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December 2015



## POLICING THE PAN-AM GAMES

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While patrolling a high crime neighbourhood I heard a report of an armed robbery at an all night gas bar. Several cars responded and called out a description of a suspect. He had jumped over the counter swinging a large knife at the horrified clerk, who dashed away as the bandit helped himself to the contents of the register and cut the phone line.

We all felt the suspect would have long disappeared since the call took some time to come in but I saw a man a few kilometres away in a bus shelter who, with a lot of imagination, matched the sketchy description — a 20-year old male in blue jeans wearing a dark coat. Given the hour and neighbourhood and a flimsy description, I decided to take a chance and at least ask his name.

I noticed he became rather furtive as I approached and kept looking around. He didn't run or try to leave the shelter, as I was standing at the only exit. I told him there would be no bus at this hour and asked his name. He gruffly advised that he would tell me nothing and enthusiastically suggested that I perform an anatomical impossibility.

I again asked for his name. He refused so I told him he's being arrested under the *Public Works Protection Act* for failure to identify himself. He became much more aggressive and I quickly tussled him to the ground. Finding a good sized knife in his pocket and a bundle of cash meant I had hit the jackpot.

Back at the station, the sergeant in charge asked about the charge for my original arrest. I told him. Looking both puzzled and concerned, he sent me to the detective office and began looking for an Alka Seltzer and some provincial statutes. That night I was lucky on several counts and grateful for remembering the violation.

My bandit would likely have had nothing to fear if Ontario's proposed street check legislation had been in effect. The behemoth legislation will govern whom police may speak with, how they are to be spoken to and the way the interaction is reported.

Speaking to the public, or even attempting to do so, will generally be a no-no unless an officer is in the process of making an arrest or investigating a specific offence. Otherwise there's an extensive set of procedures.

Furthermore, each Ontario police chief will have to engage a team of "thought" investigators to determine if an officer spoke to a person because of their race or the type of neighbourhood they were found in. Both are prohibited acts. Of particular note high crime neighbourhoods are specifically mentioned as police-free zones.

Each chief must submit an annual report outlining how many times a person was stopped or officers "attempted" to speak to a member of the public "illegally." Attempted?

No one is thinking of cause and effect here, especially if this insanity spreads across the country. These proposed procedures are so onerous they essentially tell the officer to collect their pay every two weeks and move along. Crime prevention is sacrificed for apprehensions alone. Officers will now be relegated to "respond when called" status. Otherwise go for a coffee — and whatever you do, don't question the cashier.

The politicians who thought up this procedure have forgotten why police are out there in the first place and the many levels of testing and background checks each officer goes through to ensure only the right people wear that uniform. They have forgotten the multitude of complaint processes available to every citizen — and the multi-levels of in-house supervision.

The final chilling effect will be that officers will not contact or talk to anyone on the street unless they are in trouble or the officer can think of something creative for which to investigate them. For citizens, the message will be that they are in a lot of trouble if an officer wants to talk with them. What a chilling effect on community based policing.

This new "don't do anything" law is a ready made disaster in the making. I predict it will not be long before Toronto crime rates in particular reflect this. I understand crime has already begun climbing after former Toronto police chief Bill Blair placed a moratorium on street checks. Look for a dramatic increase in shooting victims from predictable neighbourhoods.

Politicians and special interest groups will now micro manage day to day police work. Criminals, who also follow the news, have heard about all this and will be emboldened by the new emasculated police service.

My only advice is for officers to hit the books, study up on little known laws and keep a keen eye out for violators or... do nothing. Both are apparently acceptable.



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# POLICING THE PAN AM GAMES

## *Protecting the public and supporting the stars... a security success story*

by *Stuart Bertram*

Policing the largest sporting event in Canadian history was a monumental task, requiring the efforts, dedication and drive of thousands of law enforcement professionals.

The 2015 Pan/Parapan Am Games were awarded to Toronto and the Greater Golden Horseshoe area in 2009. The Ontario government was responsible for oversight and assigned the OPP to prepare, plan and be the accountable lead for overall security.



*Supt. Mike McDonnell*

The OPP created the Integrated Security Unit (ISU) in 2010 and Supt. Mike McDonnell took on the immense task of leading it in 2013. His extensive leadership and law enforcement experiences

and associations would prove to be key to its strength.

Important to the planning of any major

event is setting out your “mission,” an overarching principle that guides every pillar, action and plan.

The ISU mission for the 2015 Games was to “Provide a safe and secure environment for the conduct of the (games)... while maintaining an open, accessible and authentic experience for athletes and attendees.”

We set forward with this leading principle to plan and implement security for the largest ever Canadian sporting event. For perspective, the 2010 Vancouver Olympics, the previous record holder, had approximately 6,500 athletes and officials. Approximately 10,000 athletes and officials attended the 2015 Pan/Parapan Am Games.

Events from the recent past including the 2010 G8/G20 Summit, 2013 Boston Marathon Bombing and the October 2014 ISIS inspired attacks on Canadian military personnel were on the minds of the ISU command as it deliberated security planning and implementation.

The ISU had dedicated representation from the RCMP and Durham, Halton, Toronto, Niagara, Peel, York, Hamilton and South Simcoe police services from the early stages. Many other agencies were involved as key partners,

including Canada Border Services Agency and the Canadian Security Intelligence Service.

The ISU was broken down into pillars: planning, logistics, traffic, torch relay, joint intelligence group, accreditation, security, finance and specialized field resources.

Technology and innovation were the vanguard. Each municipal agency had representation/input within these pillars to address its needs for security measures. Toronto police dominated the need for resources and planning because the city had more than half the venues.

Technology and innovation offered efficient, thorough and fiscally prudent ways to handle many of the tasks and challenges. A great example of this was the Virtual Unified Command Centre (UCC), which allowed municipal services to consolidate command resources remotely within their jurisdiction, a format not previously attempted. This allowed command level interaction and the instantaneous sharing of relevant information.

Co-ordination with the eight municipal police agencies and TO2015 (the Games organizing group) was critical to integrating the planning efforts and security measures at all venues. Many of the planning challenges were

addressed at the Joint Operations Planning Group (JOPG), which brought together all ISU partners to discuss planning, resources and implementation. These monthly meetings were often spirited, but the challenges encountered were constructive, as all strived to provide the best service for their area of responsibility.

One of the largest challenges to the ISU partners was the Games Route Network (GRN), 770 kilometres of roadway identified and prepared for the Games. The network of highways crossed all eight police jurisdictions, connecting approximately 5,300 square kilometres of the Games footprint.

The GRN efficiently linked the athlete and officials to their venues, minimized impact to the regular motoring public and emphasized traffic safety.

Co-ordinating efforts, priorities, agendas, messaging and protocols around the GRN with all the police services, provincial and municipal agencies at the table was challenging. These challenges were mitigated by the professionalism and dedication of those around the table.

Another enormous task was processing and issuing accreditation passes. The Accreditation Security Validation Team did the security screening checks for everyone needing access in and around the venues during games time. This included athletes, officials, games family, volunteers, venue staff, security, maintenance, torch relay runners and the police.

The Accreditation Unit, headed up by the RCMP, ended up doing well over 125,000 individual checks. The importance, accuracy and security of the accreditation passes were elevated since many passes also acted as visas into Canada for foreign athletes, officials and their team entourage.

Our work with TO2015 was constructive on many fronts but also presented some challenges. In simplistic terms it was understood early on that TO2015 personnel knew how to organize sporting events and we were experts in policing major events.

The challenges experienced revolved around balancing the expertise of both sides so that the Games were open and accessible while not compromising security. Many of the challenges were mitigated by the early establishment of a police liaison officer to TO2015 and the development of key relationships between the ISU and TO2015.

The torch relay was another large component of the Games. The 15 officer ISU Torch Relay team was dedicated to providing security to the volunteer relay runners and the Pan/Parapan Am Flame.

This was no simple task for this joint force unit, as the flame travelled 41 days straight for the Pan Am Relay and five consecutive days for the Parapan Am Relay. It trekked through more than 130 communities across Ontario, covering approximately 150-200 kilometres a day, rain or shine, without incident.

The Specialized Field Resource (SFR) unit consisted of several different tactical units and was instrumental in co-ordinating and assisting



security sweeps of venues and the countless number of buses used by athletes and officials

Knowing the current threat level of countries and aware of past events, tactical readiness was important. The Toronto Police Service TPS was helpful in providing a first-rate downtown location for the SFR officers to stage.

The Joint Intelligence Group (JIG) and its participating partners were pivotal in developing security overlay and posture. The extensive work of JIG and its partners allowed the ISU Command to make timely, informed decision on a daily basis.

Information and intelligence gathering is always time consuming and sensitive work but the operational and analytical joint forces units worked exceptionally well together to meet their goals.

The Integrated Community Liaison unit was important in connecting with the communities, businesses and stakeholders that would be affected by the games. Taking the time to ensure accurate information about security, minimizing impact and being available to community was important to the ISU and its partners.

The Logistics units had the daunting tasks of co-ordinating staffing, equipment, facilities, lodging and food for officers throughout the games. It was vital to not only ensuring the health, safety and well-being of officers but

also making sure they had the equipment and training needed to do their job. This task was further complicated by the daunting 5,300 square kilometre footprint of the Games.

Staffing venues and the GRN was no easy task. Each ISU police agency dedicated large numbers of resources to staff their venues and the GRN while maintaining regular policing services within their city or region. These resources included venue patrols, traffic units and numerous specialty units on duty around the clock to prevent and respond to incidents expeditiously in order to minimize impact to the Games, athletes and attendees. The TPS alone had to cover off over 40,000 shift assignments.

The Toronto 2015 Pan/Parapan Am Games were a success all around. From a police perspective, the end result could not have been much better.

The athletes and the events were the stars and the ISU was proud to support their endeavours. The ISU raised the bar for major event policing in the technology and techniques utilized, as well as the size and scope of the security measures for such a vast footprint.

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# Informed Decision Making

## *Why TO2015 is Different than Previous Canadian Experiences*

The Toronto Pan Am/Para Pan/Am 2015 (TO2015) games was estimated to bring over 10,000 visiting athletes, coaches, and team officials, plus an additional 500,000 tourists, to the Greater Toronto Area (GTA) for a sustained period of time.

In terms of raw numbers Toronto has had larger events, such as the annual Caribbean Carnival, with its nearly one million visitors for the parade and World Youth Day in 2002, with its 850,000 attendees. But as a sustained event, over a series of weeks with multiple venues that required specific safety and security requirements, Toronto has had no prior or equivalent experience to TO2015.

Some may say that Canada does have prior experience with multi-sport events, but from a strategic perspective, these past experiences have limited applicability to TO2015.

Here is why:

Both the world and Canada changed considerably since the 1976 Montreal Summer Olympics Games. Specifically, the global security context has changed dramatically and even Toronto and Montreal, within the Canadian context, have changed their respective urbanity and composition.

Again, contextually, the safety and security issues present at the 1988 Calgary Winter Olympic Games have little commonality with what Toronto faced in 2015.



The 1999 Winnipeg Pan Am Games (1999 Games) took place during a time of relative global stability, where many of the emerging threats faced today did not exist.

Furthermore, from an operational perspective, Winnipeg had some prior experience from the 1967 Pan Am Games.

Also, as a metropolitan area, Winnipeg and Toronto are significantly different.

### Thinking Creatively About the Threats

Even before the recent Parliament Hill incidents, there have been many contextual changes since TO2015 was awarded to the City of Toronto in 2009. For example, when the bid was won, the headlines ranged from:

- Fear of H1N1 spreading, to;
- Canadian Forces preparing to withdraw from Afghanistan,

- US Army base shooting; Nobody had ever heard of ISIS.

Toronto had not experienced a massive flood since 1954 and the crippling ice storm of 2013; BlackBerry had not suffered a four-day outage.

Edward Snowden had not yet explained how easy it was to hack into personal e-mail and few people knew the name James Foley.

Locally, there were only 11 event venues within the City of Toronto at the start of planning in 2009, by the start of the games there were over 40.

For TO2015, most threat assessments were conducted by the OPP, with the assistance of their Federal partners: Public Safety Canada, Canada Border Services Agency, Citizenship and Immigration Canada, Canadian Security Intelligence Service, Department of Fisheries and Oceans, Royal Canadian Mounted Police, Health Canada, Public Health Agency of Canada, Transport Canada, Environment Canada-Weather Services, Environmental Assessment, Environmental Emergencies, and Industry Canada.

During the planning process security organizers had to consider the following questions:

- What do these agencies consider to be threats?
- How are they determined?
- How in-depth are the threat assessments?



Vehicle collisions increased during Pan Am Games

The number of collisions in the greater Toronto area highways with HOV lanes sky-rocketed during the Pan Am and Parapan Am Games.

Police say collisions jumped by 73 per cent to 1,720 during the time the HOV lanes were in effect this year, compared with an average of 993 collisions during the same time period in the previous four years.

The lanes were in effect from June 29 - 11 days before the Pan Am Games opened - through July 26, the end of the Parapan Am Games. The lane signage was changed from two occupants to three and buses and taxis were exempted from the prohibition.

Citizens complained of colossal traffic jams and extreme increase in commute times.

Ontario Provincial Police Sgt. Kerry Schmidt says police don't keep statistics on which lanes collisions occur. He said the numbers reflect collisions that occurred on the stretch of road where HOV lanes existed during the games, but may not have occurred in the lanes themselves.

The HOV lanes were installed on the 400-series highways, the Queen Elizabeth Way, the Gardiner Expressway and the Don Valley Parkway to speed up traffic, and get Pan Am officials and athletes to events faster.

(CBC News)



Pan Am Security was challenged by the large distances between venues. OPP Sgt. Peter Leon is shown outside Hardwood Ski and Bike west of Orillia, and 150 km north of Toronto.

Photo Courtesy - Barrie Examiner

- What compromises, if any, are being made to accommodate institutional interests?
- Are we relying solely on Canadian information-gathering or are we working with international partners?
- Does the US Government, for example, have special concerns that are not being well addressed?
- Do our partners and guest countries have concerns about our safety and security protocols?
- Is anybody thinking or studying the German police experiences leading up to and during the 1972 Olympic Games when athletes were assassinated by terrorists?

becoming increasingly expensive and so much of the success of any large multi-sport event hinges on the host city's public support to foot the bill.

Source Material edited from The McKenzie Institute — Security Matters Nov 2014

The Key to Success is Informed Decision-Making

From the 1972 Games up to the uncoordinated response to the attack on Parliament Hill in October 2014, the following hypothesis emerged: a willingness to reasonably consider the unthinkable, coupled with informed decision-making, can prevent or reduce mistakes, failures, and tragedies.

The 21st Century is highly complex, dynamic, and interdependent, all of which have completely altered the threat spectrum.

Paradoxically, strengths have also become weaknesses, especially as more actors enter the theatre and the effects of mother nature become more profound. Naturally-occurring or man-made disruptions, emergencies, and disasters are costlier, increasingly severe, and are happening with greater frequency.

The intangible benefits to hosting large-scale sporting events are numerous and noble, including local and national pride and displaying the love of sport.

