an open-handed technique to stop the person from assaulting me," said the Ottawa police officer.

"And as I raised up my arm to do that, I realized what's going to be visible to the people standing behind me videotaping this."

Brown, who has been on the force for 28 years and is a PhD candidate in sociology and anthropology at Carleton University, turned that sudden insight into the basis for a research project into how the "omnipresent pervasiveness" of camera-equipped cellphones has reduced frontline officers' willingness to use force.

His paper, "The Blue Line on Thin Ice: Police Use of Force Modifications in the Era of Cameraphones and YouTube", was published recently in the *British Journal of Criminology*.

As part of the research, Brown spoke with 231 frontline officers from services in Toronto and Ottawa.

Nearly three-quarters of the officers Brown interviewed told him they had modified their on-

the-job behaviour based on the possibility they could end up being filmed.

More than half were either more reluctant to use force in an arrest or had used less force than normal, Brown said. The average officer perceived they'd been recorded about 17 times in their career, a number that could easily be higher, he added.

"Very seldom are officers actually aware that they're being recorded," said Brown.

"When an officer's dealing with somebody — maybe using force, trying to resolve a certain issue — their attention isn't focused on somebody who could be standing 100 metres away, filming them. Their attention is on what's going on on the ground."

One of the "surprising, anecdotal" findings of his research, said Brown, was that many officers support being equipped with body cameras, in part because they feel citizen videos don't tell the whole story.

"What's captured is when the officer starts to react to the stimuli," said Brown.

"And then that's what's put on the news and [is] what the public sees."

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THE 20 METRE CHALLENGE

by Jim Ingram

It had been busy in Delta, with several dozen shootings related to the street drug trade. I was working as part of the uniformed violence suppression team initiative, tasked with being highly visible and checking anyone suspected of gang or drug involvement and disrupting their business in the area.

It was a dry night, just past dark and we were just leaving the police station. I was driving and my partner was probably making a joke about my control issues (I do not make a great passenger).

Half way down the block we saw a male drinking from a 40oz liquor bottle. I passed, turned around and got back in front of him. He turned away as I stopped the truck so I hit the emergency lights.

As we both stepped out, he suddenly turned back around, drew a knife from his pocket and began screaming that he would make us shoot him. This very routine pedestrian check just turned hostile and potentially deadly. We couldn't let him walk away and we couldn't let him harm others, himself or us.

Have you ever seen how long it takes a goal oriented person to run 20 metres? No time at all. Knives are quite capable of inflicting lethal wounds. We both instinctively drew our sidearms. My partner had the male's attention and began giving him commands to stop moving.

Now put yourself in our shoes. You're on a dimly lit street, houses on one side, a large school field to the other, police station behind you, more houses behind the person. An emotionally distraught person, with a knife, is demanding you kill him or he'll attack and force you to do so.

He's 20 metres away and there's nothing between you.

- You're holding a sidearm and looking down the sights.

- Your finger is indexed, off the trigger.
- You need to get on your radio to let everyone know what's happening.
- You need to turn your light on to see him better.
- You need to talk to him.
- You need to think clearly.
- You need to de-escalate.
- You need to know if there's someone behind him or if there's anyone else he could attack.
- You need to understand what he's screaming.
- You need to protect the public, yourself, your partner and the subject.
- You need to assess and decide on a "line in the sand" when you must deploy lethal force.
- Is this alcohol induced? A mental health issue? An emotional reaction? Does it matter?

You have a microsecond to decide. My partner begins to establish dialogue. Because we work well together, know each other's training and have trained in reality-based scenarios, we have confidence in each other.

Our tasks split. My partner had established dialogue and naturally took on the role of negotiator. I assumed the role of lethal overwatch and as resources started arriving, became the team lead.

My partner constantly assesses the male's behaviour while actively listening to him and starting a dialogue in an attempt to de-escalate. He still has to protect himself and manage his force options.

I take a moment and quickly transition to my patrol carbine, which has pin-point accuracy at a greater distance than my pistol and magnified optics so I can assess behaviour from a safer distance. I know that if I have to use lethal force it'll be dynamic, extremely quick and close but I need to be precise and accurate.

My job now is to let my partner negotiate but still stay engaged. I may need to switch roles if the male's focus changes to

me. My partner's safety rests in my hands.

Seconds go by. I've let everyone know what's going on and I can hear sirens in the distance and voices in my ear asking what I need and where I need it.

The male begins to close the distance, walking toward my partner. He's now 15 metres away, still screaming that he's going to make us kill him.

I'm looking through my rifle scope, assessing what's in his hands. It's a fixed blade knife and he has a 40oz bottle in the other hand. There's something heavy in his coat pocket. Another bottle? A gun?

- Where's my partner?
- Where's my line in the sand?
- I need less lethal options;
- I need officers to surround the area and make sure no bystanders get close.
- I need a K9 officer;
- Do we have a helicopter up in case he runs?
- Can we stop traffic?

Two more officers arrive, so we now have four on scene. I have pistols, rifles, a bean bag shotgun and Conducted Energy Weapons (CEW). We also have our batons and OC Spray but they are not viable force options with a lethal force threat such as a knife.

The 12 gauge bean bag is an extended range impact munition. The injury potential may be higher than that of the baton, depending on the range deployed and the area of the body targeted but it is mainly a pain compliance tool.

The CEW creates neuro-muscular incapacitation (NMI) for five seconds, disrupting the body's ability to control muscle response, which is very effective in stopping a subject's threat. However, for NMI to be effective an officer has to realistically be within at least five metres of the threat. Both probes, which leave an angle to each other, must contact the subject.

This subject wants us to harm him; it's what he's been screaming for what seems like an eternity but has only been two or three minutes. I believe deploying bean bag rounds will only stimulate him. We are not close enough to use a CEW.

He's still 15 metres away. We move to a position that puts our police car between us. My partner is still negotiating. I communicate a plan that involves us holding our ground at the police car and using a layered force approach. If the male comes at us, we will attempt to employ less lethal options to stop him before having to use lethal force. I do not want to use force; my deployment will be based off his behaviour.

I'm still focused on my role as lethal overwatch, but I now have a negotiator and two officers with less lethal options out that I have to protect. I also have to keep my eyes up for bystanders coming into our area.

I direct other police resources to strategic points to control the male if he decides to run, and I have to make sure each of those containment points has proper layered force options (firearms, CEWs, bean bags). On top of this I have to keep the bosses in the loop. I'm also the eyes for incident command while formulating and communicating contingency plans.

- What if the male starts stabbing himself?
- What if he charges us? What if he runs away?

What if he finds a bystander?

- I'm still watching his hands. Now he has two knives – a fixed blade and a box cutter.
- He's still upset but is maintaining dialogue with my partner.
- My partner is still trying to de-escalate and doing a great job given the distraught male's behaviour.

How will we intervene if this male begins to critically harm himself? We don't have the luxury of risk avoidance, we only mitigate risk. We might have to physically intervene.

My intervention plan, should he begin to critically injure himself, includes us closing the distance and deploying bean bags to change his focus until we're close enough to deploy the CEW, giving us five seconds to get our hands on him and stop him. This is an incredibly dangerous plan and involves us launching force options and causing harm, but less harm than he is causing.

A K9 officer has arrived. We decide deployment will be a last resort, we don't want the police dog injured.

I broadcast all of the contingency plans. The four other officers and the containment officers need to know their roles and incident command ultimately has to approve our plan to deploy force. They ultimately get approved.

Just as my partner has to keep assessing the male's behaviour, the environment and all of the circumstances, I have to formulate and broadcast these plans while maintaining lethal overwatch, and assessing all circumstances.

This is complicated by the male himself, who is intent on moving around, walking through a fence line into the school field and forcing us to move with him. We maintain as much safety as possible while I manage and shift containment teams.

The male appears to begin violently stabbing himself in the abdomen. Do I launch my intervention plan? I have microseconds. One last assessment through my magnified rifle scope and I can just see that he's using the butt end of the box cutter, not the blade, in an attempt to get our attention.

- I have to observe.
- I have to keep my team, the public and the subject safe.
- I have to communicate what I see.
- I have to decide whether to launch less lethal force and intervene or hold. Deploying force would jeopardize my team's safety.
- I'm on the radio and focused on the subject. Is the area still safe?
- A microsecond, a split second decision. Go or no go. No go.

The male realizes that he didn't force our hand. My partner is still talking to him. The dedicated negotiators have shown up and are backing up my partner who is still primary because he's got a rapport and is doing a great job. I'm back to lethal overwatch, ensuring I've got all the resources I need.

I'm also back to being the eyes on the radio so the incident commander knows what's going on. The male tries to force our hand again, rushing towards us.

- Do we pull back to a point of safety?
- Communicate on the radio.
- Ensure the safety is off on my rifle.
- Aim, breathe, concentrate.

My team mates with less lethal have to

launch first when he crosses their threshold and he's almost there. If he keeps going I may be forced to use lethal force. I don't want to but I can't let him harm my team or me.

He stops, just before "our line in the sand" to launch a bean bag. It's as if he knew. This back and forth, negotiation and constant focus and assessment continues for four hours.

In the end our most valuable tool was time and communication. We were able to take the male into custody without deploying force. We had everything available to us out and prepared. Each person and force option had a specific purpose. Our combined purpose was to preserve life. Our response is driven by our subject's actions.

My partner and I spoke to the male after he was in custody and had calmed down. His plan was to come into the police station and attack someone, forcing police to kill him (suicide by cop).

This was one of the 99.9 per cent of incidents where police deploy force options but aren't forced to use them. This is the professional work that police do every day, in every city across North America, that never results in a media story.

Jim Ingram is a Delta Police Department Constable. This is an edited version of a blog post that was designed to give the public some insight into the force options available to first responders and the purpose of each option (<http://24x7.deltapolice.ca>).

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THE ABCs OF POLICE NOTE-TAKING

A fundamental aid and your best backup

by Michael P. Souliere

Documentation is far superior to relying on rote memory of an event. Complete, accurate and properly maintained notes are a fundamental aid to memory and serve as a guide during investigations and interviewing witnesses, victims, suspects and accused persons, studies show.¹

The following is a well considered judgement made by The Hon. Heather L. Katarynych of the Ontario Court of Justice in a 2006 ruling:

It is not "good enough" police practice... to make no notes at all in the course of an investigation. Responsible note-taking is part and parcel of a police officer's duty, and both an ethical and legal obligation of the police. There is nothing new in this concept.

The clear message to police that they have an obligation to preserve evidence and information that is otherwise to be the subject of disclosure by the Crown was handed down by the Supreme Court of Canada a quarter century ago in Stinchcombe. That includes police note-taking. Those notes provide a connection to what the likely evidence of that witness is to be.

They feed resolution discussions. They assist both the Crown and defence counsel to prepare their respective cases for trial. In short, the duty to make careful notes of the course of a criminal investigation is not something to be casually dismissed – (R. v. B.(M.) [2006] ONCJ 526).²

The importance of proper note-taking stated by Justice Katarynych was also detailed in the *Martin Report*:

The importance of proper note-taking or otherwise recording the course of an investigation can scarcely be overstated. A proper record of the investigation as it unfolds, facilitates the development of a theory of the case by the investigator in charge, which permits subsequent investigative steps to be taken with greater certainty and effect.

The case must be subsequently presented in court, and meticulously analysed by the prosecution and the defence to ascertain whether it meets the legal standards that must be met before a conviction can result. Information must be recorded precisely enough to permit the presentation of that which is admissible as evidence in court, often many months after it is assembled, clearly and comprehensively. Even the strongest case on the facts may well founder in court if the information uncovered during an investigation has not been accurately recorded.³

It is often said that criminal cases are won or lost before the trial even begins. It is about the investigating officer being properly prepared for the case, which includes their notes. The notebook often becomes a critical document which may be subject to close scrutiny by judicial system members. While police services practice the supervision and spot auditing of notebooks, the necessity for this procedure was emphasized within the *Kaufman Report*.⁴

No police officer wants to be embarrassed on the witness stand because their notes lack significant details of the events surrounding the charge. An officer's credibility is judged by the quality of their notes. This belief was supported by Bradford Smith, former senior crown prosecutor with the Justice Department of Canada:

Good police note taking is important for two reasons. First, it invariably bolsters the credibility of the police officer giving evidence. Second, it promotes the proper administration of criminal justice by facilitating the proof of facts. Conversely, sloppy police note-taking can be devastating to the credibility of the officer giving evidence and seriously, if not fatally, undermine the successful prosecution of the case.⁵

Yet, despite well documented criticisms and recommendations by members of the judicial system, issues surrounding poor note-taking continue. Unfortunately, the criticism for having presented inadequate notes often embarrasses the officer, their service and the entire judicial system.

This brings us to the obvious question: Why do incidents of poor note-taking continue to happen? The *Kaufman Report*, which was further substantiated in a recent RCMP audit, cites a number of factors that contribute to poor note-taking.

The internal audit reviewed a number of officer notebooks. Although it concluded notes were being recorded in a timely manner and mostly compliant with policy requirements,

there remains room for improvement. The auditors concluded that “notebooks did not always have all of the core components required by policy.”⁶ The core components referred to in the RCMP operations manual include the basics of note-taking.⁷ Simply put, a number of officers failed to follow the basics.

The ABCs of note-taking

What is to be recorded?

Notes must contain an accurate and complete account of police observations and activities and should answer the following very simple questions (The following is not an exhaustive list since each unique situation will dictate what should be recorded):

WHO:

- Are the victims, accused and witnesses?
- Conducted the investigation?
- Preserved the scene?
- Conducted the search?
- Obtained evidence?
- Took custody of the evidence?
- Was at the scene?
- Else had a role in the investigation?

WHAT:

- Offence was reported?
- Is the source of the information?
- Offence was committed?
- Was seen (including all the senses – smell, sound, etc.)?
- Statements were made by the victims, accused and witnesses?
- Evidence was obtained?
- Action was taken?

WHEN:

- Was the offence committed and reported?
- Did the officer arrive at the scene?
- Did the officer contact the victim and take a statement?
- Did the officer obtain each item of evidence?
- Was the accused informed of the rights to counsel and cautions?
- Did assisting officers arrive at the scene?
- Did the police officer make his/her notes?

WHERE:

- Was the offence committed?
- Was the offence reported?
- Were the victims, accused and witnesses?
- Do the victims, accused and witnesses reside?
- Was the evidence obtained?
- Was the evidence stored?
- Did the officer interview victims, accused and witnesses?
- Did victims, accused and witnesses make their statements?

HOW:

- Was the offence committed?
- Was the offence discovered?
- Was the offence reported?
- Did the accused commit the offence?
- Did the accused respond to police rights to counsel and cautions?
- Did the victim get to the hospital?

WHY?:

- Was the offence committed?
- Was the offence reported?
- Was there a lapse of time between the committing and reporting of the offence?
- Did the accused commit the offence?
- Was a witness eager, or willing, or hesitant to give information?
- Was the victim moved from the scene?

Ensure notes are legible

Officers have had difficulty testifying because they were unable to read their own writing. This becomes even more difficult with the passing of time. If notes are not legible, officers should have them transcribed and brought to trial along with the originals. In short, officers lose credibility because of sloppy or illegible notes.

For this reason, all entries should be made in ink. It is advisable to include the reason in the notes when changing from the same ink pen (i.e. ink froze or raining, used other pen or had to resort to pencil). Simply, make notes by whatever medium is available given the circumstances and be prepared to justify and explain the reasons directly within the notes for using a different writing instrument.

Be objective

An officer's notes should reflect professionalism and fairness. Notes will corroborate your credibility as a competent, thorough and fair officer.

The *Martin Report* made it clear that police have an obligation to disclose the fruits of their investigation to the Crown, including all information that may assist the accused:

The pre-existing duty on the part of the police to provide full disclosure to Crown counsel is as important as it is uncontroversial. In most circumstances, the police are the principal source of all information that subsequently becomes evidence in a criminal prosecution. The police, as the investigative arm of the state, have the primary responsibility for acquiring such evidence. However, it is Crown counsel who must conduct the prosecution.

Crown counsel cannot do so effectively or responsibly without being apprised of all that is relevant. Material that assists an accused may be particularly important, as Crown counsel must prepare to deal with such material in court. Alternatively, material favourable to the accused may lead Crown counsel to withdraw the charge, or require further investigation.

Police disclosure to the Crown is also important in that it allows Crown counsel to discharge his or her constitutional obligation to then disclose all relevant information to the accused.⁸

In Ontario, full disclosure that is fair and objective is also governed by the *Code of Offences*. This regulation provides that an officer is guilty of neglect of duty if he or she: “Fails to report anything that he or she knows concerning a criminal or other charge, or fails to

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disclose any evidence that he or she, or any person within his or her knowledge, can give for or against any prisoner or defendant.”⁹ Other provinces have similar legislation placing the onus on officers to record all information, including disclosing all material that may be beneficial to the accused.¹⁰

Leave no spaces between entries

Police notes will be subject to examination and scrutiny by supervisors, Crown and defense counsel and judges. It is difficult to allege that additional notes were made at a later time if an officer leaves no spaces between entries.

Some police services will include copies of all police notes within a Crown Counsel Brief. Even if not originally included, they will often be forwarded to the Crown for disclosure purposes. The Crown must receive full disclosure and should be consulted in issues where any notes may compromise the integrity of an investigation.¹¹

(Note: It is a common practice within some police services for police officers to leave a space at the end of each shift for the signature of a supervisor. This space appears after the authors' signature and may also be inserted after recording regular/medical/annual leave, day(s) off etc. It is vital that consistency is maintained throughout a duty book.

If a space is required to be left for the above purpose then such space must be left at the end of every shift. A police officer must be able to justify any and all entries, errors, omissions and deletions within his or her duty book. The officer can record commonly referred to material at the back of their notebook. (i.e. for street hostels, emergency numbers, towing services, etc.)¹²



Errors and additions

Should an error be made, draw a single line through the centre of the error, ensuring that it remains legible. The officer should then place their initials on the line and continue with their entries.

Where an officer makes a correction from their original notes, the current date and time should be noted. In addition, the officer should make an entry cross-referencing the original page number containing the error and stating why the correction was made after the fact.

Also, where an officer makes an addition to their notes, they could clearly mark these additional notes as “L.E.” for Late Entry. The officer should make an entry under the current date and time, cross-referencing the original page number, along with the reasons why the addition was made at a time other than the original entry. This will allow them to fully explain why the notes are not in chronological order.

Whenever an officer makes changes or additions to their notes after initial disclosure to the Crown, the officer should forthwith bring these changes or additions to the attention of the assigned Crown in writing and provide copies of the notes highlighting the changes or additions. Both of these basic rules will enhance the officer's credibility should the Crown or defence wish to question the officer during the trial process.

Second notebook

Under NO circumstances should a second notebook be kept or maintained by an officer unless authorized in writing by a supervisor. Ideally, provisions for this will exist in local police service policy. An example of this might be where an officer is assigned to a special investigation and a different size notebook is authorized for that type of investigation within that police service.

Original notes

Police officers will often make rough notes within their notebooks or on scrap pieces of paper. These need to be dated with a time, as well as initialed. It is permissible to rewrite these rough notes properly into the notebook. When doing so, officers should rewrite the notes using the current date and time, and identify where the rough notes are found. Remember that the rough notes are the originals and must be disclosed to the Crown. The key here is full disclosure and keeping the originals.

The use of electronic police notes is increasing dramatically. Great care must be taken that these notes are maintained to the same high standard as regular hard copy notes. Officers should follow their own service policy and the advice of the local Crown office pertaining to electronic notes.

End of shift

Make sure notes are completed at the end of shift, including a signature. An officer should make a consistent break between shifts such as a double horizontal line below their signature and across the entire page. In the event of a call back, or next working shift, they are then ready to receive the new information in proper order, avoiding any gaps.

Ensure that all shifts are recorded, including any days off (i.e. — R.D.O. for



Police taking notes, Tottenham riots, August 2011, photo Paul Mattsson

regular day off or A.L. for annual leave). Every day of the year is then accounted for within the notes.

Note-taking is an essential component of police work. Notes serve to refresh memory, assist officers with investigations, record evidence and support criminal and provincial prosecutions and other tribunal hearings. In the words of Ontario Court of Appeal Justice Sharpe, “reliable independent and contemporaneous police officer notes are central to the integrity of the administration of criminal justice”¹³.

In *R. v. Green*, Justice Malloy stated:

An officer’s notes perform a valuable function at trial. It is usually many months, sometimes years, from the time of an occurrence to the time that the officer is called upon to testify at trial. Without the assistance of notes to refresh his or her memory, the evidence of the officer at trial would inevitably be sketchy at best.

*If the officer’s notes are prepared without any indication of which is the officer’s independent recollection and which is somebody else’s recollection, there is every likelihood that that officer at trial will be “refreshing” his or her own memory with observations made by someone else. In effect, the officer will be giving hearsay evidence as if it was his or her own recollection rather than the observations of somebody else written into the notes without attribution.*¹⁴

Former Crown Prosecutor Bradford Smith eloquently captures the importance of proper note-taking and reinforces why an officer would wish to ensure that their credibility is never tarnished by having poor notes during a critical trial:

Sloppy police note taking is bad for the in-court credibility of a police witness. It undermines the successful prosecution of a case. The good news, if you are a diligent and competent note taker, is that when you are cross-examined by criminal defence lawyers.... you will have the benefit of detailed notes to refer to.

Cross-examination by defence counsel

*will not be an uncomfortable experience (or at least not as uncomfortable as it otherwise would be). You are more likely to find the judge describing you as a credible witness. And importantly, rather than creating gaps in the story of the case, your evidence will provide necessary detail, thereby facilitating a very important legal objective – the proper determination of criminal charges on the merits.*¹⁵

FOOTNOTES

- 1 Ontario Police College Needs Analysis for Advanced Patrol Training 1994; R. Hoffman, P. Hutchin, Mauro Succi; Ibid. 1997; Dr. G. Brown, R. Hoffman, P. Hutchin, Mauro Succi
- 2 *R. v. B.(M.)* [2006] ONCJ 526
- 3 Ontario Ministry of Attorney General, Criminal Law Division, Martin Report of the Attorney General’s Advisory Committee on Charge Screening, Disclosure and Resolution Decisions, 2006
- 4 Kaufman Commission on Proceedings Involving Guy Paul Morin, Recommendation 100, 1997
- 5 Smith, Bradford, Law Corporation, www.smithlitigation.com, 2014
- 6 R.C.M.P. Audit of Investigator’s Notes, 2014
- 7 R.C.M.P. Audit, IBID
- 8 Martin report, IBID
- 9 Police Services Act of Ontario, O.REG. 268/10, s 2(c)(vii), 2010
- 10 For example, refer to Alberta Police Act, A.REG. 356/90, s.5(h)(vii)
- 11 *R. v. Stinchcombe* [1991] 3 SCC 326
- 12 Ontario Police College, Basic Constable Training, Evidence Guide, 2014
- 13 Schaeffer v. Wood [2011] ONCA 716
- 14 *R. v. Green*, [1998] O.J. No. 3598 [(O.C.J. (Gen. Div.)]
- 15 Smith, Bradford, IBID

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Change in Policing

Providing safety in the public interest

Michael Kempa is the author of a 21-page discussion paper “Change and Innovation in Canadian Policing” available through the Canadian Police College. The following is a brief outline of the document made available to the readers of *Blue Line Magazine*. To obtain a full copy go to www.cpc.gc.ca/.

Because of the current global, political, and economic crisis and the resulting restructuring of public sector institutions like the police, there are challenges for public policing and public safety.

We are currently in a time period of great political and economic transition, one in which our policing philosophies, institutions, and practices are not only increasingly expensive, but are also not suited to current and future policing needs.

Policing change comes because shifts in economics create new societal pressures that open up new opportunities for crime and present different challenges.

How we think markets should serve us, how we think markets tend to behave, and what we feel the proper relationships between governments and markets ought to be, all greatly impact our views and beliefs about what policing and police is and could be.

Critically, the belief that “policing” is limited to maintaining an unremitting watch over collective goings-on and enforcing the law in mostly public space is deeply dependent on the idea that there is a sharp divide to be drawn between the public and private spheres.

Whenever governments think they have a larger role in acting in the private sphere to regulate and shape markets, their concept and aims for “policing” tend to become more ambitious to include all manner of community safety and social regulation issues; and whenever governments have more faith in the power of the private sphere to take care of itself, their dominant ways of thinking about



policing become narrower to focus on strict law enforcement.

Also, when markets move, they enable and constrain government action and prompt policing adaptation. Poor market performance, for example, diminishes the tax base and thus diminishes government resources.

In this case, governments begin to run deficits and must naturally begin to search for more efficiency in all its public services, including policing.

There are five important indicators that suggest that the current system for policing is in need of adjustment:

1. Spending on policing has been mushrooming in Canada and across the Western democracies for over two decades. Total spending on policing in Canada was over 12.6 billion in 2010 — more than double its 1997 level. This spending currently takes up to 50 per cent of municipal government budgets

across the country. In 2011, the number of police officers reached 69,500 representing seven consecutive years of growth and the highest police officer strength since 1981;

2. Studies show that police morale and officer health is in decline. These are sure signs of an organization that is being pulled in too many directions and being asked to do too many things that are out of alignment with its core functions, authorities, and capacities;

3. Public perceptions of public police fairness and impartiality have been slipping of late — reaching relative low points in their cyclical levels of support over the past few decades. It is clear that the public have very high expectations for the police organization, which may be unrealistic in scope;

4. Partly a result of, and partly driving, public appetites for greater amounts of security, the private security industry has been growing across Canada at an astronomical rate since the late 1970s — picking up renewed vigour since the terrorist outrages of 9/11. Whatever else is happening, it is clear that corporations and the public do not feel that the public police on their own are capable of meeting their full range of security needs, in all forms of collective space;

5. Despite declines in overall recorded crime rates, crime is known to be expanding in the realms of cyberspace and finance and emergent forms of technology are being exploited by the criminal element — forcing policing and security agencies to catch up.