Indeed, sport has a magic that-even if temporary-can turn foes into friends and friends into foes. Yet these emotional responses are

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# REPURPOSING THAT OLD SHOTGUN

*More options can drive strategies*

*Photos - Jonathan Blackwood, My World Photography*

*by Kristen Harding*

March 16, 2015: The Lethbridge Regional Police Service responds to multiple 911 calls about a man armed with a knife. He is acting erratically, attempting to force his way into homes and threatening to kill people in the usually quiet south-side neighbourhood.

The residents of this older subdivision, with its mature trees, neatly manicured lawns and a community church down the block, are terrified.

At the first house, the man, wielding a butcher's knife, tells the woman who answers the door that vicious dogs are chasing him and the knife is his only protection. He is clearly agitated and fearful, but the dog pack appears to exist only in his mind. Not knowing what he'll do next she quickly locks her door and calls police for help.

The man continues down the block. His strange behaviour attracts the attention of a couple, who approaches and asks if he needs help. His response is incoherent and alarming; he tells them someone is bleeding, points to several jackets he is carrying, drops them and continues mumbling before trying to enter their home.

The husband steps in and the man runs down an alley and into a backyard. A second 911 call is recorded. A woman soon sees him standing at her back door and in a neighbourly way, opens it to ask if he needs help. He responds by telling her he has killed 39 people

as ordered and wants his money. Now.

Before he can get inside, she slams the door shut, locks herself in the bathroom and places the third call to 911 as the man kicks at her door. Dispatch can hear the repeated thuds.

Police arrive. The man is armed with a metal blade and has removed the screen from the door. The officers identify themselves and quickly assess the situation.

The man stops momentarily and talks to them but the things he says are random and bizarre. He is clearly delusional and possibly hallucinating. They know he is suffering from some sort of emotional crisis.

As more officers arrive, the man says he is going to kill the woman inside the house and burn it to the ground. He becomes increasingly unco-operative, aggressive toward police and will not comply with directions despite 30 minutes of negotiation. As the confrontation escalates, a less-lethal sock round is deployed. The man drops his weapon and in that second of incapacitation is taken safely into custody and ultimately to the Chinook Regional Hospital Psychiatric Ward.

This incident was one of three situations within a few weeks of each other where police were called to deal with an armed person in crisis. An Arwen was deployed in the second case, and both an Arwen and less-lethal shotgun were en route to the third but didn't arrive in time. In that situation, firearms were drawn and trained on the subject but in the end other

force options were used to take him safely into custody.

As it happened, the same patrol team was on shift during each of these calls and in the debriefs, it was clear to chief Rob Davis that things could have ended very differently. That's why every frontline officer in Lethbridge will now have a re-purposed Remington 870 shotgun loaded with less-lethal sock rounds in their patrol car.

"When I left those debriefings, I really thought the staff sergeant had done an awesome job. He was like a quarterback reviewing the game tape with the team and dissecting what went good, what went not-so-good and what could have been done better," said Davis, who took over as chief in January, 2015.

"I'm the head coach and it's my job to come up with the plays, people and equipment that are needed to be effective on the field. Knowing that almost every agency in the country has transitioned from shotguns to carbines and we all have old shotguns sitting somewhere in our arsenals, it just made sense to re-purpose the weapons as a less-lethal option so they're more accessible to the frontline, which is where they need to be."

Prior to the conversion, a less-lethal shotgun was only immediately available to the frontline if a tactical team officer was on shift. While the Arwen and another less-lethal 870 were, and continue to be, available in the tac team-operated immediate response vehicle,

deployment requires a member to be present. As history has shown, sometimes there just isn't enough time.

"The 870 shotgun and sock rounds have to be available to the first responders and they have to be available immediately," said Davis. "It would be nice if time was always on our side but the kinds of calls where you're likely to use a less-lethal sock round are very dynamic."

During the initial discussion, the executive considered equipping each sergeant vehicle there are always a minimum of two per shift with a sock gun. That idea was quickly quashed as it would take away the sergeant's focus and ability to actually manage a scene and ensure the appropriate allocation and deployment of resources.

"We decided that having the less-lethal shotguns only in sergeant vehicles would still be too limited," said Davis. "We really want our sergeants to be supervisors, to be managing the troops and giving direction."

The cost involved to re-purpose the shotguns was minimal but an investment well-worth making to potentially save lives. Shoulder slings and lights were added and the barrels were painted bright yellow so they are easily discernable and cannot be mistaken for anything else.

In order to ensure no mix-ups with munitions, a comprehensive sweep of the armoury, station and every police vehicle, duty bag and locker was conducted. All the old shotgun



rounds were collected and destroyed.

Each shotgun is stored in a soft case that fits into the locked trunk of a patrol vehicle a solution that alleviated the need to replace the single gun racks currently installed in all LRPS vehicles to hold carbines.

"We already had the shotguns and they were in good shape so it was a relatively easy and fiscally viable transition to sock rounds," said Davis.

LRPS strives to be a leader in the implementation and use of less-lethal force options.

More than a decade ago it became the first Alberta police service to add less-lethal capability to its tactical team with the Arwen. Since then officers have continued to explore new opportunities and identify best practices.

Two LRPS members received specialized training from the Memphis Police Department's Crisis Intervention Team in 2012, which included the use of impact projectile weapons as a less-lethal force option, particularly when dealing with individuals in an emotional crisis.

"Something I've noticed in policing over the past decade and it's the same everywhere in the country is we've become the first responders to mental health issues and quite often there's a component where there's a weapon or some aspect of violence involved," said Davis.

Enhanced training to help police better respond to situations involving individuals in crisis or suffering from mental illness is critical, but even the ability to rapidly assess a situation and recognize the signs isn't always enough. Situations are dynamic and it's critical for officers to have every available option.

"In all three of our incidents, the subjects had mental health issues... (they) lived and ended up getting the proper medical care they needed," said Davis.

Davis is quick to point out the use of sock round shotguns are not intended to replace firearms, nor do they change the traditional force paradigm, but in situations where time

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and distance permits they can significantly reduce the potential for death or serious injury to all parties involved.

“There’s always going to be circumstances that call for lethal force,” he said. “The ideal would be to resolve issues without force but we know that’s just not realistic. When force is necessary and it’s available and appropriate to use less-lethal force that results in the public being safe, our officers being safe and the subject safely taken into custody, that’s a successful outcome.”

A training course including both classroom and hard skills components was developed and all frontline ranks were to complete the program by the end of October. As of January 1, 2016 every frontline officer will have a less-lethal shotgun in their patrol vehicle.

LRPS officers are instructed that less-lethal options can be used to de-escalate dangerous or potentially deadly situations, control, detain or arrest a subject and protect officers or other persons from harm including subjects from self-inflicted injury.

Less-lethal projectiles should be targeted at the lower abdomen, legs and lower arms to reduce the potential for serious injury or death.

The accessibility of less-lethal shotguns gives the frontline more options, and options drive strategies in reasonable officer response.

“In my view there’s a gap in options between CEWs and lethal force available to frontline officers and this addresses that gap,” said Davis.

With officer-involved shootings dominating the news over the past year, particularly south of the border, police agencies throughout North America are facing public scrutiny over a perceived “shoot first, ask questions later”

mentality. The fact that a number of these incidents are on video has raised public concerns and questions, which continues to fuel that perception. A number of US shootings have involved white officers and black subjects, which only compounded the issues and ignited a national conversation around race, policing and use of force.

“It’s fair to say that in some of these cases the officers’ actions have been called into question and as a result public confidence in the police in those communities has been shaken,” said Davis. “I do not believe this has occurred to the same extent in Canada, but it’s something that should be on the forefront of every police leader’s mind.”

Davis has served with a number of Ontario police agencies both municipal and First Nations during his 25-year policing career. While subtle nuances from service to service are to be expected, he says the emphasis the LRPS Training Unit has placed on de-escalation techniques and the benefit of time is refreshing.

“Staff recognized many years ago the trends that were emerging in the US and were very proactive in revamping our model,” he said.

The traditional use of force model was enhanced to emphasize the importance and role of communication and de-escalation, allowing time for more options to become available as a viable course of action. In-house simulator training was also developed, where communication coupled with de-escalation are necessary for a successful outcome. The scenarios were rolled out in 2012 and de-escalation has been a constant part of the LRPS training model ever since.

“It’s a very progressive approach that has led to a very unique culture throughout the

organization,” said Davis. “It still fascinates me coming from Ontario how the training has impacted the general culture of the organization, which translates to how officers handle situations on the street. Recognizing the culture of the organization and training philosophy, the 870 conversion to sock rounds was a natural fit.”

Davis has observed a noticeable creep in the adoption of U.S. training philosophy in Canada over the past few decades, including more aggressive, militaristic tactics. While there are definitely some situations where these tactics are appropriate, their use in others could be jeopardizing public support for Canadian police officers.

Traditional Canadian cultural constructs around firearms and deadly force are vastly different than in the US. Police training and culture must reflect Canadian ideals if the erosion of public trust and confidence brewing south of the border is to be avoided, or at least reduced.

“Officer safety has to remain paramount,” said Davis. “It isn’t about changing tactical priorities. It’s about giving officers as many options as possible to do the difficult job we have all sworn an oath to do.”

A certain level of critical assessment and selected application of some tactics from US training, coupled with a review of Canadian use of force models, greater emphasis on de-escalation techniques, tactical communications, enhanced training on responding to people in emotional crisis and the addition of less-lethal tools will help agencies reaffirm their commitment to a “made in Canada” approach to public safety.

Davis strongly believes that police leaders



## Sock Rounds much improved

by Dave Brown

A comprehensive study commissioned by the US Department of Justice in 2004 looked at incidents where impact munitions were deployed. It was concluded that lesslethal 37mm and 12-gauge munitions have a track record of success when used correctly by properly trained officers.

In nearly 90 per cent of the 373 reported cases, lethal force would have been justified but police had to ultimately resort to deadly force in only 26 cases. In the two reported situations where officers mistakenly loaded and fired lethal rounds, both involved 12-gauge breaching rounds that were mistaken for less-lethal munitions.

This illustrates the importance of good training, differentiating less-lethal options clearly and removing the possibility of mixing ammunition, exactly as LRPS has done.

In my own tests of less-lethal options for the 12-gauge shotgun, the new "sock" rounds have proven to be even more accurate and consistent than the previous "bean-bag" rounds. The fin-stabilized 12-gauge rubber rounds failed to meet accuracy standards.



have a responsibility to their communities and officers to keep a critical eye on operations and truly understand the dynamics and changing demands of frontline policing. This will help them better meet the needs of the people they serve and ensure organizations are well-positioned to adapt.

"There is a great need for incident debriefs, that dissection of events and actions, but there's no point in having them if police

executives aren't there to hear it," he said.

"There is just too much potential for lessons and messages to get lost in translation when police leaders remove themselves from this function or delegate it away."



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# SAFETY IN BEAR COUNTRY

*No one can predict their actions... but you must be prepared*



by *Dave Brown*

When citizens see bears, they usually panic and run away or grab a camera and run toward the bear. Either response likely ends in disaster sometimes for the human but nearly always for the bear.

If an aggressive bear approaches, it's probably because of inappropriate human behaviour, such as improper food storage or disposal of garbage, or because it has become acclimatized to humans. Regardless of why that bear became a problem, in many cases it will be up to *you* to solve it.

This is the place for a shotgun. Yes, every Canadian police officer should have quick access to a patrol carbine, but there are many rural and remote areas where the carbine should not replace a shotgun in the front seat of their vehicle; it should accompany it.

## Firearms in bear country

No one wants to shoot a bear but if it comes down to bear or human life, you need to act quickly and accurately with the most powerful round you can carry; one that will stop the bear instantly and effectively.

The patrol carbine in 5.56mm is perfectly suited to two-legged threats but wholly unsuitable for instantly stopping a large heavy animal such as a bear. We are not taking a braced shot from a fixed position at 50 meters; we are shooting a large, angry animal at very close range, with no time or opportunity to pick shot placement.

Dangerous bears attack with little to no warning. Their size is deceptive; they run very fast and can cover 20 meters faster than you

can say, "Bear!" A typical bear attack is close, fast, brutal and over in a heartbeat.

The best firearm for the average person in bear country is a short-barreled 12-gauge pump-action shotgun loaded with slugs. The standard police-issue shotgun with either bead or rifle sights is perfect for this task. It is reasonably compact and can deliver a huge impact into a large animal at very close range. Unlike the bolt-action rifles with iron sights typically carried by professional guides or experienced hunters, shotguns require few fine motor skills and can be fired by the average person with minimal training.

Unless the shot is fired from one meter away or less, buckshot is not an appropriate load for bear (and trust me, you don't want to let it get that close). Neither are so-called 'mixed loads' in a magazine. Whoever first proposed mixing to fire "less" lethal rounds had no concept of what they were talking about, and certainly never set foot in bear country.

Shotguns are to be carried with an empty chamber and fully loaded with slugs in the magazine. Buckshot is a good alternate round in areas where officers may encounter wolves, wild dogs or four-legged cougars.

Bearbangers have also proven to be very effective at scaring bears away (until they get acclimatized to humans). Buckshot and bearbangers should be carried in a less-accessible pocket. Spare slugs always have priority for a fast reload.

Gunshots should never be relied upon to scare away bears. Bears don't hear the same sound as the shooter and in most cases, the shot just makes the bear more curious.

The shotgun will always be the weapon

of last resort. If a bear is being curious or territorial, other alternatives could be employed. If the bear is attacking though, there won't be time. Aim for the centre of the largest part you see and stop it NOW. Bear defense is NOT hunting. You won't have time to pick your target.

All shotgun training should include learning how to quickly reload a round directly into the chamber in case you run the shotgun empty and need one more fast shot. This skill has various names but I refer to it as speedloading.

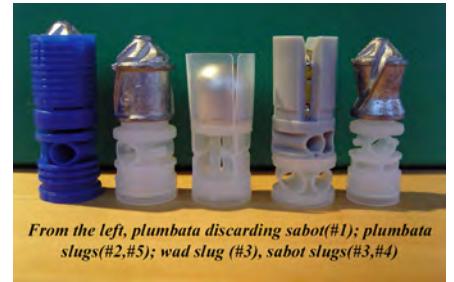
During real-life bear attacks, people rarely have time to top off the magazine and they certainly won't have the fine motor skills or the recent practice to use some fancy SWAT reload.

I use the simple strong-hand reload, holding the shotgun at its balance point with the support hand, the chamber open and facing upward, and dropping the spare round directly into the chamber from a strong side pocket.

This is speedloading for the average person, not the combat load as taught to "operators" by big name instructors trying to sell expensive training courses. "The shotgun is a complex weapon!" is an often heard refrain. "You need my three days of training."

No, it's not.

The shotgun is a simple weapon. Pump the action when you perceive a threat; put the bead in the middle of the largest part you see; pull the trigger; repeat as necessary. Know how to speedload. Keep the shotgun clean. Keep it loaded appropriately. Keep your techniques simple. Rely on your training and common sense, not some tactical operator course on DVD.