The new political and economic consensus is that the state and big governments are back in style — while not necessarily doing the direct rowing of providing all public services, then certainly by doing more of the steering through regulating the contribution of other agencies.

The consensus of this new shift is that modern governance of public institutions will need a great deal of agility — more flexibly designed organizational and management structures — so that they can respond quickly

to the directives of skilled, outward looking leadership who are scanning the horizon for shifting challenges and conditions.

Centralized bureaucracies — such as the public police — are going to have to rethink the skills they look for in their leaders, and reform their pay, promotions, and other incentive structures to reward ingenuity, innovation and flexibility, rather than dogged adherence to old systems or longevity of service.

It is clear from the language of reform that most police professionals and members of government want the state to coordinate the many agile institutions that contribute to public safety— and influence the entire “system for policing” — in service of the public good.

The difficulty we face is that most of our laws, institutions, and practices were designed for a previously compartmentalized world in which policing was limited to a single, bureaucratic agency that directly enforced rules and maintained disciplinary surveillance only in public space.

A major rework of the legal framework for policing is therefore in order, and should be guided by the practical lessons of what is seen to be working in partnership policing on the ground.

Whatever the challenges to modern public policing presented by the emerging new economy, it would seem they will not be solved as before through greater public expenditure.

The proliferation of new threats to security and of the police resources to deal with issues of terrorism, asylum and illegal migration, identity theft and fraud, also pose a problem.

Many of these new policing challenges are obviously associated with structural shifts in the global economy and the availability of new institutional technologies that increase global flows of people, information, goods, and virtual services. One of the principal concerns of state governments, and, by extension the police, has been to manage increasingly mobile virtual and real population and communication flows.

There is simply no way that an institution set up to handle the security challenges of the 19th century industrial economy can continue to meet all of the security demands of a wildly changing, diversified modern global economy.

Identifying what the police do best — and sticking to those core functions on the basis of evidence — will therefore be essential.

Our main challenge, therefore, is not simply to find better cost efficiency but to find ways to achieve public safety and well-being in a coordinated, blended fashion across the multiple policing agencies that make a contribution to this broader policing enterprise.

Synergistic, broad policing programs — such as Saskatchewan’s community safety partnerships and others that are being chronicled by Public Safety Canada — that are demonstrated to be working well on the basis of actual empirical evaluation deserve our rigorous review.

Since most of our options for the future of community safety will involve the police working in some degree of partnership with a wide range of private and civil agencies, we will need to be sure that our accountability

mechanisms can hold all the agencies mobilized in the public name to account.

History has shown that policing reform has been forced and enabled by major economic restructuring.

Reinventing a centuries-old, multi-agency institutional model for policing is a difficult endeavour, one that requires skilled leadership to build upon demonstrated experimentation and best practice.

As Albert Einstein has famously quipped, “you can’t solve problems using the same thinking that created them.” To this we can now add, “diagnosing the origins and limits of current thinking is the first step to getting outside the box.”

What we are looking for are new ways of bringing together legal, economic, and social governance to promote community safety. We need a new answer to the fundamental question of how best government, police services, and civilian oversight bodies can deploy power in both the public and private spheres to steer processes of community safety in the public interest.

Michael Kempa is an Associate Professor of Criminology at the University of Ottawa and a freelance investigative journalist. Central to his work is the drive to untangle the connections between policing, politics and economics. He has published widely in leading academic journals, including the *British Journal of Criminology*, *Theoretical Criminology*, and the *American Annals of Political and Social Science*. He has also translated research for a wide public audience in such outlets as *The Globe and Mail*, *Toronto Star*, *CBC Radio*, and the *Walrus Magazine*.



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MAKING A DENT IN THE CYCLE OF CRIME

London Police Service expands their foot/bike patrol

by Carla Garrett

A recent overhaul to a decades-old bicycle patrol unit in the city of London is making a dent in the cycle of crime in the downtown.

After ramping up its presence with a permanent shift rotation, London Police Service (LPS) saw a dramatic increase in criminal investigations, boasting a 56 per cent increase in its first full year.

“Having a dedicated bicycle patrol team has been a tremendous step forward and the results have been nothing short of amazing,” says Sgt. Gary Strang, who heads up the specialty LPS Community Foot Patrol Unit.

“We have a marked departure from without bikes to with bikes and are on track to beat our 2014 record.”

The unit has experienced substantial growth in the successful apprehension and prosecution of criminals and traffic-related offences, while reducing calls for service on regular patrol.

“Our uniformed presence on foot and bicycle allows members of the community foot patrol unit to pre-emptively deal with persons and situations that may later turn into calls for service,” says bike patrol Cst. Casey Schmutz.

The LPS has used bicycle patrol over the past 20 years but in 2012, under Strang’s leadership, it made a significant shift in direction, assigning all bicycle patrol to a 12-officer unit dedicated to providing service to the core area of the city.

The bicycles are primarily used from April to December; members return to foot during the heavy winter months.



“Our previous process of deploying bike patrols sporadically and with random officers was ineffective and of no value to the service,” says LPS Chief John Pare.

He adds the new model has created a sense of ownership and connectivity that did not exist under the previous system of deployment and improved community relations.

Downtown London associations, which serve to improve and attract businesses and investors, have also seen the benefits of this value-added service.

“It adds a level of safety to the downtown we really appreciate,” says Downtown London CEO Janette MacDonald.

“We are all very reassured to have them here and so visible.”

She says they often see the officers waving as they ride by on patrol or stopping just to say hello.

It is this relationship that allows the police not only to become more effective in their day-to-day duties, but also build bridges and understanding with the community as a whole.

“We get to know our customers on a

first name basis. We have the ability to build respect and trust. Not an easy task in today's environment," says Schmutz.

Schmutz has been a member of the foot patrol unit since 2013 after spending eight years in regular patrol, where he never got an opportunity to develop rapport with the public.

"In my first year in the unit, my eyes were opened to the benefit of face-to-face interaction with the public we serve and the criminal element from which we attempt to protect them," he says. "This was something that had been missing during my eight years on regular street patrol."

However, a successful bike unit takes more than presence to be effective, says Strang. To ensure quick and safe responses to incidents, officers must be properly trained to use their mountain bike.

"When you get hired as a police officer you have a drivers license but they don't just give you a cruiser. You are trained in the safe operation of police vehicles. A bike is a police vehicle and good biking skills are just as important," says Strang.

These skills are demonstrated in a popular LPS YouTube video.

In the short video, a thief cuts off a bike lock and rides away down a crowded downtown street. Within seconds, two officers on bicycles are expertly maneuvering through both pedestrian and vehicle traffic, cornering the suspect against a parked car.

The cycling officers show excellent control, making swift precise movements while maintaining their speed as they navigate through the cracks and crevices of downtown London.

Strang, a strong proponent of continued education, made a conscientious effort to ensure officers received accredited training on safely operating their bicycles during police patrol.

The International Police Mountain Bicycle Association (IPMBA) was selected to provide that training, reducing risk both to the officers and the organization.

"Officers need to be mindful of that fact and learn to operate them to their maximum potential," says Strang, who has biked to work every shift of his 19-year career.

IPMBA offers internationally recognized certification and training courses developed by experts in the fields of police, EMS, and security cycling. Public safety agencies around the world use its courses.

This training has provided unit members the ability to safely and comfortably navigate a police bicycle into areas which were previously inaccessible and difficult to patrol.

Currently officers on the unit are only required to complete the training once but Strang, an IPMBA instructor, says he is looking into a possible recertification process. There is also talk of expanding the unit with requests coming in from other areas of the city.

The bikes have been positively received by the community and have been a bridge to building excellent relationships – the foundation for public support needed to allow police to get the job done, says Strang.

"It has been well worth the investments."



BY THE NUMBERS

Number of running criminal investigations:

2009 - 237
2010 - 169
2011 - 240
mid 2012 (*patrol started*) - 449
2013 - 549
2014 - 696

Number of occurrences downtown:

2009 - 572	2012 - 917
2010 - 528	2013 - 1023
2011 - 589	2014 - 1256



For further information about the International Police Mountain Bike Association (IPMBA) you may contact Maureen Becker at 410-744-2400.

Carla Garrett is *Blue Line Magazine's* regional correspondent in South Western Ontario. She may be reached at carlagarrett@bell.net.

An advertisement for 3M. The top part features the 3M logo in red and the slogan 'Science. Applied to Life.™' in black. Below this, the text reads: 'Find out more about how our trusted solutions can be applied to keep communities safe at 3M.ca/LawEnforcement'. The background of the advertisement is a photograph of a large crowd of people gathered in front of the Parliament Buildings in Ottawa, Canada. The building's clock tower is prominent. The crowd is dense and diverse, with many people wearing red and white clothing. The overall scene is bright and sunny.



EXPANDING YOUR LEGAL TOOLS

Using the Canadian Human Rights Act to combat hate crime

by Terry Wilson

Being a police officer for many years, I believed I had used every avenue available to convict a criminal. I used every federal and provincial act to help keep criminals off the streets.

It wasn't until I spent six years as a hate investigator for the London Police Service that I learned of a new tool available to me — *The Canadian Human Rights Act*.

How I came to learn this was through an investigation involving a hate organization called CECT (Canadian Ethnic Cleansing Team) which had active members in London, Ontario.

Like many hate organizations, the CECT had a burning desire to express their hateful messages to the world.

They had two active websites which were used to promote their white supremacist beliefs. Although the content was often alarming and inappropriate, there is a fine line between hateful words and criminal acts of distributing hate propaganda. Simple slang, crude images and derogatory names did not make a hate crime.

On Sept 11, 2001 New York, Washington and the world was crippled by the devastating

effects of the murderous acts of extremist Muslims. The CECT jumped on the terror and directed all viewers to their website to “Declare war on all Muslims and Jews.” By making this public statement, the leaders of the CECT had committed six different criminal offences including counselling murder, counselling property damage, threats to property damage (two counts) and death threats (two counts).

Crown Council determined that there was no reasonable expectation of conviction and stayed every charge. Once again these extremists would be free to continue to spread hatred – until I received a much welcome call from an investigator at the Canadian Human Rights Commission.

He advised me that he was conducting an investigation based on a complaint from a citizen in regards to the CECT and the same hate messages I had investigated six months prior. I was happy to supply him with evidence that I had collected.

Over the next three years, I learned who the Commission was, what authority they held, and most importantly how they can help fight hate motivated crimes in Canada.

The Canadian Human Rights Commission is the investigative body of the *Canadian Human Rights Act*. This act is a federal statute written to protect Canadian's from prejudice, bias and hate messages.

Often, investigations surrounding hate propaganda cover messages sent through telecommunications. In a previous precedent setting case against Holocaust denier Ernst Zundel, the Human Rights Tribunal declared the Internet to be a form of telecommunications as defined by *Section 13* of the Act

But before the Commission could proceed against the CECT and the two leaders, they had to prove:

- That declaring war on all “Jews” and “Muslims,” was indeed a hate message, and;
- Using the Internet to convey this message met the definition of telecommunication;

To my delight, both tests were met and we proceeded to a lengthy and public hearing.

The chain of events in a Human Rights hearing go as follows:

- The Canadian Human Rights Commission investigates the complaint and determines if a hate message has been conveyed;

- If the facts in issue are met, a hearing is set and evidence is presented to the Human Rights Tribunal;
- The Tribunal is made up of judges or mediators who call evidence from the Commission, defendants and witnesses;
- Both the commission and defence are afforded opportunities to present their cases;
- Once all the information is presented to the Tribunal they make a decision with the balance of probabilities being the test of guilt.

Guilty decisions can lead to hefty monetary fines, penalties and/or restrictions on the persons and groups activities. These restrictions are registered in the Federal court and therefore any breach is treated as a Criminal Offence. These restrictions may also be applied to any future members of the group. As you can see, the Human Right Commission has some teeth.

Anyone can make a complaint to the Human Right Commission and therefore it is our duty as police officers to ensure that victims of hate are aware of this process.

If we are going to fight hatred in Canada, we need to use every avenue available. *The Canadian Human Rights Act*, the Commission and Tribunal are powerful, useful and effective tools in restricting hate messages delivered by extremist groups in Canada.

Terry Wilson was a municipal representative to the RCMP's BC Hate Crime Team. A designated expert in hate symbols, he lectured extensively on investigating hate crimes. Since retiring in April, Wilson conducts specialized training and consulting on hate crimes, human rights, gender-based violence and harassment. Visit www.hatecrimeexpert.com or e-mail twilson1840@gmail.com to learn more.

Canadian Human Rights Act

13. (1) It is a discriminatory practice for a person or a group of persons acting in concert to communicate telephonically or to cause to be so communicated, repeatedly, in whole or in part by means of the facilities of a telecommunication undertaking within the legislative authority of Parliament, any matter that is likely to expose a person or persons to hatred or contempt by reason of the fact that that person or those persons are identifiable on the basis of a prohibited ground of discrimination.

Identifiable group in this act are as follows:

3. (1) For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and conviction for which a pardon has been granted.

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Overcoming the challenges of interviewing

Title: *Arcaro's Interrogation Case Law Book*
Author: Gino Arcaro
Reviewer: Morley Lymburner
Publisher: Jordan Publications Inc.

Gino Arcaro has been writing study text books for many years; his first article as *Blue Line's* legal editor appeared in our April 1993 edition. That was 22 years ago and even then he had a wealth of credits and experience.

He was a professor with Niagara College's Law and Security Program and had previously served for 15 years as a Niagara Regional Police officer in a wide ranging career which culminated in the criminal investigation branch.

I was surprised upon meeting Arcaro for the first time to discover that writing was among his many interests. I was impressed with his first title, *Criminal Investigation and the Formulation of Reasonable Grounds*. Calling it a "phenomenal book," which "brings a street-wise Canadian cop's knowledge to the list of legal books and references available today."

I am equally impressed with his latest title, *Arcaro's Interrogation Case Law Book*, which brings into clear focus the wider and contentious issues surrounding case law and interrogation.

Arcaro always goes a bit beyond. He begins this book by offering the reader 10 points in "Chapter Zero." This is logically named to avoid the word "preface," which he points out always sounds stuffy and boring.

Chapter Zero is a good example of what to expect and sets the theme for the rest of the book. It also has a worthy quote to remember: "It's easy to put down if you don't look up."

Chapter Zero

Point #1: The beginning and the ending of this book are the same.

Point #2: This book boils down to one word – conscience.

Point #3: There is no interrogation rule book or interrogation playbook in the Criminal Code.

Point #4: Nothing just happens.

Point #5: Confessions don't just happen either.

Point #6: The way to weaken the defence is to score points.

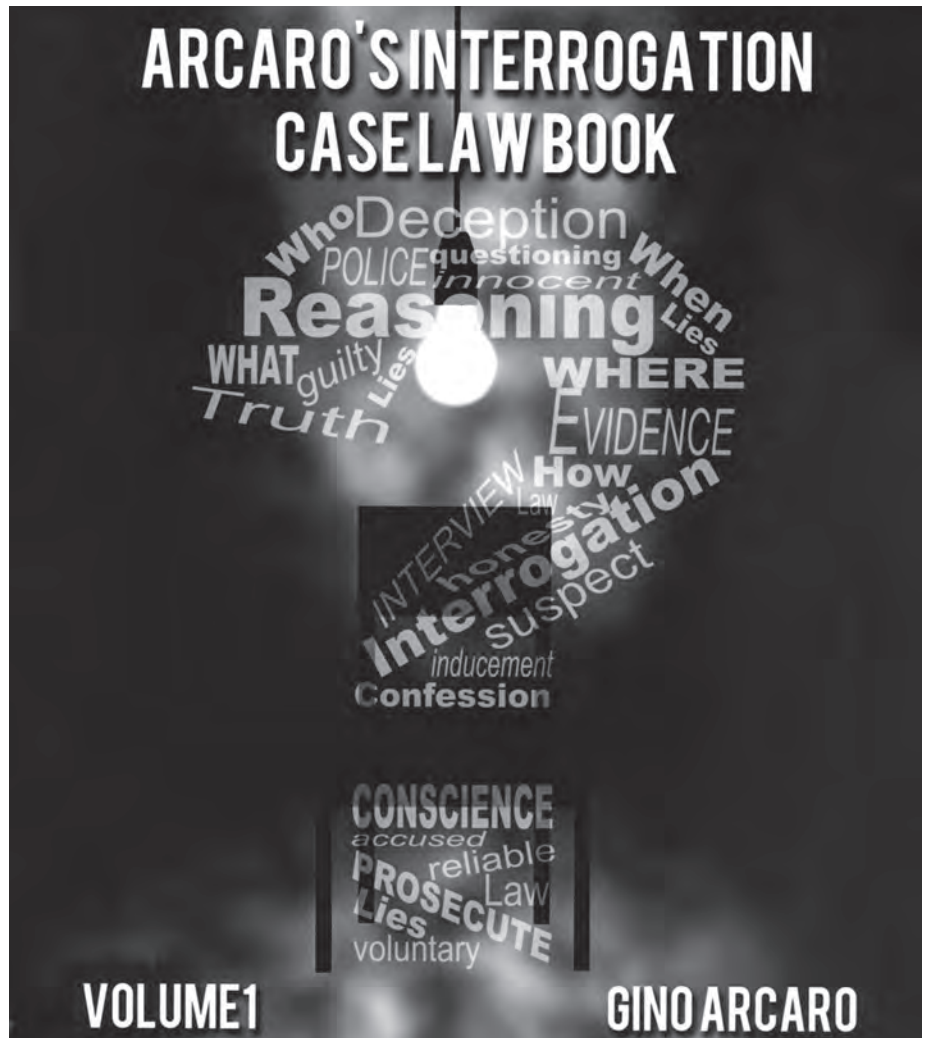
Point #7: High credibility rating, high return.

Point #8: I call it "interrogation" instead of "interview" for a reason. I replaced "elicit" with "search."

Point #9: The difference between success and failure is what's given up.

Point #10: The reason I wrote this book was to make a difference.

It should be pointed out that this 120 page book is not the conclusion but the beginning. Arcaro has undertaken an aggressive agenda to publish eight volumes based on this same concept of what cops need to know about case law and the Criminal Code as it affects their



daily working lives. Here's his description of what these titles will be.

The first two volumes explain the basics, rules of confession admissibility, which have undergone significant change in the 21st Century. Subsequent volumes explain the case law in relation to the interrogation sequence.

Volume One: How the "Contemporary Confessions Rule," from R. v. Dickie (2000) applies to confession admissibility.

Volume Two: Focuses on Sec. 24(2) Charter, the landmark case R. v. Grant (2009) and the basic case laws that deal with how to prevent Charter violations. The second part teaches how to get a "true confession."

Volume Three: The beginning of the "Playbook." Derivative Case Law: Case law decisions that are derived from the Confessions Rule and Charter cases (those that apply interrogation laws).

Volume Four: Case law relating to all the information that an accused person or suspect

has to be informed of, including the caution and Charter rights to silence, reason for arrest and right to counsel.

Volume's Five to Eight: Explanation of "contextual" proper inducement, referring to case law interrogation strategies that have been cleared for use to get a true confession.

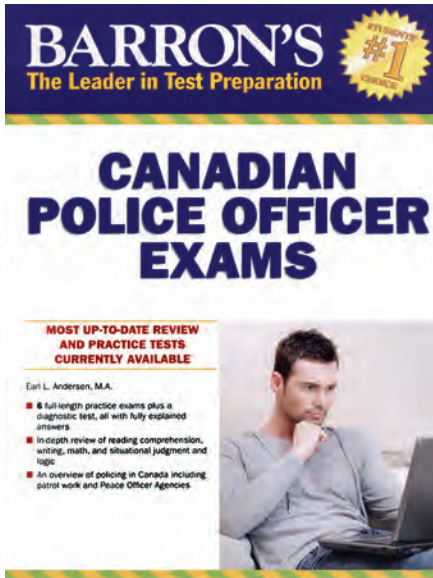
This title will lead the way for Arcaro's charge to enhance every officer's understanding of the law as it relates to interviewing and how they can use it to their advantage every day.

I would suggest anyone involved in educating those interested in making law enforcement their career take a serious look at this book, if not for the benefit of their students, then at least for their own reality check.

Given the creative energy Arcaro brings to all his projects I await his future endeavours with keen interest.

Visit www.ginoarcaro.com to learn more and purchase your copy.

Helping applicants get an even footing



Title: *Canadian Police Officer Exams*
Publisher: *Barron's Educational Series*
Author: *Earl Andersen*
Reviewer: *Morley Lyburner*

Earl Andersen's new reference book is, without a doubt, a real boon for anyone interested in policing. In fact, it would be interesting to almost anyone who likes puzzles, mental agility tests or Canadian trivia challenges. The book was like eating popcorn; I couldn't put it down.

Published by Barron's Educational Series out of New York, Andersen's book includes just about every police aptitude test in Canada.

Based on the university SAT tests, this thick volume takes the reader through tests covering the entire gamut of evaluations, from subjective attitudes to powers of observation and mental acuity.

The need for such a title is well recognized by everyone at *Blue Line Magazine*. We began an online presence in 1996. The instantaneousness of the web was quickly recognized and, with *Blue Line* being identified as a source and dissemination point of police trade/craft information, we quickly began receiving many questions from would-be police officers.

In answer to this need the *Blue Line Forum* added a "Law Enforcement Applicants (FAQ)" category. Its purpose was to discuss the educational and physical requirements, testing processes and background phases involved in the hiring process. This included the experiences and advice of current and past applicants.

The category simply exploded. It was quickly realized we had created a huge success for our readers. As of July 7, this area had 210,802 posts and 5,841 tops and continues

to be the most viewed and posted-to section. The first and most popular topic is the "RCMP Applicant General Chit Chat," which alone had 23,696 posts and more than 2,421,459.

With this volume of interest it should be no surprise a book has been launched to cater to both the keenly interested and casual surveyor of the police profession. The real benefit is that the book supplies the potential applicant with an inside view of what to expect at the recruiting office.

Canadian Police Officer Exams has enduring content. Tests do not fluctuate much and have been derived from a lot of study and research. The tests contained in the book are not the exact questions used but are emblematic of the style and form of questions many agencies prefer to use.

One aspect I liked was the fact the questions and puzzles posed focus on Canadian policing. Math questions might suggest a scenario regarding the number of officers required for a shift cycle while taking into consideration sick time and holidays.

Another may involve the distance a car might travel at a given speed within a four second period where distance and speed are measured using metric measurements.

Keeping in tune with the Canadian flavour, an introduction to policing in this country is provided along with various applicant entrance requirements of various police services. The book includes a comprehensive index along with a well laid out table of contents:

- 1 Police Work in Canada
- 2 Police Officer Entrance Requirements
- 3 Resumes and Background Questionnaires
- 4 Preparing for the Entrance Exam
- 5 Diagnostic Exam
- 6 Observation and Memorization
- 7 Mechanics of Writing and Vocabulary
- 8 Grammar and Sentence Structure
- 9 Reading Comprehension
- 10 Essay Composition
- 11 Judgment and Logic
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Andersen has come up with a real winner and it is sure to produce even more successful applicants to Canadian police agencies.

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Leadership

An Organizational Core Value

by Chris D. Lewis

My experience as a leader is largely based on my years in policing, so many of the examples I offer are of that realm. I firmly believe, however, that leadership is leadership regardless of the profession.

For a number of years, the five core values of the Ontario Provincial Police (OPP) were: professionalism, accountability, diversity, respect and excellence. When I was commissioner, we added the equally-critical core value of “leadership.”

We won’t even survive the good times without strong leadership from top to bottom in the organization. We’ll surely sink if we don’t have strong leadership in the tough times – and we all know that there will be tough days, weeks and months ahead. There always has been and always will be.

Although there are many definitions for leadership out there, the one commonly accepted basically involves words to the effect of “influencing a group of people towards the achievement of a goal.” That doesn’t mean that you have to hold rank or have a supervisory position to be a leader. In fact, some of the most natural and capable leaders that I ever worked with never competed for promotion during their careers, but everyone, including me, would have followed them anywhere.

“If your actions inspire others to dream more, learn more, do more and become more, you are a leader,” said US President John Quincy Adams. In my view, that’s what the



best leaders do and that’s what we need our leaders to be – people that inspire all those around them to be the very best they can be.

There are many people at all levels of all private and public sector organizations that still don’t understand the difference between “managers” and “leaders.”

Managers know policy and plan well. They care about form and process, making sure the “i’s” are dotted and the “t’s” are crossed.

Leaders care about substance. They are visionary, make good use of consensus and inspire the people they lead by the sheer force of their personal example. It’s all about how they interact with and treat people, because “people skills” will make or break us as leaders.

When we retire from the organization and

are long gone, we won’t be remembered for how well we managed, but for how well we treated people and made them feel – in the good times and the bad.

“People will forget what you said. People will forget what you did. But people will never forget how you made them feel,” is the way actress, poet and civil rights activist Maya Angelou put it.

Supervisors and managers at all levels need to be leaders. They certainly need to know and adhere to policy and have the right balance of management philosophies and leadership practices, but their responsibility is to make decisions, set the example, take risks, motivate and inspire employees, build morale, be accountable, communicate well and more. All of those leadership

qualities contribute to the supervisor or executive building the trust of employees. No relationship, either personal or professional, can effectively survive without trust.

Leadership, or a lack thereof, often has a positive or negative impact on employee morale. We all know the impact that morale can have on our own productivity and professionalism. We're not necessarily going to work our hardest and perform our best if our morale is poor. Every major failing of professionalism in any police service (or company) that I am aware of, including cases of blatant corruption, can be related at least in part to a leadership failing within that organization.

Not that a lack of leadership will turn an employee into a criminal, but even minor improper conduct and a lack of accountability left unchecked can frequently lead to more significant inappropriate acts over time. When serious employee misconduct becomes public, someone often claims, "I figured he (or she) would go there eventually" and then gives examples of the so-called "little" things allegedly done over the previous years that no supervisor or manager had appropriately acted upon.