From the left, plumbata discarding sabot(#1); plumbata slugs(#2,#5); wad slug (#3), sabot slugs(#3,#4)

### Bear behaviour

Bears are individual creatures highly intelligent, very curious and life-long learners. Every bear is different and each encounter will be different. No one can predict exactly what will happen.

General behaviour patterns have been observed that will provide clues as to whether a bear is likely to attack. These differ by species and may also differ between individuals.

Bears tend to be opportunistic eaters. Much like us, they would rather do the bear equivalent of lining up at the Tim Horton's drive-through than park across the lot and walk. (For bears, this may be characterized by, 'why root through garbage cans when you can wait outside the back door of the Churchill Hotel at 2:15 AM.')

**Black bears:** Approaches to humans are usually motivated by curiosity rather than predatory aims. They approach slowly, stopping regularly and sniffing the air. Bears simply want to find out who you are and what you are doing. They will be the easiest to deter if not acclimatized to humans.

**Grizzly bears:** Grizzly (brown) bears are large and aggressive, used to more open plains instead of deep bush and generally exhibit what is termed territorial behaviour. On approach, they tend to be loud, angry and distressed and may even charge at humans in what is called a "bluff" charge. Bears have been known to literally make their fur stand on end to appear large and angry. They are essentially trying to scare you out of their territory because they see you as competition. Bear spray has a well-documented history of success in preventing injuries from angry territorial bears.

The most dangerous bears to encounter are the quiet ones. Predatory bears attack with no sound and little to no warning. The attack will come quickly, usually from head-on or in a circular pattern. You will not know you are being attacked until the very last second. This is why one must carry bear spray in an easily accessible holster on a belt or backpack strap, not inside a pocket.

**Polar bears:** Among the most deadly animals on the face of the earth. They will spend days stalking humans for food and are experts at sneaking up on their prey, whether it be seals or humans. In polar bear country, few people venture away from civilization without a fully loaded shotgun at arm's length 24 hours a day.

### Bear attacks

Actual bear attacks are rare. Black and brown bears rarely attack humans without provocation. When they do, it's usually because they are injured, surprised or protecting their young. Bears fed by humans or who have become used to them are the most dangerous and will likely need to be shot some day.

Watch for signs of predatory rather than curious or territorial behaviour but remember that bears are individuals and can exhibit as many forms of behaviour as humans. For example, the chances of being attacked by a young aggressive male black bear are far greater than by an older angry grizzly.

The goal is to always minimize or eliminate human/bear interactions. A problem bear, acclimatized to humans, will never become less of a problem. It will grow increasingly aggressive until someone, possibly you, will have to shoot it.

That is the sad part. It's not the bears you may deal with on a rare occasion, it is the people you deal with daily that are the problem. In more than 25 years of teaching shotgun techniques to police officers, outdoor employees and professional bear guards, I have never met a single person who wanted to hurt a bear. My students often joke that I am not there to help people with bear problems; I am there to help bears with people problems. "Bear whisperer" jokes aside, this is the reality. It is a people problem.

You are expecting ordinary human beings to respond appropriately in extraordinary circumstances. That is not always going to happen. Having a good 12-gauge shotgun loaded with slugs in the front seat of your patrol vehicle gives you an additional tool in areas where bears may be encountered.

All the wrenching stories on social media about dwindling bear numbers are wrong. Bear populations are strong and increasing, especially polar bears. (There are five times as many polar bears today as 40 years ago in certain areas of the Arctic.)

Bears are being forced to venture further to forage for food because humans are increasingly encroaching on their backyards. Attacks are becoming more common and more deadly. 2015 was a particularly bad summer.

Thankfully, encounters are still rare. In most cases, bears and humans go about their business without bothering each other. After all, the best bear encounter is the one that never happens.

Dave Brown is *Blue Line Magazine's* Automotive and Firearms editor as well as general staff writer. He may be reached by email at [brown@blueline.ca](mailto:brown@blueline.ca)

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# A RIGHT TO UNDERSTANDING

Police must standardize their approach when dealing with young offenders



by Meagan McCardle, Zak Keeping, & John C. House

The Supreme Court of Canada ruling in the case of *R. v. L.T.H.*, [2008] 2 SCR 739 has significant implications for police officers who interview youth accused of committing an offence. Its ramifications for police practice have yet to be fully addressed.

The case involved the arrest of L.T.H., a young person brought to a police station for questioning in relation to a police pursuit. As part of a videotaped interview procedure, the officer read a legal waiver to L.T.H., who acknowledged that he understood and proceeded to waive his rights. L.T.H. initialled and signed the form, and provided an inculpatory statement during the subsequent interview.

The Crown intended to introduce the videotaped statement as evidence. At voir dire, however, the Court heard evidence that L.T.H. had a learning disorder. The trial judge was not satisfied that the statement was voluntary because she was unconvinced L.T.H. understood his rights and the consequences of waiving them. The statement was ruled inadmissible. The Crown called no further evidence, and the case was dismissed.

Subsequently, the Nova Scotia Court of Appeal ruled against the trial judge, and ultimately the Supreme Court of Canada affirmed the trial judge's decision.

In enacting the Youth Criminal Justice Act (YCJA), Parliament acknowledged that young

persons are a vulnerable population who require extra-judicial legal protections. Waiver forms were implemented to provide a standardized approach to delivering rights, thereby ensuring that youth would be provided with all the required elements of their legal rights.

Police officers were mandated to ensure that delivery met the test of the "informational requirement," which dictates that rights must be clearly explained to young persons in language appropriate to their age and understanding. The Crown must prove not only that the rights were delivered in appropriate and understandable language, but that they were understood.

An analysis of waiver forms being used by Canadian police organizations revealed that they are not standardized. The forms are lengthy, contain complex sentences, require a relatively high level of reading ability and contain difficult to understand words.<sup>1</sup>

The forms are typically four to six pages in length and can range from 200 to more than 1,100 words. The majority contain at least one section with more than 75 words, which exceeds the recommended amount of information that a person can process in working memory.

In addition, the vast majority contain at least one section that reaches post-secondary complexity. All the waivers contain at least one section that has sentence structure more complex than what is typically found in a financial accounting textbook. In sum, as

the waiver forms are currently written, many sections are more complex than the police cautions delivered to adults.

What then has been the effect of waiver forms on young persons' comprehension of interrogation rights?

In a nutshell, research has shown that existing waiver forms are complex and youth comprehension of their rights is low. It is estimated that young persons comprehend only approximately 40 per cent of their rights.

The seemingly sound proposition that waiver forms would comply with the mandate of the YCJA has failed to be supported empirically. In addition, young persons almost always say "yes" when asked "Do you understand your rights?" indicating that a simple yes/no question is insufficient for measuring comprehension. They also had many misconceptions about their interrogation rights. For example, many believed they had to answer all of the questions asked by a police officer.

To avoid the type of problems that led to the ruling in *L.T.H.*, it is imperative that a standardized approach be taken. Statements made by young persons to police interviewers are only admissible if their rights are clearly explained in age-appropriate language. Increasing comprehension levels of their rights will require simplifying the language and structure of waiver forms.

Research has shown that reducing the complexity leads to higher levels of comprehension.<sup>2</sup> For example, avoiding complex



terms and legal jargon (e.g., duty counsel, proceedings), shortening the overall length of the form (i.e., only including information regarding the key legal rights), building in redundancy (i.e., repeating the content of each sentence in a slightly different manner), and building in an explicit retrieval aid (i.e., listing the amount of rights contained in the form and notifying people before each right was mentioned) led to marked increases in comprehension. Specifically, when these changes were made, comprehension levels increased to 80 per cent.

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## Video to explain rights to youth



The Psychology and Law Lab at Memorial University has commenced a project supported by the Social Sciences and Humanities Research Council of Canada that explores ways to improve young persons' comprehension of legal rights.

One ongoing development involves the creation of an "interrogation safety instruction video" (much like the safety videos seen on airplanes). In other words, research has shown that providing information to people in both visual and auditory formats increases

comprehension of instructions beyond audio or visual alone.

It's hoped this instructional video will increase both the standardization of the process, while using technology to improve how well young persons understand their legal rights.

Over the course of the project, it is intended to present test variations of delivery methods and assess the level of comprehension achieved. It is anticipated that this will assist in identifying the best model to ensure the highest level of comprehension.

It is believed this research may have significant implications for police practice and the administration of justice in Canada. Memorial University researchers invite practitioners to contact them for more information, to discuss the project or to become involved in pilot research.

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# A CALL TO ARMS



*It is time to holster up campus police in Canada*

by Gregory Lawson

Special constables must be armed with the proper tools to protect not only themselves but the people they have sworn to serve.

One need look no further for justification than the death of Cpl. Nathan Cirillo by a deranged “lone wolf” attacker and the myriad of on-campus shootings across the United States. A clear precedent has been set through the arming of security personnel on Parliament Hill.

In much of Canada the legislation is already in place. Campus police are special constables and are essentially law enforcement officers. According to *Section 8* of the *Ontario Police Service Act*, which may reflect other provincial police service acts, a director may appoint an individual or class of individuals as a special constable to any jurisdictional territory with the terms and conditions imposed within the appointment.<sup>1</sup>

A special constable holds the status of peace officer and has the powers and protection of a peace officer when carrying out the duties and responsibilities of their appointment.<sup>2.0</sup>

This being said, a special constable appointed as campus police to a university or other institution has the duties of a regular police constable employed by a municipality or province. All but three provinces: British Columbia, New Brunswick and Newfoundland, have sworn special constables working on university campuses providing safety and security.<sup>2.1</sup>



Ontario has the largest concentration of universities and the most employing special constables.<sup>4</sup> Special constables are appointed by the Minister of Public Safety and Corrections or the municipal police board/police service.<sup>2.2</sup>

Special constables perform specialized security functions, deploy safety programs and investigate misconduct on campuses. These specialized functions involve enforcing specific federal, provincial and municipal acts. Special constables act as a liaison between the campus community and local police.<sup>2.3</sup>

Special constables work with the public, responding to calls for service where there is an element of the unknown and the potential for situations to quickly escalate, just as with regular police officers. They have to make split second decisions on how to react and respond to dynamic situations.

Terrorist organizations have called on

insurgents to attack and execute police officers and government officials, preferably on the streets or in front of their families, according to documents recently released by the RCMP. They are instructed to post video of these attacks online to instill terror in the community and make residents feel unsafe.

Some Ontario police chiefs have publicly voiced their misgivings about supporting special constable programs, fearing they may encroach on municipal police services. Some police officers believe these services may threaten their jobs.

Universities employ special constables because they are just that, special. They are not only trained as a regular police constable but receive an extensive amount of special training on university policy, procedures and codes of conduct.

Ontario campus police services receive some 8,000 calls for service each year, ranging from simple assistance calls to complex investigations.<sup>3</sup>

Western University has approximately 29,000 registered students, 1,500 full-time faculty and 2,500 full-time staff. Roadways are open to the public and are used as a main London thoroughfare. Approximately 30,000 cars travel through the university each day.<sup>4</sup>

Western campus police handle many calls which would otherwise have to be fielded by the London Police Service (LPS). The two services have an agreement which allows special constables to operate within the city. Special constables provide the same service as



*"Carrying firearms is a necessary evil because of societal issues. It is because of where we are and where we've been that police officers in this country have to be armed."*

— Jeffrey Christensen  
Chief of Police - University of Illinois

a LPS constable and are expected to respond to a crisis. All reports of criminal activity are subsequently reported to LPS using the campus police records management system.

Campus special police constables are currently equipped with body armour, handcuffs, batons and OC spray but no Tasers or firearms. Constables are very familiar with the inner workings and labyrinths of buildings and underground tunnels within each university property, which can be quite complex to navigate.

Some buildings house specialized equipment and even radioactive material.

Thousands of university students live on campus at residences, townhomes and apartment buildings. Currently a call for an armed person or active shooter on campus or residence would go to the local police service, which would not have a detailed knowledge of the area and would need guidance and direction to the specific location. They would also not have access to buildings.

Time would be of the essence. Current police procedure expects the first officer on scene to engage and neutralize the threat. Would an unarmed special constable be expected to provide the escort?

Students from more than 100 countries attend Canadian universities, which gives institutions a wonderful opportunity to learn from many different cultures but also opens them up to threats. Terrorist groups like ISIS are known for targeting and trying to radicalize young Muslims and universities are fertile ground for both recruiting and targets.

We are all too familiar with mass killings in schools. Unlike Canada, the United States has taken steps to protect its institutions by arming its campus police. Canada does not have any armed campus police.

Given the threats they face, Canadian special constables need to be armed with the proper tools to perform their duties and protect the people they are sworn to serve. Student safety needs to be a priority. Let's take proactive steps instead of waiting for something horrible to happen.

One of the biggest issues with arming campus police is oversight and liability. Currently special constables do not fall under the jurisdiction of the Ontario Special Investigation

Unit. Alleged misconduct is investigated by the professional standards unit of the local police service. Special constables cannot be charged under the Police Service Act, which gives them powers in the first place.


Special constables need to be held to the same standard of accountability as regular police constables.

Waiting for something to happen is the wrong approach. The risks from not taking steps to prevent attacks or not being able to respond appropriately in a timely fashion are much greater than giving special constables the tools they need to properly do their jobs.

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# FIXING A BROKEN SOCIETY



## *Community policing can be a community crutch*

by Michael Soden

Baltimore was very tense this spring after the in-custody death of Freddie Gray. There were many unanswered questions and multitudes of unhappy people. Protests led to civil disorder, then violent rioting and looting.

Working for a large neighbouring jurisdiction, we were immediately sent to the city in a civil disturbance capacity and I witnessed firsthand the breakdown of societal standards. With 12 years of dealing with disturbances at the University of Maryland, I was somewhat used to the events.

On the surface there were many more questions than answers. Baltimore's newly elected State's Attorney Marilyn Mosby immediately decided to charge six officers after receiving the police investigative report. Not having read the report or knowing all the details, I was not about to pass judgement.

As time went by, however, her decision seemed to be more about appeasing the community or improving her political standing. Many relationships and issues began

coming to light which called into question the validity and ethics of immediately charging the officers.

The case weighed heavily on my mind as I began studying for my next promotional examination. One of the books I read in my preparation, *Community Policing and Problem Solving*, stressed how police and the community have to work together to resolve issues. Concentrating on enforcement and arrest numbers isn't necessarily where we should be putting our emphasis, the book suggested.

Police are not here to be community partners. Forces are, and were, established to enforce laws made by elected officials, maintain peace and order and protect persons and property. I feel that the community needs to take responsibility for itself.

A person in one newspaper article claimed that the only reason officers were charged was because of the widespread rioting. Despite some political misgivings, few objective observers would argue that the charges were levied as a reaction to citizen behavior.

The responsibility of "community

policing" needs to fall squarely on the community and family unit. Why is this a police problem? The police are not here to raise your children and teach them how to be responsible, productive citizens; neither is the government.

Programs such as work assistance are great but the first step is the home. Adults/parents need to first take responsibility for themselves, and then for their children. They are the first and most influential role models in the lives of their children. If the parent can't behave to societal norms then why would we expect anything different from their children.

Some communities are much better off than others. Why? The broken windows theory suggests that the more run down the community, the less civic pride and the more crime; it all goes hand in hand. People want and have come to expect that police, social services, private business and the government will invest in their community, start programs and fix things.

This only teaches laziness and reliance on others. It's YOUR community, you fix it. Tired of living in crime and squalour?

Do something about it. You cannot expect businesses to put money into a community where the residents are unwilling to invest their own time and effort.

You have a right to be angry if you feel oppressed or that police are against you but there is a way to handle things. The country was founded on the belief that the people run the government through elected officials. You have a vote and can get involved. The system isn't perfect what system is?, but it does work.

If you're upset by the police clamping down on your illegal or unsociable behaviour, then you do NOT have a complaint. It is the job of police to arrest those who loot stores, sell drugs and engage in gang wars. They don't make the laws, just enforce them. Elected officials write laws and come up with consequences for actions/behaviours deemed to hurt society. If street drug dealing is made legal and police stop you for doing it, then you have a valid complaint; until then focus your efforts elsewhere.

The media and Hollywood have to shoulder their share of the blame. After the Baltimore riots died down a person dropped his illegal gun and it went off.

A local television station immediately reported that police shot someone. This is poor reporting in and of itself, but at the time Baltimore was still a powder keg, just waiting to again be set off. The station apologized, of course, but the damage had been done. The reporter, and station, needs to be held accountable for its false reporting. Only then will reporters feel pressure to get their facts right.

The entertainment industry glorifies impoverished, high crime areas filled with poorly educated children. They are exposed to "for real" violence everyday, which Hollywood glorifies in movies and music, teaching them that it is acceptable, appropriate even, to behave against societal norms. The difference is that the people doing the glorifying don't live in the squalour or experience the reality and heartbreak that comes with everyday violence.

The time has come for each person to take responsibility for their actions and how it affects others. Hollywood is quick to jump on the bandwagon of police brutality but takes no responsibility for encouraging illegal behaviour which breaks down their community.

The Amish shun and ostracize those in their community who do wrong. We do the reverse, rewarding those who do wrong or blaming others for the circumstances they have created.

The way to fix our broken society is simple and it all starts with personal responsibility.

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Prince George's County Police Sgt. Michael Soden is an adjunct instructor with Maryland Police and Correctional Training Commissions.

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# A TIME FOR CHANGE

*It may be time for internal trials to look toward conciliation rather than prosecution*



by Bob Fitches and Glen Donald

The current Ontario discipline process to pursue allegations of police misconduct has remained virtually unchanged for decades. It is time to change how we deal with such things.

Several developments have caused the present system to become bogged down and consequently, less effective. The legislators sought to balance a quick response to misconduct with the need for due process but the efficacy of this model has been eroded by factors such as:

- Introducing the more cumbersome procedures of the criminal law process;
- The increased ease through which an ever vigilant public (armed with cell phone cameras) may make allegations of misconduct, and;
- The occasional strained relationship that sometimes exists between associations and police management.

On their own, none of these developments would be cause for alarm. The cumulative effect, however, causes hearings to often take several days or more, leaving all parties faced with enormous legal bills.

Acrimony in the proceedings often raises temperatures in the hearing room. In situations

where a public complainant opts to participate – as is their right – the proceedings can often become extremely difficult to manage, thus adding to the length and cost.

Moreover, public complainants sometimes enter the process with unrealistic expectations of the hearing, and its likely outcomes. When these expectations are left unfulfilled, complainants sometimes leave feeling their concerns fell upon deaf ears.

The system as we know it does little to enhance the community's trust in policing and often causes long lasting difficulties in relationships between officers and their agency.

## Current system

A hearing is called when an officer is alleged to have committed an act of serious misconduct. The prosecutor introduces evidence in an effort to prove the allegation(s) on a balance of probabilities. The officer, through counsel and likely with association support, puts forth a defence in fact or law. This is the very definition of an adversarial system.

Even in cases where the officer admits the allegations, there is often wide disagreement about the appropriate penalty. Inadvertently, a system designed with fairness in mind creates discord and disharmony that, far too often,

lingers far beyond the hearing.

The conduct of police officers facing disciplinary proceedings is often described as “out of character” and frequently attributed to a stressful or unusual situation in their work or personal life. A conciliatory model utilizing independent parties would allow working toward a creative but appropriate resolution without the acrimony and resentment that is so often an unintended consequence of the formal hearing process.

Our process will involve and engage all parties, including the public complainant, in order to first give them some understanding about the realities of both policing and police discipline. Imbued with a broader understanding, positive outcomes will not only be attainable but can foster renewed public confidence in policing.

Note that our proposal doesn't prevent a formal hearing in instances where the matter(s) are not capable of being resolved during the conciliation attempt. We recognize that conciliation is unlikely to fully resolve all cases but it would nonetheless serve a useful purpose by narrowing the issues to be litigated, resulting in a shorter, more focused and consequently less costly hearing.

Officers who face disciplinary actions

sometimes retreat into the temporary safety of their solicitor-client relationship, disengage from the realities of the prosecution that awaits and stop talking with their employer. The officer sometimes waits for disclosure and there can be further lengthy delays awaiting the hearing, which itself is subject to further adjournments.

Prosecutions, and the corresponding effect of being prosecuted, often polarize both sides, ending conversation between them. If justice delayed is justice denied, there is very little justice in the current system.

Costs of the litigation (preparation and hearing) can stagger the most hearty accounts payable department. We believe that resolving a significant number of disciplinary cases in a fraction of the time, and for a fraction of the cost, is now realistic. Implementing such a system would save tens of thousands of dollars, benefiting police services, associations and the public.

Above and beyond the actual cost savings is the positive impact conciliation can have upon the individual officer and the resulting, exponentially positive impact upon the organization.

Prolonged proceedings result in enormous stress on officers. Even subconsciously, their performance and overall well-being often suffers, reducing morale in their unit. Only the most remarkable individuals are able to maintain a positive outlook in the face of such a situation. It goes without saying that

the quicker these matters can be resolved, the quicker the workplace can return to normal.

As things now stand across Ontario, there are often excessive delays in getting matters before a hearing. There are many reasons for this but the availability of legal counsel (a reality, not a criticism), is often at the root.

Conciliation would resolve a significant portion of disciplinary matters, reducing the backlog. In turn, the more serious matters (dismissal cases) ought to be completed in a much more timely fashion. This can potentially reduce pressures on agencies and associations and perhaps help solve the issue of long suspensions. If serious allegations of misconduct can be dealt with more quickly, instances of officers being on long term paid suspensions can be drastically reduced.

Some would advocate for a “discipline now, grieve later” approach. At first blush, this seems to lighten the administrative load in that discipline issues can be dealt with rather quickly and not all cases would be grieved. One of the shortcomings to such an approach, in our view, is that it can either create or aggravate a negative relationship between associations and police administrators. This could very easily have a dramatic and unfortunate impact upon labour relations and the sense of co-operation within the service and between the parties.

The conciliation method we envision is quite simple. The chief and association would agree to request conciliation. By design, their

participation will have no negative impact on the rights of either party should the matter require a formal hearing.

The whole notion of conciliation is that it provides an “off ramp” for all parties involved, permitting the disciplinary matters to be dealt with in a more creative, timely and thoughtful fashion. Our proposal draws upon the experience, creativity, impartiality and common sense of two individuals whose core values align entirely with the fundamental principles at the root of police discipline. This proposal also provides for a level of independence that permits all parties to have far fewer concerns relating to bias or impartiality.

This proposal has met with the strong approval and support of academics, judges and colleagues for its forward thinking, progressive approach. It presents the participants in the present system with the ability to do much more for much less, much more quickly. We believe strongly that this methodology is timely, appropriate and truly worth exploring when disciplinary matters arise.

It truly is a time for change!

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# DIGITAL PRIVACY VS. PUBLIC SAFETY



*Privacy measures allow criminals to hide their dirty deeds from police*

by Robert Cribb and Mark Greenblatt

Toronto Police Det. Paul Krawczyk is posing as a pedophile in an online chat forum where anonymous men are sharing some of the most troubling thoughts the mind can fathom — from luring young children for sex to feeding them rape drugs.

“This person has told me... they’re interested sexually in three-year-olds to nine-year-olds,” says Krawczyk, a senior child exploitation investigator, reading a message sent on a “boy love” chat forum.

The online posters trade technical tips on how to hide their identities from police throughout.

“He’s saying to use a particular chatting program that is known for its encryption.”

A joint Toronto Star/Scripps News investigation has detailed how post-Snowden privacy measures — including highly advanced encryption and added search-warrant requirements — have allowed child molesters, drug dealers and organized crime members to hide their crimes from police.

While stronger privacy measures have addressed concerns about authorities snooping into our lives, police say they have had unintended consequences: the likelihood that criminals can evade justice because evidence is unattainable.

It raises an unanswered question of the digital age: how do we balance protecting personal privacy with the ability of police to investigate crime?

On the one hand, police warn that crimes can now unfold before them as they stand by handcuffed by time-consuming judicial bureaucracy or unbreakable encryption.

On the other, privacy advocates say we are all better protected from criminal threats posed by everything from tyrannical governments to sophisticated criminals.

“Is the public ready to accept that there is a wall too high and a moat too deep, for law enforcement and security agencies in Canada to access information that is a security concern to all of us?” asks Scott Tod, Ontario Provincial Police deputy commissioner.

“The Microsofts, the Googles, the Amazons, the large digital giants in the world, in my opinion, are setting the pace for that privacy discussion. But what about the security aspect? That’s a discussion that’s not happening.”

The OPP can only now access about 20 per cent of the digital communications it collects with search warrants because of un-crackable encryption, Tod says.

And encrypted devices containing vital evidence are increasingly beyond the technical reach of police.

In a first look inside the “evidence vault”

at OPP headquarters in Orillia, officers escorted a Star reporter through shelves holding about 1,000 electronic devices — cell phones, computer hard drives, tablets and memory cards — seized with warrants as part of active investigations.

A typical case now requires the analysis of three or four devices, say detectives. A big case could require the analysis of as many as 50.

The OPP has only just started tracking how many devices investigators are unable to access. But anecdotally, they say a growing number are unbreakable — a trend heading swiftly in one direction.

“(This cell phone) may as well be a brick,” says Toronto police’s Krawczyk about a phone recently seized in a child exploitation case. “Finding that information is more difficult. Therefore, finding the offender is more difficult. There are definitely child predators that get away.”

In New York, the Manhattan District Attorney’s Office says that in fewer than 12 months “roughly 111 iPhones were inaccessible.”

Examples of investigations that hit brick walls because evidence was beyond reach, provided by police in Canada and the United States, include: a computer hard drive seized in Toronto that contains what police believe is a vast collection of child pornography that could provide evidence and help rescue victims; an



encrypted cell phone containing communications that could assist in solving a murder case in the U.S.; and cases in which police couldn't intervene quickly enough because required warrants couldn't be obtained.

The RCMP points to a case in which they attempted to intercept encrypted emails among high-level drug traffickers.

"With judicial authorization in hand, the RCMP dedicated thousands of hours to this effort, but was ultimately not successful because of various technical and jurisdictional challenges," RCMP Sgt. Harold Pfeleiderer wrote in an email.

Privacy advocates, including U.S. tech giants, have made clear in public statements and by political lobbying that loosening privacy to assist police is a non-starter.

Calls for a "back door" that would allow police access to encrypted devices have been dismissed because technology experts say it would be exploited by hackers, organized crime and hostile foreign governments.

"With a probable cause search warrant it would be great if they could have access to a child molester's text messages," says Nate Cardozo, an attorney with the Electronic Frontier Foundation that advocates for secure privacy.

"The problem is, you can't make a back door in a house that only law enforcement can enter. It's just not possible."

Even most within law enforcement acknowledge the damage caused by mass



surveillance conducted by the American National Security Administration that was exposed in the Snowden leaks. And most agree that privacy concerns are legitimate and a backdoor encryption hole for police is problematic.

They also concede that they have failed to make their case to the public. Repeated requests produced little actual data on U.S. or Canadian investigations undermined by emerging privacy restrictions. In addition to the OPP, several agencies said they have just begun documenting the problem.

"I think we haven't done a good enough job in the past of really having the discussion publicly among the American public to say

this is what we're trying to do," said Amy Hess, executive assistant director of the FBI's Science and Technology Branch.

### The Spencer Decision

The number of children rescued by Toronto police has been cut in half since last year and even though the number of child exploitation investigations are rising, there has been a decline in arrests and charges, says Det. Sgt. Kim Gross, the head of the Toronto unit.

The reason, she says, is a requirement imposed by the Supreme Court last year in the Spencer decision that found Canadians have a reasonable expectation of online privacy in their "basic subscriber information," including their name, address and IP address.

Police are now required to obtain judicial orders to access those basics on a suspect — a process that can take up to a month — rather than the previous informal arrangement in which service providers handed it over within hours.

"We work that much harder and our results are not as good," Gross says. "Between the Spencer decision and encryption, it's a deadly combination."

The effects have been felt across Canadian law enforcement.

Since the decision, the number of production orders filed by OPP child exploitation investigators have doubled while charges against alleged offenders have been cut in half, says OPP Insp. Lisa Taylor, who heads the unit.



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“You’ve got a toddler being victimized and you may have an IP address,” she says. “Now you have to write a production order. You’re looking at delays in that. It’s not acceptable. Do we wait to find a child is abused in that time period?”

OPP officers liken it to stopping someone driving erratically and having to file a formal judicial request to obtain their name and address weeks later when the person has long since disappeared and any evidence has been lost.

Toronto police are even turning away tips about alleged child exploitation cases, says Gross.

“You can’t triage tips because you can’t get the information fast enough,” she says. “The people who really suffer are children and families of these children. We’re not going to suffer like those kids will suffer.”

In August, the Canadian Association of Chiefs of Police passed a resolution that cited the Spencer decision as the reason some criminal investigations — sexual exploitation and abuse, fraud and “suspected extremism” — were not pursued. It called on the federal government to create a “reasonable law” and provided these options:

- Option 1:** Create an administrative protocol (not requiring search warrants) for accessing basic subscriber information from telecommunications firms;
- Option 2:** Create a judicial order for basic subscriber information;
- Option 3:** A combined approach of specific production orders for personal information that has a greater expectation of privacy and a faster, non-judicial protocol for accessing less sensitive information.

### The unbreakable Apple

The latest Apple iPhone is perhaps the most ergonomically designed symbol of modern police frustration.

For police, the new operating system, which boasts unbreakable encryption, has transformed the cell phone into an expensive paperweight.

Even Apple says it can’t crack the encryption, which means that police search warrants demanding the company’s assistance aren’t worth the paper they are printed on.

Case in point: Apple received a search warrant earlier this year requesting help to access content locked inside a cell phone belonging to Brittney Mills, a 29-year-old pregnant woman who was murdered in Baton Rouge, LA., in April. In September, Apple’s privacy and law enforcement compliance team wrote to Baton Rouge police that since the device was running iOS Version 8 or later, the “extraction could not be completed.”