It was my goal to have OPP leaders consistently do the right things for the right reasons, day after day, night after night, week after week, for the communities they serve and the people they lead – not just as they try to further their own personal agendas. What I call "resume decision-making" has become a disturbing trend in many public and private sector organizations, including policing, over the past several years.

True leaders have to take risks and when things go bad – and they will on occasion – they must take responsibility and move forward. They need support from above when they do, as I strongly feel senior executives need to distinguish honest mistakes from malice. When things go good, as they often do, leaders should let the light shine on their people – those folks that they have the honour to lead.

So, that's all well and fine for those employees holding supervisory or management positions. However, commissioner Julian Fantino used to say that "every employee is a leader." That confused OPP employees who didn't hold supervisory positions. As a senior management team we didn't communicate the meaning of that statement very well at the time.

What the commissioner was saying is that staff, uniform and civilian, generally possess those leadership qualities in the eyes of their co-workers and, equally as important, in the eyes of the public (the client).

When a uniformed officer attends a call for service – traffic or criminal – the victims, witnesses and suspects all expect the officer to take charge, communicate effectively, direct activities and make decisions. Accordingly, that's what the police do and they do it well. All of our people, whether serving or long retired, are widely known by the community as "OPP."

The public doesn't necessarily understand rank and largely look at police personnel as leaders within the community, on duty and off. Uniformed and civilian members sit on

local boards, participate in and lead clubs, coach sports, teach, mentor and more, because they are giving people who want to contribute to the well-being of the communities. That's the type of people we want to recruit into our organizations – leaders.

If leadership by supervisors and senior managers can affect the trust of the people they lead; if professionalism and performance can be influenced accordingly; and if ultimately the trust of clients can be impacted by the conduct of our personnel, then "leadership" within our organizations must figure prominently from top to bottom internally and well into the communities we serve. We cannot maintain internal and public trust, nor can we

succeed as an organization, without it.

Commissioners, chiefs, presidents, CEOs and others should always be personally committed to lead to the best of their ability, throughout their tenure and beyond – and they should expect exactly the same from supervisors and managers.

Through their efforts to lead by example, those they lead will regularly look at themselves and the leadership qualities they practice and model, and will continue to strive to be the best leaders that they can be.

Chris D. Lewis was the 13th commissioner of the Ontario Provincial Police. Visit www.lighthouseleadershipservices.com to learn more.

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A shave for the brave

by Danette Dooley

The RCMP Division in Newfoundland and Labrador kicked off its partnership with Young Adult Cancer Canada (YACC) in May with members of “B” Division shaving their heads to support the organization’s Shave for the Brave.

The Mounties raised almost \$25,000 for the cause. That’s enough to support 12 young adults through their cancer battle. The force’s long-term goal is to change 100 lives by raising \$200,000.

Shavers included commanding officer Tracy Hardy, Supt. Greg Lawlor, nurse and event co-organizer Maria Shelley, members of the Emergency Response Team and Tactical Troop and two children of members of the partnership committee.

YACC helps young adults move through and beyond their cancer experiences by providing information, support, skills and opportunity through web-based and face-to-face programs.

Some 7,000 young adult Canadians face cancer diagnosis every year—on average— that works out to 19 people a day, Hardy noted. Her shave honoured RCMP Cst. Jamie Carswell of Alberta.

Carswell joined the RCMP in 2007 at age 23. Two weeks into training she discovered a lump in her left breast.

“She had an injury so (the lump) was originally attributed to a pulled muscle,” Hardy said.

However, after being in her first posting in British Columbia for only a month, Carswell was diagnosed with Stage 3 Breast Cancer. She was transferred back to Alberta to be closer to her family and friends and endured eight rounds of chemotherapy, which shrank the tumour enough to have surgery and radiation.

During her radiation treatments, a nurse suggested that Carswell seek support from YACC. During a “Retreat Yourself” weekend in Montréal, Carswell made friends with other young adults who understood what she was going through.

In 2013 Carswell became a mother to a baby via a surrogate, all the while with continuing support from her YACC friends. When her baby was only three months old, Carswell was diagnosed with a recurrence of cancer and began more treatments.

“Jamie is an inspiration. She now provides support to other young people dealing with cancer. She’s become a resource for them now,” Hardy said.

Carswell is currently posted in Blackfalds, in the Red Deer area of Alberta, and is grateful for the support she’s received from YACC since 2008.

“This is a support I didn’t realize I needed until I found them. Then, once I was there, it was just really good to connect with people going through the same things that I was going through at that time in my life.”

Carswell is also grateful for the RCMP’s support since her cancer diagnosis.

“The RCMP allowed me to move back to Red Deer where I could get the support I needed from my family... they allowed me to come in and out of the office based on how I was feeling. I’m currently working at getting back out there now... I’m retraining now and will hopefully be back at it in the fall.”



Carswell said it’s “awesome” that the commanding officer of the RCMP in Newfoundland and Labrador stepped up to the plate to shave her head.

“Tracy is a person that everyone looks up to. It’s good to see one of the higher-ups want to get out there and spread the word about what YACC is doing.”

YACC founder and executive director Geoff Eaton, also a cancer survivor, describes young adults with cancer as “the forgotten generation.” He’s delighted with the RCMP partnership.

Hardy is demonstrating his favourite kind of leadership—leadership by example, Eaton said.

YACC had raised more than \$3 million through shave events over the past decade.

Partnerships like the one forged with the RCMP are invaluable to his organization, Eaton said.

A woman in a high profile position, Hardy admits it took a little time for her to commit to the shave but she’s proud to be supporting such a worthy cause.

“This is just a tiny sacrifice on my part. It’s an honour for me as commanding officer to be able to be a bit of a conduit for Jamie to expand on her ability to tell her story,” Hardy said.

The money raised through shave events goes towards YACC programs and services. However, just as importantly, Hardy said, these events help raise awareness about these initiatives.

Hardy encourages other police forces to come onboard and support YACC either financially or by organizing their own shave events. Visit www.shaveforthebrave.ca for more information or www.youngadultcancer.ca for more on the YACC.

“Family and friends are important but that peer support can provide an extra level of support that you can only get from someone that’s been there,” Hardy said.

When asked how it feels to have her hair buzzed off—a question she’s been asked many times—Hardy replies “Cold but proud!”

Danette Dooley is Blue Line’s East Coast correspondent. She can be reached at dooley@blueline.ca



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by Stephanie Conn

Organizational climate change

The climate in emergency services organizations is changing and it's becoming clear that employees are being traumatized more by organizational than operational stressors.

Some of the organizational stressors relate to how emergency services administrators respond to operational stressors. For instance, some present hurdle after hurdle to employees who have been traumatized by their work.

They may make insensitive comments such as "That's what we signed up for" or "We have all had to deal with these types of calls" (as if the person struggling is somehow falling short or personally weak for having a normal reaction to trauma).

Requiring people to prove that their work has created problems for their health and mental well-being can be stressful, possibly adding to self-doubt.

Given first responders' constant exposure to the suffering of others I find it astonishing that they have to fight to prove their claim.

To presume an employee is "off duty mad" or somehow trying to cheat the system is a slap in the face not only to the person who is struggling but also to those who care about them and those who will be affected by their work in the future.

It is also a disservice to co-workers who may be affected by the employee's absence because it sends a message that their claims lack substance until they prove them.

Several very brave individuals are speaking up and out against stigmatization and denial of work-related injuries, advocating for themselves and others who are struggling but feel silenced by an organizational culture that encourages keeping it all in. Advocating for one's rights isn't a choice that all can make because speaking out carries considerable career risks.

Emergency service agencies have been known to deny desirable assignments or promotion opportunities to those who are open about their difficulties. They become labeled as not cutting it and/or being trouble-makers, which substantiates administrators' decisions to block them from future opportunities even though they may be better suited than others who hide their difficulties.

At least these individuals are aware of their struggles and take measures to improve their health. Making matters worse, when employees ask for support services they often have to go through a superior to get the referral information. In effect, they have to choose between their well-being and their career opportunities.

Emergency services organizations would be well-advised to invest in their employees' well-being so that they can be healthier as individuals. Healthier people make better employees. They should be promoting access to



health support services for both "mental" and "physical" wellness (although I don't really see the difference between the two categories).

Fortunately, some of the people speaking out are emergency services administrators. I've spoken with several passionate and concerned managers who are scrambling to try to provide the much needed support their agency has historically lacked.

Additionally, employee wellness programs are being developed in response to the increased attention given to first responders' mental health concerns.

The added attention is thanks to the advocacy work of several first responders with work-related mental health concerns and the staggering increase in first responder suicides over the last few years. Employee wellness program approaches have been multi-faceted and include various initiatives for promoting physical and psychological well-being.

My suggestion for a comprehensive wellness program is to build initiatives around multiple stages in first responders' careers and to include groups that are often forgotten.

First, academy training is vital to introduce preventative measures such as adaptive coping responses to traumatic stressors. Strategies such as creating a transition ritual for going home from work, for example.

Preventative training can also provide information about how trauma affects the brain, normalizing the recruits' possible future responses. This kind of training isn't a "one and done" kind of situation. It needs to be repeated throughout a first responders' career.

Police officers have told me that they did not pay attention to the advice the first time they heard it. They had to hear it again, at the right time, when they could use the information. Recruits could also be encouraged to

keep the written information from the initial training in a special place so they will have it if they need it.

I have said it in several previous columns; but I will keep saying it until it is heard that there are several groups who seemed to be missed by training programs – call takers/dispatchers, other civilian employees who are exposed to human tragedies, retirees and first responder families. A comprehensive wellness program would include members of these often marginalized groups.

Lastly, beyond the initial and ongoing training, first responders need stronger support from critical incident stress management teams. They are trained to provide peer support and arrange connections to professional support, if needed.

Emergency service organizations who value their most valuable asset, their employees, would be wise to invest financially in peer support or CISM teams. Fewer people are better positioned and more culturally competent and they are excellent sources for additional support when more is needed.

I loved my time as a peer support/CISM member but felt like we were an afterthought by the police agency. It did not put its money where its mouth was and fund our team so that we could support others when they really needed it.

Despite some of the "climate changes," more support is needed if emergency services organizations hope to provide employees the kind of environment that will promote their health. I am hopeful though because it appears they are getting warmer.

Stephanie Conn is a registered clinical counsellor and former communications dispatcher and police officer. To find out more visit www.conncounsellingandconsulting.com or email her at stephanie@blueline.ca.

Report urges better police training

Most Canadian police forces still do not collect the right kind of in-depth data on when they resort to pulling their weapons or using force, nor do they receive sufficient mental health training to de-escalate confrontations that may turn deadly, a new report says.

The *Toronto Star* obtained a copy of the research report commissioned by the federal public safety department after the Toronto police shooting of Sammy Yatim in 2013.

It takes a comprehensive look at how police forces in Canada and the U.S. track their officers' use of force in encounters between police and members of the public.

Its main conclusion is that, despite years of high-profile and critical inquiries into police actions in, for example, the Yatim shooting, the Vancouver police shooting of Paul Boyd, or the RCMP taser of Robert Dziekanski, a consistent national approach is needed towards documenting when and why cops use force against citizens.

It also urges more substantial mental health training for frontline officers who confront troubled individuals, too, saying the research clearly shows officers who receive extensive training successfully de-escalate tensions and are less likely to use deadly force.

The report concludes it's not merely a matter of public safety, but officer safety as well, because police officers often suffer injuries when situations turn violent.

Federal public safety officials and police forces across the country have the report in hand, but it has not been publicly posted. Ontario government officials are now reviewing its findings. A draft report of a systemic investigation by the provincial Ombudsman's office into what direction the province provides to police on use of force and de-escalation techniques, is expected to be released shortly.

Ian McPhail, chair of the RCMP's civilian watchdog body, said in an interview that a consistent national approach would absolutely be beneficial, but may be seen as too costly to implement. Yet he said it may lead to a reduction in use of force, pointing to how Taser use by Mounties dropped over the commission's three-year review of RCMP policies and practices after Dziekanski's death in 2007.

The latest report, authored by independent consultants John Kiedrowski, Ronald Frans Melchers, Michael Petrunik, and Christopher Maxwell, explores what it says are two of the best approaches to documenting use of force.

The goal of both is to provide a 360-degree look at a subject's behaviour as well as the officer's re-

sponse, and to use consistent definitions of what constitutes "force" to collect narrative data as well as statistics that could be analyzed for trends.

In Canada, such analysis could reveal whether use-of-force injury suffered by an officer or a suspect is related to demographic factors like race or ethnicity, or tied to a police officer's work shift, stress levels, or other indicators such as sleep deprivation.

When used to study actions by officers in six U.S. police forces, the analysis showed officers responding to a priority call, or with lights and sirens blazing, are consistently likely to use more force; younger police officers, and officers who previously received medical attention for injuries received on the job, are more likely to use physical force.

And a citizen was more likely to use force against police when alcohol-impaired, when there is a greater number of police officers than normal, when bystanders are present, and when violent offences or gang related activities are involved. Police also tend to use less physical force if they perceive the subject to be a member of a gang or associated in some way with a gang.

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Mixed verdict on mental health courts

There has been a lot of attention paid in recent years to police involvement with people with mental illnesses. There are education and training standards, joint response initiatives and recommendations for de-escalation training. Some jurisdictions have special courts.

Mental health courts (MHCs) are one of a variety of speciality courts whose primary function is solving problems, with a focus on addressing the underlying causes of offending rather than meting out punishment and assigning guilt – therapeutic jurisdiction, as some call it.

MHCs vary in some details, but there are many commonalities. Their primary focus is not so much on disputing guilt or innocence. The lead actors, including defense and prosecuting attorneys, work as a team with judges, criminal justice personnel and mental health practitioners to arrange treatment and services.

They allot encouragement and sanctions that address the underlying causes of each participant’s offending while protecting the public (since it seems pretty clear that the door to the cells can start revolving pretty quickly with this population). The assumption is that if you treat the mental illness, the offending will go by the wayside.

Mary Ann Campbell¹, a Canadian researcher, notes that:



These courts attempt to balance the legal responsibility of protecting the public with meeting the mental health needs of the accused by integrating mental health and social service interventions into the court’s operations.

Although there is no prototypical model of MHCs, they have common features...

MHCs use a team approach, often composed of at least legal, mental health, and public safety professionals. Cases appear on a separate docket from traditional court, and legal and treatment-oriented sanctions are imposed for noncompliance.

Participation is usually voluntary, and the participant must accept responsibility for their behaviour, though not necessarily in the form of a guilty plea. Completion of a MHC program usually results in a reduction or dismissal of the index criminal charges that led to the MHC referral.

It seems to work. The available research suggests that defendants with mental illnesses who go through are less likely to offend.

Virginia Aldigé Hiday² and her colleagues have had a pretty thorough look at the existing research and conducted some of their



own. They concluded that if people actually “graduate” from mental health court, they are less likely to reoffend, less likely to have serious charges when they do, and generally spend less time incarcerated than similar folks who did not take the mental health court route.

As Goodale, Callahan and Steadman³ noted in a recent study (2013) the question of “[w]hether MHCs improve justice and treatment outcomes for people with mental disorders who are involved in the criminal justice system appears to be settled: they do.”

You can always tell that when people start making statements like that, it means we are ready to move on to MHC Research Part Deux. So MHCs work, but...

As anyone who has been involved in this kind of initiative knows, there is a big “but.” As noted above, the outcomes are better for people who “graduate” but alas, there is a high drop out rate. The available studies suggest that somewhere between 19 and 81 per cent of people drop out before completing the program, which works out to an average of about 50 per cent.

I was not able to find any handy explanation for the varying drop out rates but nevertheless, it is worth asking: what predicts failure to complete? If mental health courts are so effective for people who finish, how can we predict – or maybe even increase – the number of people who graduate?

A few studies have looked at this topic but the results are pretty unclear. Hiday’s study, for

example, suggests that the best predictors of failure to graduate are (duh) failure to show up and non-compliance with court dates. Seems a little circular to me! Testing positive for illegal drug use is also a bad thing. Again, not a big surprise.

Beyond that, there do not seem to be clear answers. Some studies have found differences based on race, type of offense (in some studies people with drug offenses seemed to fare worse than people charged with other offenses), number of previous offences... the list goes on.

One of the hitches, of course, is that no two mental health courts are exactly the same. There are about 14 in Canada and they have different criteria to get in, different things that will get you pitched out and the services provided are a little variable. So one of the big challenges for the MHC people is to try to figure out how to get people to not only start but also finish the program.

Aside from figuring out what might keep people from dropping out, it might also be worth having a look at what’s going on in the program itself. Looking at the Canadian situation, Campbell and her colleagues in New Brunswick conducted an interesting study that looked not only at the types of mental health services that their MHC folks got but also the nature and amount of intervention related to criminogenic needs (e.g. those needs that have an empirically demonstrated association with criminal behaviour.)

With offenders who do not have a mental illness, interventions focus on criminogenic needs. This is bread and butter intervention work with offenders in jails and prisons. Focus on the stuff that actually contributes to re-offending and people might offend less. Another duh.

Interestingly, we sometimes kind of forget about the criminogenic needs of people with mental illnesses, and get all carried away with mental health needs. Campbell and her colleagues noted that the MHC interventions do not always emphasize this part of things as much as they might. Of course we need to look at the mental health services – but perhaps that’s not enough – especially for MHC users who may have a history of more serious offenses.

What’s the take home message from these studies? MHCs do have promise – but we need to find ways of increasing the likelihood that people will stay with the program. While treating mental illness is a laudable goal and providing services is essential, we need to remember that it is not simply mental illness that causes people to break the law, because most people with mental illnesses are not lawbreakers.

If we want people with mental illnesses to be less involved in the criminal justice system then we need to focus on the factors that lead people to break the law. The “Central 8” risk/need factors linked to criminal behaviour include a history of antisocial behaviour, pro-criminal attitudes, antisocial peers/limited prosocial peers, antisocial personality, lack of prosocial leisure activities, lack of education/employment, family/marital problems and substance abuse. These factors tend to be relevant whether a person has a mental illness or not.

BTW... I have carefully avoided the elephant in the MHC, which relates to the argument about whether they are a good idea. There are convincing arguments that they are really just another way of involving people with mental illnesses in the criminal justice system, and that the services available would be better placed OUTSIDE the criminal justice system. It’s a valid argument, but one for another day. For today, the fact is we have these courts – so let’s make them work as well as they can.

1 **Mary Ann Campbell** et al (2105) Multidimensional Evaluation of a Mental Health Court: Adherence to the Risk-Need-Responsivity Model. *Law and Human Behavior*.

doi: <http://dx.doi.org.proxy.queensu.ca/10.1037/lhb0000135>

2 **Virginia Hiday** et al (2014) Predictors of Mental Health Court Graduation. *Psychology, Public Policy and Law* 20(2) 191-199.

3 **Gregg Goodale** et al (2013) What can we say about mental health courts today? *Psychiatric Services* 64:298-300.

Dr. Dorothy Cotton is *Blue Line's* psychology columnist, she can be reached at deepblue@blueline.ca

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THE GREATER LOVE

by Steve Brnjas

“He stabbed me!” the teenager yelled as I got out of my cruiser. With that he broke away from his father, ran a couple of driveways over and collapsed on the ground.

His father, still holding the knife, began walking toward him. Without hesitation, I ran between them and ordered him to drop the knife. Eventually, the father did. I arrested him, placed him in my cruiser and began giving his son first aid as back-up arrived.

While everything worked out well, I still recognized how this entire situation could have easily gone sideways, possibly resulting in another police funeral. In my more than 18 years of policing, this was probably the closest that I came to dying. Why would I do this, place myself between the attacker and his victim? I had a wife and children to think about and yet became the protector of this teenage boy who I did not even know.

The reality is that every single police officer, paramedic and firefighter who has ever put on the uniform lives with the potential that something really bad could happen to them.

The Bible has some insights about individuals who lay down their lives for others. Jesus said “Greater love has no one than this: that someone lay down his life for his friends.” The apostle Paul wrote: “For one will scarcely die for a righteous person – though perhaps for

a good person one would dare even to die.”

These quotes refer to how and why Jesus died, but I think they can also refer to all those who respond to a call for help while knowing the danger involved.

Have you ever thought of your life as a police officer as being a greater love? When I think back to my policing career, there was never any hesitation to respond to another officer’s call for help.

As in Moncton, every officer knew each other. No matter their personal feelings for the other or the risks that lay ahead they got on the radio and yelled, “I’m going.” Was this a greater love, putting themselves in harm’s way for their fellow officer?

What about a child? If a child is hurt or in danger, there is something within us that kicks into an entirely different gear. We would push ourselves to the limit to get to that child to provide care, comfort and hope. Children are so vulnerable, so innocent that it is easier to want to protect them.

My wife would know I had a bad shift if the first thing I did was to go into my sleeping children’s bedrooms and check on them. She would know something had happened. I would do anything for children not to experience pain and hurt. Was this a greater love, putting myself in harm’s way for a child?

Most often, we are willing to respond to all circumstances, for people that we do not

know and in circumstances that most people would never intervene.

I did put myself in the middle and now I see a new generation of police officers doing the same, trying to bring peace to situations that are often far from peaceful. Is this a greater love, putting ourselves in harm’s way for someone we do not know?

What motivation is possibly strong enough for anyone to put themselves into dangerous situations, not just once but repeatedly? It certainly is not the money. Perhaps the motivation might be nobler than any of you have ever thought. Is it possible that if you really look deep inside yourself, the motivation is actually love? A love that is willing to sacrifice in order to bring peace and comfort and help to others?

I think those in uniform who continue to put themselves in harm’s way for another are displaying a greater love. It is the same kind of love that Jesus displayed.

To all those police officers, paramedics and firefighters who continue to put on that uniform each and every day, thank you for continuing to display a greater love.

Steve Brnjas served 18-years with the Waterloo Regional Police and is currently an ordained pastor with the Mennonite Churches of Eastern Canada. Contact: smbnjas@hotmail.com or 519 807-1134.

Drone technology takes to York skies



The use of an unmanned aerial vehicle will cut road closure durations in half when investigating serious or fatal collisions, York Regional Police says.

York Regional Police is the second municipal police force in the province to add a drone - a flying apparatus with cameras attached - to its toolbox. Currently, Halton Regional Police, Ontario Provincial Police and the Royal Canadian Mounted Police are using drone technology.

York Regional Police will primarily use the drone when investigating serious or fatal vehicle collisions, searching for missing persons, security sweeps of outdoor venues and to assess a train derailment or hazardous waste incident before sending responders in, according to York Regional Police spokesperson Andy Pattenden.

"Investigating one fatal collision can close a road for eight to 10 hours," he said, explaining it takes a long time to manually map out an accident scene.

"This will cut that time in half."

At a demonstration just off Don Hillock Drive in Aurora, the drone, which is slightly larger than a basketball, launched, took pictures and landed with ease and made no more noise than a slight buzzing.

Two licensed officers, one observing the drone and the other using a tablet and stylus pen to control the flight path, operated the apparatus that's worth \$125,000, including the cameras.

It weighs 2.4 kilograms, is capable of vertical take offs and landings and can capture high-resolution images during the day or night.

"The UAV is a welcome addition to our investigative toolbox," police Chief Eric Jolliffe said.

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An eye-in-the-sky in Niagara

There are significant operational advantages to having a bird's eye view of on-the-ground operations and scenes for day-to-day policing operations.

Getting that view from above is still, for the most part, a challenge because of the cost of operating and maintaining any kind of aerial presence — especially the gold standard of police aviation, the helicopter.

While some smaller agencies such as Calgary have managed to do it effectively, the largest municipal police service in Canada, the Toronto Police Service, has been thwarted time and again by its political masters, who often wrongfully view helicopters as toys.

Fixed-wing aircraft are considerably cheaper to purchase or lease and operate than a helicopter but have limited value because they need to keep moving to stay aloft. Both helicopters and fixed-wing aircraft also have operational limitations because they have to be flown at a significant altitude and a great distance away from hazards on the ground.

Unmanned Aerial Vehicles (UAVs), often referred to as “drones,” continue to emerge as a viable, although limited option. Unfortunately, there are many negative connotations associated with the term drone, with many people thinking of the military purpose UAVs operated by the US and other militaries. Armed drones are frequently, and with surprising accuracy, killing suspected adversaries on the ground. The anti-drone crowd also often seems to be stuck on the naive “the state is spying on us” paranoia.

Niagara Police

I attended a media event in May held by the Niagara Regional Police Service (NRPS) at its fleet and canine training facility in Thorold, Ontario. The service demonstrated the equipment and discussed its experiences with a UAV Pilot Project, which at the time was about half-way into its one year duration. Despite poor weather and wind gusts up to 65km/h, members were able to fly their UAV for about 20 minutes.

The NRPS is responsible for policing the Regional Municipality of Niagara, which consists of 12 municipalities, including the City of Niagara Falls, and covers 1,854 square kilometers of largely rural agricultural land in southern-Ontario. In addition to touristy



Niagara Falls, the region is also famous for its wine and fruit growing industries. The NRPS currently has more than 700 sworn members and 320 civilian staff.



The service has used its popular consumer-grade DJI Phantom 2 Vision Plus UAV since January to give officers a view from above. The standard kit retails for around \$1,300 and consists of the four-rotor UAV, a 3-axis, gimbal mounted, 14mp Full-HD (1080p) video and still camera attached to the bottom of the UAV on a stabilising mount, two 5,200 mAh battery packs and a dedicated remote controller. The unit uses standard Global Positioning Satellite (GPS) technology for navigation, and has a simple “return to home” feature to automatically

return to its launch location.

The NRPS also purchased a \$230 hard-shell case to safely store the complete unit for transportation, and its fleet management team produced and applied a professional fleet decal package to the machine to give it the standard look of the service.