Apple declined repeated interview requests.

Hillar Moore, the district attorney handling the case, says that response amounts to a dead stop.

“We have been thwarted,” Moore said in an interview. “Right now, a murderer is walking the street and this is not only one murder, it’s two.”

In Canada, it’s the same story.

With previous versions of the iPhone, OPP Deputy Commissioner Scott Tod says his officers could get a warrant from a justice of the peace, fly to Apple’s offices in California and get a seized phone opened. No more.

“We await a technical solution that would be provided to law enforcement in Canada to get by the pass code, again, with warrant,” says Tod. “That’s the discussion that needs to take place.”

### Search warrant challenges

The computer hard drives of U.S.-based tech giants such as Google, Microsoft and Twitter contain crucial evidence in criminal cases. But when police serve search warrants for emails, texts and images held in the companies’ massive hard drives, co-operation can sometimes be slow to come.

In 2013, U.S. officials investigating a murder needed three judicial orders to compel Google to produce one customer’s records. Delays and incomplete responses resulted in Google failing to meet warrant deadlines that extended from April to June of 2013. The delay meant some records sought by investigators were purged from Google’s system two days after the first missed deadline passed.

The U.S. Attorney’s Office filed suit against Google that June. In court documents from June 2014, Google admits to “significant delays” with its law enforcement compliance team due to the loss of several experienced employees and a computer “tool failure” glitch when retrieving the information.

The company says it has added employees to respond to a backlog of law enforcement requests and created a dedicated email address to expedite the handling of pending warrants.

But David Matthews, chair of the technology and digital evidence committee for the Association of State Criminal Investigative Agencies in the U.S., says technology firms that fail to comply with search warrants should face recourse.

“Not all district attorneys have the time to engage with Google to call them to task,” he says. “I do think there needs to be some basic legal realities in place if they aren’t complying with subpoenas.”

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# BULLYING ENDS HERE



by Meghan Grant,

CALGARY - A gay police officer who travels the country to prevent bullying says the Calgary Police Service is among the most progressive in Canada.

“I think it’s absolutely no secret that Calgary Police Service is light years ahead of many other agencies around the world when it comes especially to youth initiatives,” said Const. Tad Milmine.

Milmine moved to Calgary last year. Growing up in Ontario, he was neglected at home and severely bullied at school.

“I used to be really, really shy and I used to cry a lot,” said Milmine.

“The kids learned at a very young age that I had this trigger that all you had to do was call me a couple of bad names and it didn’t matter where I was or who was around me, it was uncontrollable.”

His early life was lonely and painful and Milmine says he lacked the confidence to pursue his dream to become a police officer — until he was in his 30s. That’s when he joined the RCMP, stationed in Surrey, B.C.

Hoping to save kids from the pain he had experienced as a child, Milmine developed an award-winning anti-bullying program, *Bullying Ends Here*. He presented it at schools across the country.

Even though Milmine was doing the presentations on his own time, last year, he says the Mounties gave him an ultimatum: policing or presentations.

It was his dream job but Milmine quit, choosing to continue reaching out to kids. He didn’t go long without a badge though. Calgary police welcomed Milmine and his program into their service last summer.

## Former intolerance

Calgary’s police chief says the new recruit is a positive addition to both the service and the city.

“(There’s) all kinds of benefits that occur when a person like Tad can stand in front

of a group of people and explain firsthand what kind of damage can be done when intolerance occurs,” said Chief Rick Hanson (since retired).

“We know that we will be a better police service by ensuring that we have more people with diverse backgrounds coming to the police service.”

Milmine says working with the CPS is a dream come true. He says he feels more supported in Calgary than anywhere else he has been.

“It really is the way that I envisioned policing to be,” said Milmine. “On my days off, I can continue doing what I believe to be important ... I truly have to pinch myself every day to realize my dream is happening.”

CBC News Jan 26, 2015

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# WHISKEY MEN AND WHISKEY MACHINES

*The evolution of the stock car began in the backwoods of the southeast and led all the way to today's NASCAR superspeedways*

by Jerry Burton

They were dogs. Good ol' Southern boys just trying to scratch out a living. Tom Wolfe even christened one of them — NASCAR prodigy Junior Johnson — as “The Last Great American Hero” back in his now famous 1964 Esquire cover story. Their trade was moonshine, variously called “white lightning,” “mountain dew” or “white whiskey.”

The people who produced and transported the stuff and the cars they drove have become cultural heroes, inspiring early stock car racing and, eventually, NASCAR.

Moonshine runners provided one of the first business reasons for a performance car. Your ability to make a living and stay out of jail was directly related to the performance of your car, especially carrying a full load of whiskey.

“Moonshiners put more time, energy, thought and love into their cars than any racers ever will,” said Johnson, quoted by Neal Thompson in *Driving with the Devil*. “Lose on the track and you go home. Lose with a load of whiskey and you go to jail.”

Ray Parks of Dawsonville, Georgia, was one of the first to make moonshine running a big business, making runs with a fleet of cars from northern Georgia to the Atlanta area. He became one of the more influential people behind NASCAR, along with Bill France, Sr.

While many of the famous old practitioners like Parks, Red Vogt, Red Byron, Roy Hall and Lloyd Seay are now gone, Junior Johnson is still with us.

Johnson, now 83, didn't need Tom Wolfe to put him on the map. He was one of the pioneers of modern NASCAR racing and is credited with the invention of drafting in winning the 1960 Daytona 500 in his Chevy. Even though he never won a championship, he won 50 races before retiring in 1966. He is listed among NASCAR's 50 greatest drivers and later became a championship-winning team owner.

But for Junior, named after his dad, Robert Glenn Johnson, Sr., it all started in the backwoods of North Carolina. Johnson Sr. ran a large-scale whiskey business and Junior worked mainly as a runner.

“Where I lived, if you didn't make whiskey, you didn't have bread to put on the table,” Johnson says. “My dad had 10 other families that he provided for.”

Junior taught himself how to drive when he was 10 or 11.

“My dad gave me a farm truck and I'd just drive it up and down the dirt roads. I just kept driving it so until I got to know what I needed to know. My dad was a real good driver, too.”

Junior played around in a pasture until he learned how to make a car do anything he wanted.

“We had little races on the old dirt roads,” Johnson says. “I got myself a '34 Ford and went over there and ran around in that thing. By the time I was 14, I was pretty talented, learning what the reaction of the car would be to whatever I did. And it stuck with me over the years.”

With Junior's driving skills proven, Johnson Sr. didn't hesitate to put him out on the road at night with a full load of whiskey. Like most runners, Junior would run a Ford flathead V-8 in a '40 Ford with lots of modifications.

“The revenuers didn't have any fast cars, so they'd do things like block a highway or a bridge,” Johnson says. “They'd have these two cars coming at you. You had to figure out some way to turn around in a hurry.”

Johnson modified his cars with a switch to shut off one of the rear brakes so he could do a smooth 180-degree turn on the fly. Once the revenuers gave chase there were a lot of places where he could duck them.

“I tried to figure out how to dodge 'em and run off the road through a driveway or run through somebody's yard to get by them and not get caught,” Johnson says. “They would chicken out sometimes 'cause they didn't want to get hurt.”

Johnson became an expert in building great liquor cars. Starting with the engines, he began ordering Edelbrock parts through a distributor in North Carolina.



Photos courtesy: Evin Klien

“Those parts would make a car a lot faster than anything on the road,” he says. “It was a learning curve for racing. I adapted a lot of the technology from my liquor cars to my race cars and won a lot of races that way.”

When it came to suspensions, Johnson went to heavy-duty pickups for the right components. “A one-ton pickup had heavier wheels and axles, and I would adapt all that stuff over to the Ford car,” he says. “That would give me springs like a loaded truck.”

Johnson adds: “It drove as good loaded as it did empty. It just rode really rough when it was empty because the springs were so strong. But it was a pretty good combination to have the big brakes, big springs, sway bars and wheels.”

Johnson also used eight-ply pickup tires that would carry the heavier loads. “You could adapt those eight-ply tires and you’d have a tire that would carry a load.”

And a load it was. “We carried as much as 120 gallons in half-gallon glass containers. A ‘40 Ford coupe would haul 22 cases. That included five cases in the front seat with you. That helped balance the car by getting the weight as close to the front wheels as possible.

“I also had red lights and sirens on my car,” Johnson adds. “I used the siren just to get around traffic. But there were also times that I didn’t need any lights. Sometimes the moon was so bright on the clear nights that you could see just like it was daylight with the lights off.”

Johnson was never caught on the road, but he was eventually arrested during a raid at his dad’s still. “I had just started racing. I raced at Altamont, New York, and drove all night long to get back to North Carolina. My dad needed help to fire up the still before daylight. But that morning, the revenuers had found the still and they had 18 guys surrounding it. I had a shovel of coal and was about to put it into the fire when somebody jumped me. I threw it in his face, but then a bunch of them subdued me. They felt like they had hit the jackpot since they could never catch me on the road.”

Johnson ended up serving two years at a

prison in Chillicothe, Ohio, but that wasn’t the end of his whiskey running. “I went back and stayed in it for about 10 to 15 years more,” Johnson says. But this time, he went big-time and transported whole semis of liquor to large cities like Philadelphia.

Johnson eventually got out of moonshining and has been involved in a number of very successful businesses, including Holly Farms Chicken and a legal line of Midnight Moon moonshine. He was pardoned by President

Reagan in 1986 and now enjoys special status in any automotive circle.

Ray Evernham also knows a thing or two about building a good whiskey car. A former crew chief for Jeff Gordon during his 1990s championship years with Hendrick Racing, Evernham is now the host of AmeriCarna on the Velocity Channel (as well as HCC’s newest columnist). He owns an original whiskey-running 1940 Ford, perhaps the car most identified with the trade.

“We found it on a northern Alabama farm near the Georgia border,” Evernham says. “It had no running gear and the whole thing had been butchered. The key thing was the whole back of the car was cut out all the way to the front seat so that cases of moonshine would fit easily. We left the car original. We put in a flathead V-8 and a three-speed transmission. It looks like a rat rod.”

According to Evernham, a good whiskey car is the same as a good race car. “It had to have the horsepower, the proper gears, the proper springs and suspension setup. But unlike a race car, it had to have hidden lights for when you backed up to the stills in the woods and a shutoff switch to turn off the taillights or the brake lights when you were being chased.”

Whiskey cars evolved greatly over the years Evernham says. “Back in the early days, they wanted horsepower, so a lot of them started with flathead Ford V-8s. In the search for more power, they started adding carburetors and manifolds.



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“When the more powerful overhead-valve V-8s came out in the late ‘40s, the runners started looking at Cadillacs and Buicks,” Evernham says. “Cadillac ambulances were highly sought after. If one of those got junked, the moonshiners would come running.”

“Besides heavy-duty truck tires and wider ambulance tires, they also installed Columbia overdrive two-speed rear ends that could handle both the dirt and the highway.”

Evernham echoes Junior Johnson’s claims about creative suspensions to handle with a heavy load. One of the tricks was to make your whiskey car look as stock as possible. “They needed to put springs in the back, but they couldn’t look all jacked up, too. Some guys installed two sets of springs, the second one called a ‘bootleg spring,’ kind of like a garage door spring. It ran left to right instead of front to back and could be activated when needed.”

While many cars carried whiskey in large mason jars, some of the whiskey men started carrying their cargo in large tanks. The tanks had special cable-operated valves that would allow the driver to empty the tanks on the fly under pursuit by the revenuers. But most people preferred the jars because they were easier to split up upon delivery.

“As time went on in the 1950s,” Evernham says, “the runners started using the big Chryslers with Hemi engines and then big Ford Galaxies and whatnot in the early 1960s. Some guys intentionally ran really plain-looking cars — big four-door Buicks or Chryslers so they would look like traveling salesmen.”

The ongoing battles between the whiskey runners and the revenuers spawned creative solutions. *In Driving with the Devil*, Neal Thompson relates concepts like a pincer that the revenuers used to try to lock onto the rear bumper of a fleeing whiskey car. The runners countered by mounting their rear bumpers with coat hangers that would quickly separate from the cars and become entangled under the front wheels of the revenuers. The revenuers also tried steel battering rams to force a fleeing car off the road. But the runners countered with James Bond tactics like dropping oil or sharp tacks on the road. More often than not, the pure speed of the whiskey cars won out.

So how much of what the moonshiners did

really translates to the race track? “Just about 100 percent,” Evernham says.

“You’ve got to remember that the bootleggers used to run cars down the highway, but then they decided to run them around dirt ovals so their friends could watch and see who was the best driver and who had the fastest car. We have one of these field-racing cars, which was the missing link between the moonshine cars and early stock cars. So yes, what we learned from the bootleggers was transferred right into what we did in NASCAR. I have a passion for that history because these guys invented a lot of things.”

Evernham says he hopes people will

continue to record these stories, because moonshine running is a part of NASCAR history and American culture. “I get that it was breaking the law,” he says. “You can’t say it was a victimless crime, because there were victims. But from a mechanical side, the guys who built and maintained those cars were really smart. And little did they know at the time what kind of fruit their labour would bear on the superspeedways of America.”

Source: July 27, 2015 edition of Hagerly News — [www.hagerly.ca](http://www.hagerly.ca)

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# *Tell me more about that!*

I recently listened to a speaker from Singapore talk about the Sydney Café and Charlie Hebdo shootings at an international police psychology conference in the southern US. The discussion became focused on the need to involve the citizenry in preventing terrorism. On the surface, this seemed like a good idea.

I was thinking about the need for people to be more aware of their surroundings and suspicious behaviour, how we need to do a better job at not alienating various religious and ethnic groups, why it is a good idea for people to be on speaking terms with police and report potential threats, how to better implement the principles of community or contemporary policing when suddenly I realized that most of the people in the room interpreted “involving the citizens” as meaning “everyone should have a gun.”<sup>1</sup>

I nearly fell off my chair. I see this kind of attitude on Fox TV when I am visiting the US but I really did not expect it in this context. I am not the best person at hiding

my emotions or disguising my reaction to things; the guy sitting next to me looked askance and said, “You must be from Canada.” Indeed.

I am not going to argue the pros and cons of gun control here, as I expect my credentials as a psychologist will not hold up against you readers in this area. The main thing that kept going through my mind was “how can you think that? How can you really believe that is the answer?”

I tried to put myself in the shoes of the person who made the Canada comment; I even engaged him in conversation later just out of curiosity. Who was this guy? Well, he was short and quite fat; he was white and probably a decade or so younger than me; he was likely Jewish, given his name and a few comments he made about his background. He was from New York City (not Texas!). Unfortunately, that was all the snooping I was able to do over a coffee break.

Did he have some gun-related history? A family member had been shot, perhaps?

Maybe he actually came from Texas originally? Had he been bullied as a child as he was short, fat and Jewish? I just couldn’t imagine.

That, of course, is the problem we face so often. It really is hard to imagine, even when you want to, why someone thinks what they do. It is so hard to see things from their point of view. This psychologist was in many ways not that different from me. He was white (as I am), a psychologist, middle class, not that much younger than me and if I can’t imagine why he feels the way he feels, how can I really relate to how a Syrian refugee might feel about something? A poor Jamaican from Jane and Finch?

My well-to-do relatives who have never come in contact with the type of people I dealt with daily in my work in the correctional system? A heroin user from the Lower East Side? A gay 12 year old? A holocaust survivor? Even my on-the-surface very similar next door neighbours who spent a couple of decades in Qatar?

The ability to put yourself in someone



else's shoes is a uniquely human characteristic (although my dog owner friends think their dogs can do this but putting yourself in someone else's shoes is different from recognizing and appreciating how they are feeling. Dogs, as far as I can tell, can do the latter but not the former.)

Our attitudes and beliefs are a function of many things: our age, gender, cohort, SES, cultural and ethnic background, personal experiences and personality. Our attitudes are strongly influenced by the people around us, and are most strongly influenced by people who we perceive as being similar to us but the moral of this part of the story is that as people vary, so do attitudes.

For those of us who routinely deal with people who have very different life experiences from us and thus very different attitudes and beliefs, this can be a challenge. The first step in the process is to simply notice and acknowledge that people might not see things the same way you do. As long as you assume people see things the way you do, you will never be able to figure out how they see things.

The danger is that because people act on their perceptions of things rather than what you might consider "reality," if you don't clue in that their perceptions are different, you are going to miss the fact that their reactions also differ. Personally, I think

reality is grossly over-rated. I am not even convinced it actually exists.

One area in which we know police tend to see things differently is around the perception of threat. If you spend a lot of time with people who you think might be out to cause you harm, you might be inclined to see danger everywhere. If you see danger, then you act as if there is danger, whether there actually is danger becomes kind of immaterial.

Sometimes, differences of perception just make for interesting cocktail party chatter. ("You liked that movie? I hated it!") Sometimes it leads to argument. ("How could you possibly vote for that %^& political party!??") Sometimes it leads to a whole lot of misunderstanding.

One of the speakers at the conference was talking about using integrity tests in selecting employees. These kinds of measures typically ask questions like "Have you ever stolen anything in your workplace?" or "Have you ever broken the law?"

The person giving the presentation works in a certain southwestern US state and said that, after using these measures for a while, he concluded that they did not particularly identify people with a lack of integrity very well. They did very clearly identify Mormons, whom he described as scrupulously honest.

So the over-the top "dishonest" person

answered "true" to these questions because he had accidentally taken a pencil home from the office once and also had gotten a parking ticket. The person with no morals answered "no" to most questions about bad behaviour because while he had taken a whole office worth of supplies home, he figured that is simply a job perk and his DUI conviction was so long ago it didn't really count.

It all has to do with differences in perception, experiences and interpretation. In this case, the speaker attributed the differences in reported "honesty" to religion, but it might equally be age, experience, personality or any number of other things.

What's the take home message here? I'd like to say it's that the guy from NYC is nuts. I certainly do not agree with him. At the same time, I guess I have to say that likely things look very different to him than me.

It reminds me that my favourite phrase as a psychologist is, "Tell me more about that." It's a very handy statement. I use it a lot. It works better than "Are you out of your %^&! mind?" if you want to get an idea of how people are seeing things.

For the record, this is NOT what the guy from Singapore meant!

Dr. Dorothy Cotton is *Blue Line's* psychology columnist, she can be reached at [deepblue@blueine.ca](mailto:deepblue@blueine.ca)

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by Tom Rataj



# Calgary Police find wireless data that works

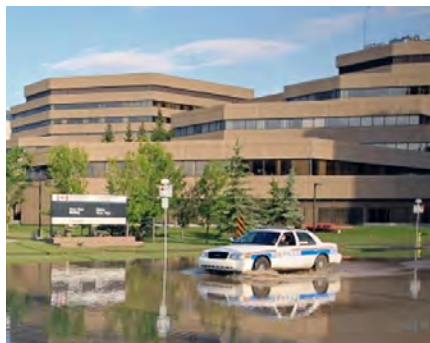
The Calgary Police Service launched a new approach to mobile data in June by becoming the first Canadian police service to connect to a private hosted 4G LTE cellular data network. Inspired by disasters like Calgary's 2013 flood, the "test of technology" project is meant to demonstrate the effectiveness of this service.

Most public safety agencies follow the conventional wisdom that it's best to own, control and manage their own wireless communication systems.

When mobile data terminals (MDTs) arrived in the 1980s, agencies followed this established wireless model, building private data networks by adding extra hardware to their existing voice-radio towers and infrastructure. This actually worked reasonably well because first generation mobile data services relied on fairly simple monochrome-screened "dumb-terminal" MDTs, only capable of sending and receiving simple text-based information.

When the first real mobile computers, such as the famous Panasonic ToughBook, arrived in the 1990s, data communications needs rapidly changed. The basic text-only data networks couldn't reliably and efficiently support everything that mobile computers were capable of doing.

Building and maintaining wireless data networks was also an expensive proposition, often preventing smaller agencies from doing anything more than putting mobile data on



their wish list. Rural agencies faced additional challenges because of their large patrol areas, which required many additional radio towers to provide reliable coverage.

Once data capability began to arrive on cellular telephone networks it became increasingly convenient to just buy access. One of the biggest advantages to this arrangement, especially for smaller agencies, was that they didn't need to invest huge amounts into capital infrastructure to build the latest state-of-the-art data network. They just needed to buy a large enough block of data from the local provider to serve their needs and install the necessary modems and other hardware to make all the connections.

Additionally, the cell networks often provided 100 per cent coverage, especially in and around urban areas and along major highways, and operators routinely upgraded

their entire networks to the latest and fastest technologies. This allowed agencies to implement increasingly more sophisticated applications and services on their mobile computers.

When fourth-generation (4G) cell data networks, using Long Term Evolution (LTE) technology, debuted several years ago, mobile data began to realistically approach the upload and download speeds seen over WiFi networks, unlocking the real potential of mobile data.

Routing highly-sensitive police data through a publicly run communications network can, of course, be concerning, although proper encryption and other security protocols can placate most of those worries.

Another concern is the reliability of public networks, especially during major emergencies when agencies need them the most. Typically there are large spikes in traffic volume during emergencies, often causing service issues or failures because the demand exceeds system capacity. Agencies typically have data priority arrangements in place to ensure operational continuity during these situations, but it's not known how well this will work.

Mobile data allows live and up-to-date feeds so operational decisions can be made based on the best data, instead of waiting for post event input. It also improves officer safety, efficiency and effectiveness.

GPS, audio, video, vehicle telematics and a wide variety of new and emerging

technologies are all largely made feasible by complete geographical coverage, reliable high-speed cell data networks and powerful mobile computers and connected devices.

The federal government's recent decision to reserve a complete 20 MHz block of the 700 MHz cellular radio band for the exclusive use of public safety agencies further enhances mobile data. Agencies will not have to share or compete for frequencies and the 700 MHz band is ideally suited because of its range and building penetration capabilities.

### Innovation

The network utilized by the Calgary Police Service (CPS) was built and is owned and operated by Motorola Solutions as part of its LTE Cloud Core service, launched in 2011 and designed to provide a private state-of-the-art LTE cellular data network for public safety agencies. CPS has the first Canadian installation.

The system consists of half a dozen cellular towers located on CPS properties in the city and provides coverage to approximately two-thirds of its jurisdiction. The LTE system hardware is manufactured by Ericsson Canada Inc, while the remainder of the system is provided by Motorola Solutions and its partners.

Because the system isn't shared with any other users, the CPS now has a reliable and uninterrupted high-speed private data network. As a contracted service, it doesn't have the large up-front capital expenditure normally required, and the CPS doesn't have to budget and plan for hardware upgrades every few years. The cost is a budgeted monthly operating expense so it's easier to manage.

The system is completely scalable, so additional users and public safety partners such as fire and EMS can be added in the future, offering better inter-agency collaboration, efficiencies and potential cost savings.

The network uses the high-speed LTE standard so it is capable of supporting an almost endless array of data-intensive technologies beyond the usual core services such as Computer Aided Dispatch (CAD), Records Management Systems (RMS), CPIC, MTO and other databases.

System operation is monitored by specialists at the Motorola Solutions' Network Operations Centre in Schaumburg, Illinois. Reliability, availability, performance and other factors are constantly monitored and analysed so they can be adjusted and improved.

On the vehicle end of the system, CPS has 90 Panasonic ToughBook rugged computers installed in a mix of marked and unmarked vehicles. These are connected to the LTE system through the Motorola VML750 cellular modem. As with other similar hardware, the VML750 meets or exceeds ruggedness standards, such as MIL-STD 810G (heat, cold, rain, humidity, dust and vibration), so it should stand up to the rigours of mobile policing and Calgary's challenging seasons.

Interestingly the VML750 also includes a WiFi hotspot feature for up to 32 users,

although this is currently not enabled. This would be advantageous because mobile radios (both data and voice) have much greater transceiver power than handheld devices. A police vehicle could act as a powerful local host for a large number of nearby handheld device users at large crime scene or other incidents.

Ten Motorola LEX700 handheld data devices are also connected to the network as part of this project. These Android-based devices look like thick smartphones and provide secure data access.


CPS vehicles are also equipped with Panasonic in-car camera systems, and body-worn video cameras are coming. Both systems can eventually be connected to the new




mobile data network for remote access and sharing of live media.

### New level

This project moves mobile data to a new level for public safety agencies by providing the latest technology on a secure private hosted network without the large capital outlay. Calgary's initiative will be interesting to follow as it moves through its test phases and into regular production mode.

Tom Rataj is Blue Line's Technology columnist and can be reached at [technews@blueline.ca](mailto:technews@blueline.ca).


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# Let's talk PTSD... or not?

We have become increasingly aware of the impact of chronic stress and trauma on first responders over the last few years. Due to anti-stigma campaigns and the courage of many to speak about their experiences, we talk about mental health issues more now than we ever have.

Overall, this is a welcome shift, and I hope it continues until the stigma is finally lifted. Despite the benefits, there could be unintended negative consequences to all of this talk. Are you still there? Bear with me and I will explain what I mean.

Some of the discussions about PTSD and other mental health issues in first responder work has been framed in a way that makes them sound as if it's inevitable that you will develop them. I don't doubt that the reason for the strength of these discussions is owed to decades of these issues being downplayed or ignored by others.

Mental health issues are still being downplayed and ignored, placing the onus of proof on persons who are already suffering. However, these discussions and some of the organizational responses may be unintentionally inflating the perceived incidence rates for these difficulties.

Organizational practices that send a pathology-based message (Do this debriefing/training or you will get PTSD) are a disservice to officers who would otherwise be well with their own coping and wellness strategies.

Psychological research may also be adding to the perception of police officers being unwell.

Research with police populations, similar to the general population, has largely been disorder focused and deficit-based, highlighting

difficulties instead of strengths. It offers us a skewed view of officers, their coping skills and their potential to be resilient.

The media also perpetuates the notion that police officers are not doing well. Consider the nature of news headlines. Which do you think would grab more attention: "PTSD rates in police are escalating" or "Only a small percentage of police officers have PTSD"? The last isn't nearly as exciting. Exciting headlines sell.

The majority of first responders do not develop PTSD or other mental health disorders. This holds true even after recognizing that mental health issues are underreported in policing. Recent research (including my own) shows that officers are taking measures to cope better and have healthier lifestyles.

Many folks have come to my office, having read about a mental health difficulty, oftentimes informed by Dr. Google, and believe that they have one disorder or another. Oftentimes, their "symptoms" are normal responses to abnormal events and will go away on their own or with some small changes in thinking or coping styles. Unfortunately, I think this trend of "What's wrong with me?" is exacerbated by insurance companies who require a diagnosis before they will reimburse for counselling.

With regard to mental health training and debriefings offered by police organizations, don't throw out the baby with the bathwater. These practices are still helpful to many officers by empowering them with information that normalizes their responses and connects them to resources if they decide they need them. It is the manner in which they are offered that makes all the difference in the world.

When I offer organizational training and

speak with officers and call-takers about reactions to traumatic events, I am cautious not to propose that PTSD or other mental health issues are inevitable. Instead, I alert them to the idea that they could develop PTSD, depression or burnout, given an abundance of risk factors combined with the absence of protective factors.

There isn't a magical formula as to which risk and protective factors evolve into PTSD. It is a highly complex and individual situation. Risk factors include lack of social support, history of traumatic events, the perception of threat to life during the incident, coping styles and even genetic susceptibility. Aside from the absence of risk factors, some protective factors include the presence of social support, positive personalities and an overall satisfaction with life.

It is also important to remember that police officers can develop PTSD or another mental health issue and still be resilient. It is this resilience, coupled with support, which will allow them to heal. As I have said before, resilience isn't something you have or don't have, it is a process that you commit to every day. It requires making the decision that you will take care of yourself and then doing it continuously.

I am not proposing we stop talking about PTSD and other mental health issues affecting police. I am proposing that we also discuss the resilience demonstrated by those afflicted with these issues and the resilience of their fellow officers.

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Stephanie Conn is a registered clinical counsellor and former communications dispatcher and police officer. To find out more visit [www.conncounselling.com](http://www.conncounselling.com) or email her at [stephanie@blueline.ca](mailto:stephanie@blueline.ca).

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# Newfoundlander new top cop in Coquitlam

by Danette Dooley

RCMP Supt. Sean Maloney of Gander, Newfoundland is enthusiastic about taking over as officer-in-charge of Coquitlam RCMP the third largest RCMP detachment in Metro Vancouver and one of the largest municipal police detachments in Canada.

Staffed by 225 Mounties and more than 100 municipal employees, the detachment serves more than 200,000 residents in Anmore, Belcarra, Coquitlam, Port Coquitlam and the Kwekwitlem First Nation.

Maloney was born and raised in Gander. After completing high school, he moved to St. John's to enroll in an electronics and electrical engineering technology program at what was then the Fisheries College.

In his third year of the program he learned that his application with the RCMP had been successful. It was an opportunity he wasn't about to pass up.

"I never vocalized that I wanted to go into policing but I felt it was something I'd be cut out for. Then, I got this phone call that I was accepted. I had to go right away because the troop was starting up in a week. I decided that yes, this is my dream of a lifetime. I want to do this."

## Diverse policing career

Maloney, who began his new job April 28, joined the RCMP in December, 1981. His first posting was to Trail, British Columbia. That's where he met his wife Janet.

He moved up the ranks over the years, serving in various communities across British Columbia.

Maloney has held a diverse range of operational, administrative and executive roles,



including 11 years of Emergency Response Team experience and five years leading British Columbia's Aboriginal Policing section. Most recently he served as operations officer in Richmond, heading uniformed patrol in one of Canada's largest municipal RCMP detachments.

Maloney has been recognized with the RCMP's Long Service Medal, a Queen's Diamond Jubilee Medal and an RCMP Commanding Officer Commendation.

## Changes

Policing today is very different then when Maloney became an RCMP officer three decades ago.