Project proposal

Det/Cst. Jeff Inch of the NRPS Forensic Service Unit (FSU), who has experience as a remote-control aircraft operator, originally proposed the UAV project about four years ago when he was a member of the Collision Reconstruction Unit. At that time the technology was not mature enough, or even affordable, costing upwards of \$50,000.

In the autumn of 2014 he submitted a new proposal to buy a UAV for limited and specialised policing operations, including his FSU team, where the UAV would be used for getting an aerial view of crime scenes. He compared four different UAV brands and models prior to recommending the DJI Phantom 2 Vision Plus for the pilot project.

Additional business case justifications included in his proposal were serious collisions and traffic fatality scenes, missing-persons searches and any other cases where an aerial view could be useful.

The project proposal was accepted and the one-year pilot project began at the beginning of this year. Inch was made the lead pilot. In addition to his experience with remote-controlled aircraft he has also completed aviation ground school and has a radio operator's licence, making him well-suited as the project lead.

As part of the demonstration project he is also training five officers to operate the UAV. Det/Cst. Mike McNeil is the primary observer during the pilot project and worked as the observer during the media event.

Rules and procedures

Standard operating procedure, mandated by Transport Canada, always consists of a two officer team – the pilot and an observer. Observers are always UAV pilots-in-training so the role actually serves two purposes at the same time.

The UAV is operated only in a line-of-sight mode and always remains within about 250m of the operator and observer. The standard battery pack allows for about 25-minutes of flying time, although they typically only fly for about 20 minutes per mission as a safety measure.

The observer officer uses an Apple iPad to get a live view of the HD video camera feed and to control the operation of the camera. The connection between the iPad and UAV uses WiFi and has a range of up to 300m. The DJI Phantom app is compatible with iPhone 4 or later, newer model iPads and Android phones such as the Samsung S3 or Note 2 or similarly or better featured models.

The standard HD camera records video and still images onto an SDHC solid-state memory card which is typically offloaded after a flight. Video and still images can also be wirelessly accessed through the iPad or Android applications for immediate use and operational needs while the UAV is airborne.

Because the NRPS is considered a commercial operator by Transport Canada rules, it must comply with the "Standing Special Flight Operation Certificate," which permits them to operate the UAV only within the Niagara Region. The certificate, which took about six months to obtain, also imposes a number of other restrictions.

Check out: <http://www.tc.gc.ca> for more information about UAV flight rules and regulations and the permits which may be required.

Experience

During the first half-year of operation, the UAV has been used at a number of serious collision scenes, sudden deaths, missing person searches, a coroner's inquest and a homicide investigation.

One unique location within the Niagara Region where the UAV can be advantageous is within the rugged Niagara Gorge, which is as deep as 365m (1,200') in some areas. There are a number of hiking trails and paths and access points that can be quite treacherous, especially in poor weather conditions and when being explored by inexperienced "tourist" hikers from around the world.

Each year there are a number of gorge rescues that need to be undertaken where an inexperienced hiker gets stranded or injured somewhere in the gorge. Finding the exact location and predicament of the hiker is often complex and time consuming because they often cannot be seen from above.

With the UAV, a team can be dispatched to the approximate location of the hiker and the UAV flown down into the gorge to locate them. Since live video footage and still images can be seen from above the teams can make far more accurate and timely decisions on how to affect the rescue.

An option for small budgets

This pilot project demonstrates that even small police services can take advantage of an aerial view for a wide variety of operational uses without spending millions of dollars to acquire the typical helicopter or fixed wing aircraft.

While small and affordable UAV's such as the DJI Phantom have quite a few operational limitations in terms of range and flight time, they can be very useful for many smaller-scale day-to-day operations. Larger UAV's with greater range and features are also available, depending on needs and budget.

Contact **Inch** at 9928@nrps.on.ca for more information on this project.

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Rectal exam not a Charter search



An internal cavity search was not a “search” for Charter purposes because the doctor doing it was not acting on behalf of police.

In *R. v. Johal*, 2015 BCCA 246, the accused sold a small amount of crack cocaine to an undercover police officer for \$100 after the officer dialed a number suspected to be associated with a dial-a-dope operation. He was immediately apprehended, arrested for traf-

ficking and informed of his Charter rights.

Police searched the car he had been driving but found no drugs. He was strip searched by two different officers at the police station in a private room with no windows. An officer observed what appeared to be white powder around Johal’s anus and blood in his underpants and suspected he had hidden a bag of drugs in his rectum, even though he could not see anything in it.

Fearing the bag may have burst, thereby posing a risk to Johal’s safety, a second officer continued the strip search. He too observed the white powder and blood and was also concerned that a bag of drugs may have burst, despite Johal’s denials that he had hidden drugs. Both officers took Johal to the hospital and explained their suspicions and concern for his health and safety to a doctor.

The doctor told Johal that he had to submit to an internal search. The officers left the room and the doctor digitally searched Johal’s rectum while he was still handcuffed but found nothing. Johal was x-rayed about 30 minutes later but it didn’t show hidden drugs. He was taken back to the police station to be photographed, fingerprinted and released on a promise to appear and was subsequently charged with trafficking cocaine.

In British Columbia Provincial Court Johal sought a stay of proceedings based, in part, on the grounds that the strip and internal searches were unreasonable under s. 8 of Charter. The judge disagreed, finding no Charter breaches.

The arresting officer, “had valid concerns” that Johal may have hidden drugs in his rectum and was concerned for his safety. Although two officers were involved with the strip search, the judge considered this a single search which did not breach s. 8.

The judge found the doctor was not a

state agent whose conduct required scrutiny under the Charter since the doctor performed the internal search solely for medical purposes. Johal was convicted of cocaine trafficking.

Johal appealed before BC’s highest court submitting, in part, that the trial judge erred in assessing both the strip and internal searches.

In Johal’s view, the trial judge did not consider that there were two strip searches and erroneously found the officer’s suspicions sufficient to justify the searches. He contended that the officers’ suspicions were insufficient to justify the internal search at the hospital and that the doctor was a state agent acting at the request of police rather than solely for medical purposes.

The Crown argued that the officer had reasonable grounds to believe Johal might have been concealing drugs and properly considered the actions of both officers to constitute one search. The doctor, the Crown argued, was not acting as a state agent and the medical treatment provided was not a search for Charter purposes.

The strip search

A strip search may be conducted incidental to a lawful arrest provided it is undertaken to discover evidence related to the reason for the arrest, is justified by reasonable and probable grounds and is carried out in a reasonable manner.

Johal had been lawfully arrested and police were searching for drugs, which was related to trafficking. Chief Justice Bauman, writing the unanimous court opinion, concluded the trial judge did not err in finding there were reasonable and probable grounds for the strip search.

“Johal was operating a dial-a-dope operation and he sold crack cocaine to an undercover officer, yet there were no other drugs found in his vehicle,” said Bauman.

“In the experience of the arresting officers, traffickers sometimes conceal drugs in their underpants or rectum.”

The strip search was also carried out in a reasonable manner.

In my opinion, the judge did not err in finding that the first search was conducted reasonably. It was conducted in a private room at the police station by a male officer, who acted quickly and ensured Mr. Johal was not completely undressed at any one time. [The officer] did not touch Mr. Johal...

The second look by [another officer] is best analysed for the purposes of s. 8 as a continuation of the same “search.” [This officer] was involved only because [the

arresting officer] wanted a second opinion about the white powder and blood he had observed. The evidence was that the two officers had the same motivation and their conduct was identical in all material respects [paras. 31-32].

The internal search

The court upheld the trial judge’s ruling that the doctor was not a state agent whose conduct had to be assessed for Charter compliance.

“A doctor who acts at the request of police is a state agent unless his or her action is performed ‘solely for medical purposes,’” said Bauman.

In this case, “the officers anticipated that the doctor would conduct an internal search and were prepared to seize any evidence the doctor discovered, but the officers did not direct the doctor to conduct the search. Rather, it was the doctor himself who deemed an internal search to be necessary for Mr. Johal’s health and safety.”

The fact the police anticipated a doctor would deem an internal search necessary did not mean they directed it. Police believed that a bag of drugs may have burst in Johal’s body, which would have placed him in imminent danger.

“It is clearly uncontroversial and beyond reasonable dispute that it is dangerous to have a burst package of drugs in one’s body,” said Bauman.

“I am prepared to take judicial notice of the grave health and safety risk of having significant quantities of heroin, cocaine or other similar drugs rapidly absorbed into one’s blood stream.”

The court found it was “appropriate to conclude, even absent medical evidence, that the internal search was necessary for Mr. Johal’s health and safety. The doctor was not investigating or attempting to collect evidence on behalf of the officers; the search was conducted solely for medical purposes.”

Even if Johal felt he had no choice but to submit to the internal search and did not give his consent to perform it (including the x-ray), this would be a medical ethics and possibly civil case rather than a Charter compliance issue affecting the constitutional analysis. The doctor acted solely for medical reasons and was not a state agent.

Johal’s appeal was dismissed and his conviction upheld.

Visit www.blueline.ca/resources/caselaw for complete cases. You can email Mike Novakowski at caselaw@blueline.ca

Seeking consent not always a search

Questioning a detainee in an effort to get them to consent to a search is not necessarily a search, or the start of one.

In *R. v. Sebben, 2015 ONCA 270* a police officer stopped the accused and administered a roadside breath test following a report of an erratic driver. Sebben passed the test but, during the course of checking CPIC and related databases, the officer received information that he had a possible connection to drugs.

The officer returned to Sebben, seated in the driver's seat, to ask for his consent to search the vehicle.

Sebben replied that he didn't think he needed to and began to roll his rear window down. He said the officer could look in the back because all he had were tools and Christmas presents.

When the officer said the search wouldn't be for Christmas presents, but for things like drugs or marijuana, Sebben immediately reached in the centre console area, indicated he had marijuana and gave the officer a clear Ziploc bag of it.

He was arrested for possession of marijuana and a search of the vehicle as an incident of that arrest turned up more marijuana.

In the Ontario Court of Justice the officer acknowledged that he did not have reasonable grounds to conduct a search when he decided to ask for Sebben's consent, nor was he acting on the belief that Sebben had consented to any search. He also said he did not get a chance to go into the details to obtain a valid consent by reviewing the standard consent form since Sebben immediately said he had marijuana and produced a bag of it.

Sebben argued that he was arbitrarily detained, denied his right to counsel when asked to consent to the search, and subjected to an unreasonable search that led to the bag and the subsequent discovery of more marijuana.

The judge found Sebben was detained at the roadside, both before and after the roadside test was administered, but these detentions were not arbitrary. Nor was the officer's request to search a "search" under s. 8 of the Charter.

Rather, Sebben chose to voluntarily turn over the bag to the officer in the hope of preventing a more thorough search of the vehicle.

However, the judge did hold there was a s. 10(b) violation since Sebben was not advised of his right to counsel when his detention continued after the roadside test had been administered.

Nevertheless, the evidence was admitted under s. 24(2) of the Charter. Sebben was convicted of simple possession and possessing marijuana for the purpose of trafficking.

Sebben appealed to the Ontario Court of Appeal arguing the trial judge erred in not finding a s. 8 violation which, when combined with the s. 10(b) breach, ought to have resulted in the exclusion of the evidence. He submitted that the officer's request for consent marked the start of a search and anything produced subsequent to that request constituted a seizure

under s. 8. Thus, the request for permission to search, followed immediately by the production of marijuana and subsequent search of the vehicle was a single, ongoing, warrantless and non-consensual search.

Justice Doherty, however, speaking for the unanimous court, concluded that not all questioning of a detained person by police can be regarded as the start or part of a search under s. 8.

Not every request by an officer that a person consent to a search is automatically a search. Sometimes questions, including a request to conduct a consent search, will be part of a subsequent search. In other fact situations, the questions will not form any part of a search. A fact-specific inquiry is necessary.

Any request by a police officer that a detained person consent to a search must be closely scrutinized. The power imbalance in that situation is obvious. That does not, however, mean that any request to search should be deemed to be the commencement of a search. That approach ignores the fact-sensitive nature of the inquiry.

In this case, there was no evidence that:

- *The [accused] felt compelled to cooperate with the police officer;*
- *The [accused] believed that a search of his vehicle was inevitable regardless of whether he consented;*

- *The [accused] was subject to any demand or direction by the police officer;*
- *The police officer said anything to the [accused] that invited or induced the [accused] to produce the narcotics; and*
- *The officer intended to search of the vehicle regardless of whether the [accused] consented.*

On the facts as found by the trial judge, the police officer had commenced the process by which he hoped to obtain the [accused's] informed consent to a search of the vehicle. Before he could complete that process, the [accused] voluntarily and unilaterally produced a bag of marijuana in the hope of avoiding more serious problems.

The [accused's] production of the marijuana effectively ended the officer's need to make any further inquiries requesting the [accused's] consent to a search. The officer was entitled to search the vehicle as an incident of the [accused's] arrest for possession of the bag of marijuana. On the officer's evidence, there was no search, but rather a production of the marijuana in the bag by the [accused] followed by a search incident to an arrest [references omitted, paras. 12-15].

There was no s. 8 violation and no reason to interfere with the trial judge's s. 24(2) analysis. Sebben's appeal was dismissed.