"This is like two different careers than when I joined. You have to keep abreast of all

that's happening in society. When the train leaves the station you got to get on it. If you choose to stay off of it you're going to get left behind," he said, using the analogy to explain the importance of keeping up with technology and crime trends.

The public's perception of police officers is also vastly different than it was decades ago, he said.

"Accountability is a lot higher now than it used to be, and communication is important now as well."

When it comes to the economics of policing, knowing where the money is going is also important to elected officials, including the four mayors of the communities that fall under Maloney's jurisdiction.

## Well-suited

In an RCMP release announcing Maloney's appointment earlier this year, Port Coquitlam Mayor Greg Moore said his city was looking forward to working with the new superintendent to continue to enhance the safety of our residents.

"(Superintendent Maloney) brings a breadth of experience and leadership that Port Coquitlam will benefit from, including his community driven and hands-on approach."

Coquitlam Mayor Richard Steward said Maloney had a successful track record in a similar-sized community, first-hand knowledge of both the public safety opportunities and challenges that come with introducing SkyTrain (rapid transit) service, and hands-on experience in the delivery of effective crime reduction strategies.

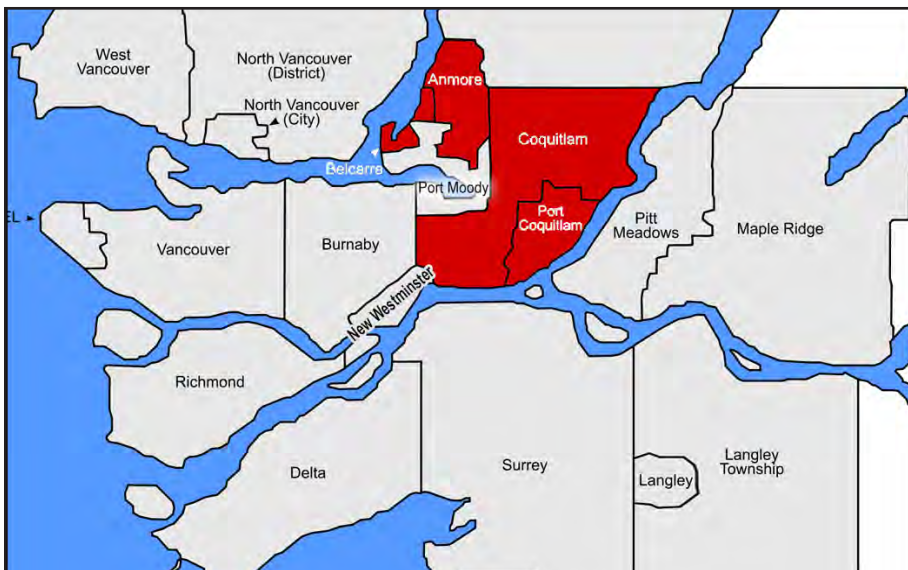
"This not only makes (Maloney) especially well-suited to lead the third largest RCMP detachment in Metro Vancouver, but also will allow him to build on the success that has earned our local detachment a 95 per cent approval rating from Coquitlam residents," Steward said.

Maloney lives in Surrey, British Columbia. He and his wife have a son, also an RCMP officer, two daughters and three grandchildren.

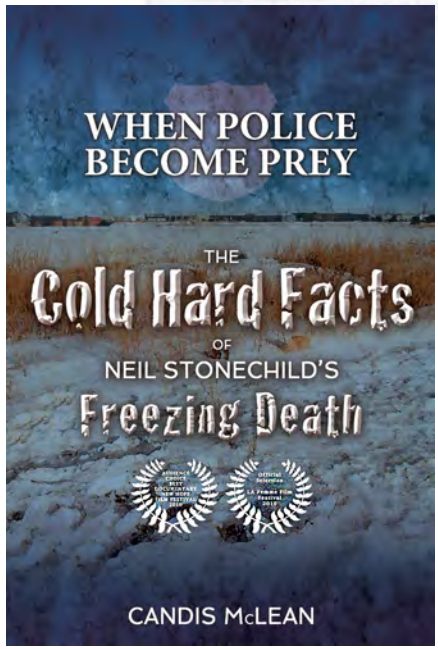
While he has been back to Newfoundland over the years, Maloney's roots are now firmly planted in British Columbia.

"Your life is what you make it. When I first joined (the RCMP) the first two or three years, you want to go back home. But, when you get married and you start having children and then grandchildren. Well, home is what you make it and this is home."

As for his career as a police officer, Maloney has no regrets. "I'd do it all over again," he said.



Danette Dooley is Blue Line's East Coast correspondent. She can be reached at [dooley@blueline.ca](mailto:dooley@blueline.ca)



## The cold hard facts of Neil Stonechild's freezing death

**TITLE:** *When Police Become Prey*  
**AUTHOR:** Candis McLean  
**PUBLISHER:** Audacious Books

Last month, fired Saskatoon Constable Larry Hartwig was informed that his last attempt at clearing his name had been denied. The action has repercussions for police across the country, since Hartwig and his partner had been falsely implicated in the 1990 freezing death of Neil Stonechild. The story is told in the forthcoming book, *When Police Become Prey: The Cold, Hard Facts of Neil Stonechild's Freezing Death*.

Comments on the back cover include this one by former police officer and MP Art Hanger: "The evidence exposed in this book cries out for justice! What plausible explanation would the RCMP, the Saskatchewan Department of Justice, elected politicians and

the media have for failing to report crucial information that could very well exonerate the two innocent police officers? Dare one think that a cadre of politically correct, weak-kneed bureaucrats and politicians are up to some form of treachery because it suits them?"

Several years ago the Saskatoon Police Association requested that Saskatchewan's Department of Justice review the several processes that led to derailing Hartwig's life, starting with the RCMP investigation which, despite all the exculpatory evidence, focused on Hartwig and his partner, Const. Brad Senger. They were the officers, working together for the first time that night, who were dispatched to look for 17-year-old Neil Stonechild. The only person to ever claim having seen Stonechild in police custody was a 16-year-old convicted felon who, according to a counselling student, did not remember seeing Stonechild in custody until she did a visualization exercise with him a year later.

When the RCMP task force delivered its evidence to Sask Justice, no charges were laid. The subsequent Minister of Justice, Frank Quennell, would state: "there wasn't evidence that could possibly have led to a trial in that case." The province then held a public inquiry in which no guilt was to be assigned. The inquiry commissioner, however, wrote what a retired judge calls a "devastating" report, finding that Stonechild was probably last seen in a police car and that, with a little rearranging of the documented timeline, Hartwig and Senger would have had time to drive Stonechild out to the industrial area of the city where his body was found.

The officers were then fired because they failed to write in their notebooks that they had Stonechild in their custody.

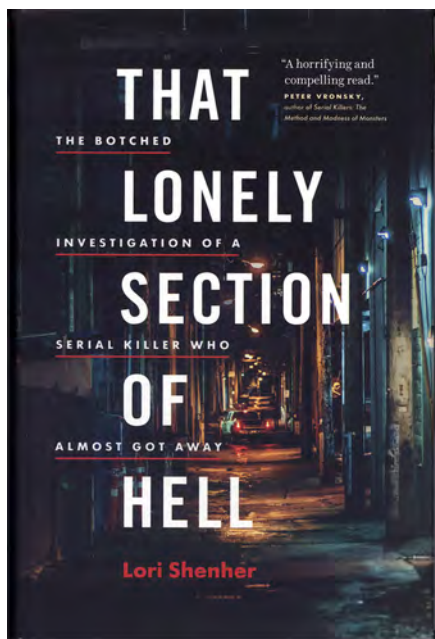
In *When Police Become Prey*, Hartwig speaks out for the first time on the legal processes and practices that shattered his reputation and destroyed a 16-year career devoted to protecting the public. The author believes the officers were victims of "politically correct justice" built upon faulty RCMP investigations, questionable evidence, and political pressure to find a patsy for the tragic death of Neil Stonechild in 1990.

The book contains remarkable new material, obtained through Freedom of Information requests and diligent research that:

- Reveals behind the scenes pressure by the Federation of Saskatchewan Indian Nations on both the RCMP and Saskatchewan Justice System;
- Details a tunnel-vision investigation by RCMP;
- Brings to light never-before-revealed physical evidence; and
- Provides testimony by three key witnesses excluded from the Stonechild Inquiry.

The author writes:  
 "This is the true story of a house of cards the size of a city. Built lie upon lie, this house contains multiple horrors, which makes opening each door intriguing in a disturbing sort of way. All it will take now is the collapse of one card to set the entire fabrication toppling."  
 — Candis McLean

The book, released last month, and is available through Amazon.  
 Candis McLean is an award winning print and radio journalist and film maker from Alberta. She worked with her son Stuart to produce the 2005 award winning film documentary, "When Police Become Prey: What Lies Behind 'Starlight Tours.'" Visit <http://www.whenpolicebecomeprey.com> or email her at [silverharvest@shaw.ca](mailto:silverharvest@shaw.ca) to learn more.



**TITLE:** *That lonely section of hell*  
**AUTHOR:** Lori Shenher  
**PUBLISHER:** Grey Stone Books  
 (greystonebooks.com)  
**REVIEWED BY:** Michael Hutchinson  
 (APTN.ca)

Serial killer Robert “Willie” Pickton could have been caught many times, but this wasn’t due to a lack of resources and police attitudes towards women in Vancouver’s Downtown Eastside.

That is the message I took away from reading Lori Shenher’s new book, *That Lonely Section of Hell: The Botched Investigation of a Serial Killer Who Almost Got Away*.

The book starts with Shenher’s own steps in joining the Vancouver Police Department. She says it was a journey filled with hope and challenges, but one founded on a wish to push herself and help others. Eventually, after becoming a detective, she was put in charge of the investigation into women going missing from the troubled and poverty-stricken Downtown Eastside neighbourhood.

The area was familiar to Shenher as the first place she patrolled as a uniformed officer. She knew people there, including women later murdered by Pickton. That’s why, she says, the investigation took such a terrible toll on her soul.

The first time police learned Pickton was capable of violence was March 1997. He had picked up a sex worker, taken her to his Port Coquitlam pig farm, and the business transaction was completed. When the woman tried to leave Pickton pulled a knife.

She fought back and stabbed him but they both lost a lot of blood and fell unconsciousness for a while. When the woman came to, she fled, running off the farm to a nearby home. Although the local RCMP charged Pickton, the Crown decided the woman’s credibility was compromised due to her addiction issues and was not worth building a case on.

In 1999, two VPD officers working on the missing women file, without the knowledge of Shenher and her team, went to the Downtown Eastside and showed sex workers a photo of Pickton. A number of women identified him as someone they had seen in the area. For some reason that can only be speculated at, the officers did not share this new information with Shenher and her team. If they had, she told me, that would have been a tipping point in the investigation.

Throughout the book, Shenher describes the lack of resources given to the missing women investigation. She calls this a form of “classism” not racism. She says people in the Downtown Eastside weren’t valued by some members of the VPD or RCMP. The women’s disappearances were explained as wandering off, cleaning up and getting off the street, or hiding for their own purposes.

Terms like “high-risk lifestyle” were used to justify the lack of resources or caring needed to find them, Shenher said. During our interview, she admitted her inexperience as a detective, combined with assigning her two police officers with poor reputations, could be seen as another example of not making the effort.

Pickton was caught eventually, but not as part of the official investigation into missing women. Instead, an RCMP officer was sent to his farm to look into possible illegal firearms and spotted an inhaler belonging to a missing woman. The farm was searched.

One of the most touching moments in the book comes when Shenher recalls how some of the victims’ families reacted to her testimony at the Oppal Inquiry. Emotionally broken by the Pickton experience, Shenher broke down on the stand and revealed the PTSD she suffered after being unable to help the women she was assigned to find. The families offered their support for her pain.

Sometimes a simple hug can mean so much.

As the co-host of APTN National News, I have introduced or worked on many stories about murdered and missing Indigenous women. It is a subject that hurts my heart, as I cannot help think of my aunts, cousins, sisters and nieces being subjected to such violence and apathy.

Every single missing or murdered woman has family, friends and co-workers who care about them, who love them. If families form the basis of our society, why are concerns of families given such low priority by organizations tasked with serving and protecting our cities, towns and country?

With that in mind, I leave you with this quote from my interview with Lori Shenher.

*There needs to be an overarching appetite and thought around... just not screwing things up. I know that sounds simple, but, you know, it doesn’t seem to take much to, you know, not lose someone’s human remains, or to tell a family that these remains are here, or to, you know, make a phone call. Not lose a file. These are basic tasks that we have to do better.*

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## Without invocation there can be no waiver



An arrestee must first invoke their right to counsel under *s. 10(b)* before the issue of waiver arises.

In *R. v. Owens, 2015 ONCA 652* two police officers approached an accused in a pickup truck who had ran out of gas and was parked beside the highway. The officers formed a reasonable suspicion that he had been drinking and demanded a breath sample into a roadside screening

device. When he failed, they arrested him and demanded that he provide further breath samples at the police station.

He was advised of his right to counsel from a police issued card. When asked, “Do you understand?” he answered: “Yes.” When asked, “Do you wish to call a lawyer now?” he replied, “No, not right now.” He was then taken to the station and provided two breath samples registering 160mg%.

He was again asked whether he wished to speak to counsel but said “No, I have nothing to hide.” He did not ask to speak to a lawyer at any point while in police custody. Owens was charged with over 80mg%.

In the Ontario Court of Justice Owens claimed his rights under *s. 10(b)* of the Charter were breached. The arresting officer testified the reply of “No, not right now” did not indicate to him a desire to speak to a lawyer during their interaction. Owens argued that he replied that way because he did not understand how he could call counsel “now” at 2 AM when he was handcuffed in the back of a police cruiser.

The judge found that the informational component of *s. 10(b)* had been satisfied when the arresting officer read from the police issued card and held that Owens had not invoked his right to speak with a lawyer. Police were not acting officiously or in an intimidating manner, there was nothing to suggest that Owens was confused or did not understand his right to counsel, nor did the arresting officer mislead him.

His right to counsel was not breached,

the breath samples were admitted as evidence and he was convicted of operating a motor vehicle over 80mg%.

An appeal to the Ontario Superior Court of Justice was successful. Owens argued that his rights were violated. This time, the appeal judge found that Owens’ words “No, not right now” was not a clear and unequivocal waiver of the right to counsel but instead implied a future exercise of the right. Since Owens did not unequivocally waive his rights, the collection of breath samples before he had a meaningful opportunity to contact counsel amounted to a *s. 10(b)* breach. The breath samples were excluded under *s. 24(2)*, the conviction was set aside and an acquittal entered.

The Crown appealed further, suggesting the Superior Court judge erred, in part, because it was necessary first to determine whether Owens invoked his right to counsel before deciding whether the issue of waiver arose. Owens opposed the appeal because, in his view, the statement “No, not right now” implied a future exercise of the right to counsel and that he thereby invoked his right to counsel.

The implementation duties under *s. 10(b)* are only triggered when a detainee indicates a desire to exercise his or her right to counsel.