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Warrantless arrest not presumptively arbitrary

Just because an arrest is made without a warrant does not mean it is necessarily arbitrary.

In *R. v. Hardy*, 2015 MBCA 51, the accused was arrested for failing to provide a roadside breath sample after repeated attempts to blow into an approved screening device (ASD). He had been driving a vehicle in the dark with the headlights off, did not stop at a stop sign, had glossy eyes and admitted to drinking two beers. There were also unopened cans of beer in his vehicle.

A demand to provide a breathalyzer sample was made at the police station. He refused and was held in custody overnight under s. 497(1.1) of the Criminal Code and released the following morning after a 12 hour detention. He was charged with refusing to provide a breath sample by means of an ASD.

In Manitoba Provincial Court Hardy argued that the decision to detain him overnight was as punishment for his refusal to provide a sample and not based on his level of intoxication. He submitted that police failed to comply with s. 497 and therefore his detention was arbitrary under s. 9 of the Charter. He wanted a judicial stay of proceedings under s. 24(1) of the Charter or, at least, the exclusion of his refusal as evidence under s. 24(2).

The judge convicted him. She found that the decision to lodge Hardy in custody was justified under s. 497 and that he had failed to establish on a balance of probabilities that his s. 9 rights had been breached.

“Section 497(1.1) is not exhaustive and police clearly are to consider the totality of the circumstances related to an accused in assessing whether a public safety justification exists for detaining the accused,” she said.

“Here... they were dealing with a highly emotional, un-cooperative person they believed to be intoxicated and acting in a manner inconsistent with his own best interests.”

Hardy appealed the trial judge’s dismissal of his Charter application to the Manitoba Court of Queen’s Bench. The appeal judge agreed with the trial judge and adopted her reasoning in determining that Hardy was properly detained for reasons of public interest pursuant to s. 497(1.1)(a).

Hardy appealed the Charter ruling to Manitoba’s top court, arguing, among other grounds, that a s. 9 breach resulted from his warrantless arrest and detention under s. 497 and the onus was on the Crown to show his detention was not arbitrary. Further, he suggested the judge erred in finding his continued detention justified. He asserted that once

detained, he should have been monitored to determine whether the initial conditions for detention continued to exist.

Arbitrary detention

An unlawful detention is arbitrary and therefore amounts to a s. 9 violation. Said another way, a lawful detention is not arbitrary unless the law authorizing it is arbitrary. In *R. v. Grant*, 2009 SCC 32, the Supreme Court of Canada found this approach mirrored the s. 8 jurisprudence in that a search must be authorized by law, the law must be reasonable and the search must be carried out in a reasonable manner.

Hardy went even further, analogizing that once it was shown that an accused was arrested and detained without warrant, the subsequent detention must be presumed arbitrary and the onus shifts to the Crown to establish that the detention was justified in the public interest.

This is similar to the case law that once an accused has demonstrated that a search or seizure was warrantless it is presumed to be unreasonable and the onus shifts to the Crown to show it was reasonable.

The Crown contended that an accused bears the legal burden to establish, on a balance of probabilities, that there were no reasonable grounds for the detention.

The Manitoba Court of Appeal confirmed that the legal burden of proving an arbitrary detention, as in this case, lies with an accused.

“The accused has not convinced me that the circumstances of this case create a presumption of arbitrariness, thereby shifting the legal burden to the Crown such as in s. 8 Charter warrantless searches or Charter waiver cases,” said Justice Cameron, speaking for the unanimous court.

“Unlike those exceptions, in this case the alleged breach is post-arrest, it does not involve circumstances where a breach may bear directly on the guilt or innocence of an accused, and it does not involve evidence statutorily required for proof of an offence.”

However, the court noted, the Crown may be required to explain, by adducing evidence, the reasons for detention.

The evidential burden arises because it is the police officers who have the exclusive knowledge of the reasons for the detention.

In the context of s. 497(1.1), the Crown’s evidential burden is to adduce evidence as to the peace officer’s belief, on reasonable grounds, that detention is necessary on any of the grounds enunciated in the section. After considering all of the facts and circumstances, including the objective reasonableness of

the police officer’s subjective belief and any alternative or improper motive on the part of the police, the court then decides whether a breach has been proven.

This is in contrast to placing a legal burden on the Crown which would dictate that, in the absence of any evidence having been called by the accused except for the fact that he was arrested without warrant, the Crown would bear the legal burden of proving compliance with s. 9 in every case where an accused has been detained [paras. 42-43].

Here, Cameron found that because Hardy had shown that he was arrested without warrant and detained for 12 hours, the evidential burden did shift to the police/Crown to justify his detention pursuant to s. 497(1.1).

Justification

Under s. 497(1.1) a number of factors must be considered in the decision to detain, including the public interest, establishing identity, securing and preserving evidence, preventing the offence from continuing or another offence from being committed, ensuring the safety and security of a victim and administrative concerns such as ensuring court attendance.

“The decision to detain is highly contextual,” said Cameron. “There are numerous factors that courts have considered in deciding whether to detain an arrestee.”

In this case, the judge did not err in determining that the detention was lawful under s. 497(1.1). She found “the accused was in an ‘emotional and agitated state,’ ‘belligerent and uncooperative with police,’ that there was ‘evidence of consumption of alcohol and police formed a subjective belief the accused was intoxicated’, and the accused was ‘acting in a manner inconsistent with his own best interests’”.

Furthermore, she rejected Hardy’s evidence that the police threatened him with jail overnight if he did not comply with the breathalyzer demand. Ultimately, “the circumstances under which detention may be justified are varied, contextual and require individual assessment in each case.”

Continued detention

Hardy argued that, even if his detention was initially justified, police had an ongoing obligation to continually assess the situation to determine whether the conditions for his detention continued to exist or whether circumstances had changed, requiring he be released “as soon as practicable.”

The Crown, on the other hand, submitted that once the decision to detain had been made,

the detained person must be brought before a justice within 24 hours under s. 503.

Cameron noted that there was no requirement for an ongoing and continuous reassessment process.

"To start, there is nothing in s. 497 that requires that an accused be monitored during the 24 hours that he or she is detained prior to taking him or her before a justice..."

Furthermore, if a person is deemed acceptable for release prior to the expiry of 24 hours, this does not now mean that s. 497(1) comes into play mandating release "as soon as practicable."

On the other hand, it does not mean that once it is determined that an accused person should be detained pursuant to s. 497(1.1), the detention must necessarily last until the accused is brought before a magistrate pursuant to s. 503. As previously mentioned, the police must make an individual assessment based on all of the circumstances in each case [para. 63].

Release will depend on all of the circumstances and an accused may call evidence that the length of their holding or continued detention was arbitrary. However, simply showing they were held overnight may not be enough. Evidence such as the nature and frequency of contact an accused had with police may be required in the analysis.

The trial judge did not err in holding that the police decision to detain Hardy overnight was unreasonable. Hardy's appeal was dismissed.

RCMP Labour Code charges held over

Court proceedings against the RCMP on four counts of violating health and safety provisions of the Canada Labour Code have been put off until Sept. 24.

The matter was set over during a brief provincial court session in Moncton.

Defence attorney Scott McCrossin, acting as an agent for Ottawa lawyer Normal Boxall, asked for more time to review the case.

The RCMP waived reading of the charges in court. No single RCMP manager or supervisor is named in the charges under the labour code.

The charges were recommended by the Public Prosecution Service of Canada after its investigation into the shooting deaths of three Moncton Mounties and the wounding of two others by gunman Justin Bourque in 2014.

The charges against the RCMP relate to equipment, training and supervision and fall under Part II, Section 148(1), of the Canada Labour Code. Anyone found guilty of an indictable offence under the section faces a maximum fine of \$1 million and two years in prison. The maximum sentence for a less serious summary conviction on the charge is a maximum fine of \$100,000 with no jail time.


No selection has been made on whether the Crown will proceed with the case as an indictable offence or a summary conviction charge.

The charges include:

- Failing to provide RCMP members with appropriate use of force equipment and related user training when responding to an active threat or active shooter event.
- Failing to provide RCMP members with appropriate information, instruction and/or training to ensure their health and safety when responding to an active threat or active shooter event in an open environment.
- Failing to provide RCMP supervisory personnel with appropriate information, instruction and/or training to ensure the health and safety of RCMP members when responding to an active threat or active shooter event in an open environment.
- Failing to ensure the health and safety at work of every person employed by it, namely: RCMP members, was protected.

An internal RCMP review of the Moncton shooting noted no members of the Codiac detachment were trained to use a carbine.

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DISPATCHES



Paul Cook is retiring after 33 years of dedicated service with the North Bay Police, and the last 11 as chief. He will remain as chief until Jan. 22, 2016.



Paul is a life-long resident of North Bay and in 2010, he was appointed as Honorary Colonel of 51 Aerospace Warning and Control Squadron, 22 Wing North Bay. After graduating from the Ontario Police College in 1982, **Cook** served as a Constable in various branches and was promoted to Sergeant in 1995. Prior to his current post, he served for four years as Deputy Chief. **Cook** is a graduate of Sheridan College, Canadore College and the FBI National Academy in Quantico, Virginia. He is a recipient of the Police Exemplary Service Medal and Order of Merit for Police (Member).

...

Michel Martin has been appointed director of Kativik Regional Police Force's department of public security, a position that also oversees the region's police force. **Martin** has an impressive resumé: the retired inspector served as chief of service with the Sûreté du



Québec provincial police force for almost 30 years.

...

Const. **Daniel Woodall**, a 35-year old, eight-year veteran of the Edmonton Police Service was killed in action. **Woodall** was recruited from Great Britain and used to serve with the Greater Manchester Police. He leaves behind a wife, Claire, and two young children.



...

Ron Gignac, a former paratrooper, OPP Emergency Response Team member and former chief of police in Deep River, is the new deputy chief of the Belleville Police Service. **Gignac** was hired by the OPP in 1995. He took command of the Upper Ottawa Valley Detachment in 2006 and in 2009 joined the Deep River Municipal Police Detachment where he was promoted to chief of police in 2013.



...

Alok Mukherjee, the controversial, long-serving chair of Toronto's police oversight board is stepping down. He joined the board in 2004 and steered it through controversies over the G20 conference, rising police costs and carding. **Andy Pringle** will step in as interim chair.



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School resource officers can help form the future



by Tom Wetzel

Police officers can have a long term influence on primary grade school children in their imprinting years, even changing the minds of those we now have trouble reaching.

Reaching out to them is vital and a key to doing so is for police to have an active partnership with school systems.

Many agencies need to expand the role of the school resource officer (SRO), giving them a chance to spend increased time with students and actively provide instruction.

In doing so, officers can teach them valuable safety lessons while developing the trust which is critical to long term success in keeping our neighborhoods safe places to live and thrive.

The following is a suggested schedule for elementary school SROs which allows them to not only help protect students but also teach them how to stay safe.

Morning bell / first period

The officer can start by watching the parking lot and school grounds as students begin arriving prior, monitoring the area for suspicious persons or unusual behaviour and making sure the school is secure when classes begin. While students are in first period, the officer can address any pending matters or paperwork that needs to be completed.

Second period

The SRO can teach a class on “stranger danger” and address traffic safety. Who better to warn students about bad people and dangerous situations than a cop? Many children are already familiar with the role officers have with traffic safety from participating in children’s safety village programs.

Third period

The SRO can address Internet safety through such programs as the *e-Copp* children’s online protection program. Student’s use of a computer and the Internet for school work is very common now and kids are very savvy about computers but, due to their age, are naive about the dangers they may encounter.

Lunch

Officers can use this time to monitor the cafeteria and school grounds for suspicious persons or activity.

Fourth period

Address bullying and gang avoidance, which are serious concerns for kids and families everywhere. SROs can instill in children early on that bullying is wrong. Interacting with them may allow the SRO to recognize possible bullying situations within the student body. Officers can also reinforce how participating in a gang leads to criminal activity and is ultimately an empty pursuit.

Fifth period

The SRO can address the dangers of drug use. Because drugs have caused so much suffering, including destroying families, it is imperative that a major effort be made to instill the fear and knowledge necessary to help kids steer clear of this corrosion.

Sixth period

The SRO would use this last period to address manners and conflict resolution as well as home safety risk management. Kids need to learn how to behave and resolve issues without violence. This time also allows an officer to teach kids how to act when interacting with police – an important topic of concern right now.

The SRO can also warn students about all the risks they may encounter in their own home, whether unsecured weapons or dangerous chemicals.

Last class/closing bell

While students are in their last class, the SRO can grade papers and check homework. Prior to the closing bell ringing, the officer can check the school grounds for suspicious persons or activity and then monitor the area while students leave.

Special assignment

This type of assignment would allow a police officer to have a major impact on building and developing trust within their community. Not only would it have a long term impact for the officers and those they serve, it may prevent or reduce suspicion and distrust of police and help people recognize the spiritual calling that officers have in being the “good guys” who try to stop bad people.

Tom Wetzel is a suburban northeast Ohio police lieutenant, trainer, SWAT officer and certified law enforcement executive. Contact him at wetzel@blueline.ca with your comments or for more information.

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