“Absent invocation of the right to counsel and reasonable diligence in its exercise by the detainee, police duties to provide a reasonable opportunity to consult counsel and to refrain from soliciting evidence will either not arise in the first place or will be suspended,” said Justice Hourigan for the appeal court.

*While the onus rests with the Crown to prove that a detainee has unequivocally waived his right to consult counsel, and the standard required for an effective waiver is very high, the issue of waiver arises only if a detainee first asserts the right. Further, absent proof of circumstances indicating that the accused did not understand his right to retain counsel when he was informed of it, the onus has to be on him to prove that he asked for the right but it was denied or he was denied any opportunity to even ask for it.*

In this case, the appeal judge addressed the issue of waiver of the *s. 10(b)* implementational duties first, rather than considering whether Owens had invoked his right to consult with counsel.

*[O]nce the trial judge found that the police had complied with the informational*

*component of s. 10(b), the next question for determination was not whether the Crown had established that the [accused] had waived his right to consult counsel, but whether the [accused] had established that he invoked his right to consult counsel and thereby triggered the implementational duties [para. 27].*

Thus, a properly informed detainee must invoke their right to counsel before any implementation duties on the part of the police are triggered. Without an invocation of the right to counsel, there can be no waiver of the right.

“The issue of waiver of *s. 10(b)* rights only arises when the accused has established on a balance of probabilities that he invoked his right to counsel,” said Hourigan. “Waiver must be tethered to an existing request to consult counsel.”

Here, the trial judge made no error in finding that Owens did not invoke his right to consult counsel.

*On the facts of this case, it was open to the trial judge to find that the arguably ambiguous statement “No, not right now” did not qualify as an invocation of the right to counsel. The [accused] testified that he answered “Yes” to the arresting officer’s question “Do you understand?,” and further that he understood his right to counsel when it was given to him by the arresting officer.*

*He further testified that he did not ask to speak to counsel at any point during his interaction with the police. While the arresting officer asked the [accused] a second time whether he wished to contact counsel, the officer testified that it was his standard practice to ask more than once, and that at no point did he believe that the [accused] wished to speak with a lawyer.*

*The trial judge indicated that she did not believe the [accused’s] explanation for why he declined to contact counsel when he was asked at the police station. Further, she found that the interactions between the police and the [accused] were polite and non-confrontational, that the arresting officer did not mislead the [accused] as to his rights and that the [accused] was not confused [paras. 29-30].*

Since there was no breach of *s. 10(b)*, it is not necessary to consider *s. 24(2)*. The Crown’s appeal was allowed, the appeal judge’s order was set aside and Owens’ conviction was restored.



## All circumstances determine reasonable grounds



The totality of the circumstances must be assessed when considering whether an informer's tip provides reasonable grounds.

In *R. v. Amare, 2015 ONCA 673* a confidential informer told a police officer about a large drug transaction involving black participants. The officer had dealt with the informer on a "few" prior occasions and received information related to criminal activity including organized drug crime, although no arrests or charges directly resulted from the information.

Each time, the information proved to be reliable and truthful, there was no inaccuracies or exaggerations and the informer had no convictions for crimes of dishonesty

such as perjury or obstruction. He had also provided the names of specific individuals and conveyed information that was not of a type generally known or even within the knowledge of the average police officer. The informer was promised consideration if the information was accurate and, for example, resulted in an arrest or successful search.

The officer briefed a number of colleagues, including a mobile surveillance team, about the drug transaction expected to take place later in the day. Further information from the informer confirmed that the transaction would take place and that the drugs would be in a black Nissan Pathfinder. He provided the license plate, the area where it would be and said it might be travelling with a gold Maxima.

A member of the surveillance team subsequently spotted a black Pathfinder and Maxima travelling together in the area mentioned by the informant. The Pathfinder

was stopped in a laneway and Amare, the lone occupant, was arrested at gunpoint. The rear door was opened and the officer saw a large red suitcase in the storage area. It contained what police believed to be ecstasy tablets and cocaine in vacuum sealed bags.

The vehicle was moved out of the laneway, where it was obstructing traffic, to a rear lot of one of the apartment buildings. The suitcase had 10 bags of pills or tabs (ecstasy) totalling 99,820 tabs and the powder, weighing 1.9 kilograms, tested as MDMA. The drugs were valued at \$300,000. Amare was charged with possessing a controlled substance for the purpose of trafficking.

In the Ontario Superior Court of Justice, Amare argued, among other things, that his ss. 8 and 9 Charter rights had been breached and the evidence should be excluded. In his view, there were no reasonable and probable grounds for his arrest, rendering

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it arbitrary under s. 9. Thus the warrantless search incident to that arrest was unlawful and breached his right to be secure against unreasonable search and seizure under s. 8.

At trial it was agreed that the arresting officers had the requisite subjective belief that reasonable grounds existed that Amare had committed an offence. The judge also concluded that they had an objective basis to believe on a totality of the circumstances approach using the Debot factors (how compelling was the tip, how credible was the source and how much was the tip corroborated).

The gunpoint arrest was not unreasonable, nor was the warrantless search for the presence of illegal drugs. There were no ss.8 or 9 Charter breaches. Amare was convicted of possessing MDMA (ecstasy) for the purposes of trafficking and sentenced to four years in prison.

Amare appealed to Ontario's top court asserting that the trial judge erred in finding objectively discernible facts existed to support reasonable and probable grounds for the arrest. He suggested that the informer information had a "thin" or "sparse" evidentiary basis when considering each of the Debot factors. In his opinion, the trial judge lowered the requisite standard from reasonable and probable grounds to arrest to one of reasonable suspicion to detain.

The Ontario Court of Appeal disagreed. The trial judge properly considered the Debot factors and recognized that they do not form a separate test. Based on the totality of the circumstances, the trial judge did not err in finding reasonable and probable grounds for Amare's arrest.

*First, the information from the confidential informant was compelling. As a result of this information, the police were alerted to expect a drug deal on May 21, 2010. In accordance with this tip, the police had precise details of the target vehicle carrying the drugs, including the make of the vehicle and its license number.*

*In addition, as a result of the tip the police expected the Pathfinder to be travelling in the geographic area of Kipling Avenue*

*and Dixon Road in Toronto in tandem with a gold Maxima vehicle. We note that the colour discrepancy gold and not silver was minor and was taken into account by the trial judge.*

*Moreover, as found by the trial judge, the incremental updating of information to the police by the confidential informant supported the inference that the informant was "speaking from a position of real time and direct sourcing, not rumour or gossip or fabrication."*

*Second, with respect to the credibility of the confidential informant, it is of importance to note that the confidential informant was neither an anonymous tipster nor an untested source. The confidential informant worked with his police handler for about a year. While the information he provided to the police did not lead to any charges or arrest, the confidential informant provided authorities with the names of persons involved in organized drug trafficking.*

*Significantly, the confidential informant had established a track record for providing accurate information that was unique, and without error or exaggeration. Finally, the trial judge found it was in the interest of the informant to provide accurate information in order to receive compensation and avoid potential prosecution for misleading the police.*

*Third, there existed corroboration to support the confidential informant's information. The police surveillance located the target vehicle with the reported license number in the same northwest area of Toronto identified by the confidential informant. The driver of the Pathfinder, as reported, was black. As well, the target vehicle was travelling in tandem with a Maxima vehicle [paras. 9-11].*

Amare's appeal was dismissed. Additional facts taken from *R. v. Amare, 2014 ONSC 4119*.

Visit [www.blueline.ca/resources/caselaw](http://www.blueline.ca/resources/caselaw) for complete cases. You can email Mike Novakowski at [caselaw@blueline.ca](mailto:caselaw@blueline.ca)

## ODDITORIALS

**PLACENTIA BAY, N.L. - A man who raised a stink at a town office in Newfoundland over sewage on his property says his tactic may have been extreme, but it worked.**

RCMP were called after Jim Murphy brought a bucket full of waste he collected from his property and spilled it on the front desk of the town office in Placentia.

Murphy says raw sewage has been backing up into his house from a nearby municipal lift station since the early 1990s.

He says hours after the incident, a municipal crew showed up to make repairs.

Placentia Mayor Wayne Power says council had not been made aware of the problem prior to Tuesday's incident.

Murphy has been charged and will appear in court in December.

(VOCM)

...

**TORONTO - Blue Jays fever almost turned criminal in a way you probably wouldn't expect. Even Toronto police were taken aback.**

Police received a call from a man asking to go to jail so that he could watch the do-or-die baseball game against the Texas Rangers.

Officers responded to the call, worried about what the man might do to get arrested but couldn't locate the caller.

It may have seemed like a good way to catch the game, said Const. Jennifer Sidhu, but the man would have been disappointed.

"No, there are no TVs in the holding cells at police stations or at court," she told CBC News. "But I don't know whether detention centres have them."

Sidhu said that if the man had been on scene and got arrested, he would have been taken to a police station for processing before going directly to court. So, by the time he would have arrived at a detention centre, he would have already missed the series finale.

York Regional Police seemed to have anticipated this kind of move. They tweeted about their television-less cells before Game 1 of the American League Division Series.

(CBC News)



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Thanks for the great magazine. I read it all the time and frequent the *Blue Line Forum!*

I was under the impression that the standard three mags per officer was to allow for pistol malfunctions as it is almost always because of the magazine – and the Tactical Reload that is supposed to occur after an engagement. While 45 rounds might seem excessive, I was under the impression that it was more about being able to keep the pistol operational by changing magazines.

The best part of your article is your mention of plain clothes officers not being armed – it's an epidemic.

Keep up the great work!

Jason Forbes  
Edmonton, AB

\*\*\*

I am writing in response to the *Publisher's Commentary* from the October issue (*Mission creep in firearms training*). He suggests that a creeping militarization of police firearms training and equipment has occurred in Canada and ultimately poses the question; "...have we gone too far today?" The answer is No!

Allow me to address a few points one by one:

**The suggestion is that "military training styles may have crept into policing"**

There is no doubt that both the police and military have experienced advances in the science of shooting over the past few decades. The data driving them has come from a variety of sources including, but not limited to, law enforcement, military operations, studies in human kinetics and yes, even competitive shooting. Unfortunately much of what we've learned has come as a result of officer fatalities in firearms related encounters. Fortunately agencies such as the FBI have amassed this data for our collective benefit. As a member of the Canadian Forces in the early and mid 90s I can tell you that the firearms training then was light years behind what was being taught to Canadian police officers during the same period.

**"Officers are trained to fire two or three consecutive shots in rapid succession each time they use their weapon"**

Officers are trained to have the ability to fire one, two, three or as many shots (or none as the case may be) as are deemed necessary to stop the threat in a particular encounter. This is done to provide the officer with the skills to shoot accurately should multiple rounds be required, and is reinforced with reality based training simulations. Trainers cannot prescribe specifically how many rounds will be required for any given situation.

**Officers are "required to carry two extra magazines on their gun belts, despite the negative effects of carrying this extra weight over a 25 year career"**

What negative effects? Considering that in the revolver era we carried two speed loaders of six rounds each, we are now only carrying an additional 12-15 rounds (assuming .40 cal

ammunition). Is he suggesting that this extra few ounces is the straw that is breaking the proverbial camel's back? As an officer approaching my 20th year in policing, virtually all operational... I have to say I'm feeling pretty good. I would probably suggest those "negative effects" are likely related to poor physical conditioning. That or the additional less lethal and intermediate weapons we are now required to carry. Should we dump those instead?

**"Police rarely if ever need 45 rounds"**

Police rarely if ever need any rounds, statistically speaking. But when you do need them it sure is comforting to know that you have more than enough. I would describe getting killed because you ran out of ammunition as a "negative effect."

**Police are far more accountable for their use of force on an individual basis than soldiers.**

This is a popular myth within policing and frankly insulting to our military service personnel. Soldiers, particularly in modern military operations, are often deployed to non-permissive operating environments (that means you can't just shoot who you want when you want), and subject to rules of engagement that are more restrictive, in some cases, than the legal framework governing police use of force.

While many senior police leaders have their hands poised nervously over the pan-

button in response to a growing, and in my opinion, unfounded fear of the (perceived) militarization of police, a very different picture emerges at the ground level among front line officers.

What I see is well trained, professional women and men who are now growing increasingly hesitant and apprehensive about using justifiable and necessary force of any kind for fear of possible legal repercussions, losing their jobs and or criticism. I encourage them to ignore the armchair quarterbacking and focus on their training and duty. Do that and everything will be all right, I say, but it is getting harder and harder to reassure officers that are inundated with over played, media fueled criticism.

The Publisher's Commentary asked if we've gone too far. My answer is no. Not even close.

The world has changed, but don't take my word for it. Watch the recently released video of Vancouver Police Officers fighting for their lives in a shootout with a crazed gunman near the seawall last year. Ask those officers if we've gone too far with our training and equipment. Better yet, ask the families of recently fallen officers in Canada if we've gone too far. I think you know what their answer will be.

Name Withheld

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## the R.I.D.E. Team

by Tony MacKinnon



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## Leadership comes with risks

“There are risks and costs to action. But they are far less than the long range risks of comfortable inaction.”

– John F. Kennedy

by Chris D. Lewis

Life is risky from the day one emerges from the security of the womb. Leadership comes with no end of risk — day after day, 24/7. The only way to avoid it is to never do anything, ever.

I am not a MBA grad or an academic. I haven't studied and written theses on such issues. No disrespect to those that have, but I'm a small town boy who worked hard, was lucky enough to be in the right place at the perfect time on occasion, treated people well, learned through my many mistakes and took a lot of risk along my journey.

In my view, to take no risks as a leader is risky business in itself. The lack of decision-making, or the fatal flaw of not making decisions for the right reasons, will be the demise of many so-called leaders. If viewed as afraid to take risk or incapable of making a decision, the people you lead are undoubtedly going to wonder why they are taking such enormous risks when you won't, and will question if you will truly have their backs if things go bad.

Decisions will often go well and be huge successes. Some decisions won't go particularly great, but life will go on. Other decisions will be total train-wrecks unfortunately. The true test of the leader will be the reaction to all of those scenarios.

I firmly believe that real leaders will give credit to those they lead in the good times. When things go bad, and they will, the leader will assume responsibility and not pass the blame onto his or her people. We have all experienced the opposite.

Weak-kneed leaders accepting credit for someone else's efforts or similar folks passing blame for their own blunders. If you do either of those things even once, then your goose will be cooked. It will spread like wildfire and you will lose whatever credibility you may have had, perhaps forever.

True leaders step up to the plate when there is a risk worth taking — for those they serve and for those they have the honour to lead, but not for their own career goals.

I've seen many leaders that are afraid to make a decision because to err or fail might adversely impact their chances at promotion, so they never make a decision. Alternatively,

they make decisions based on what will make them look good, regardless of the impact their decision will have on the customer and/or their people. Their fear of career-risk ends up risking their careers.

How did we ever promote those people?

Employees at all levels in private and public sector companies have to take risks. Of course in policing, those risks are often life-risking or at minimum can be life-altering. But mistakes will happen.

“Only those who dare to fail greatly can ever achieve greatly.”

– Robert F. Kennedy

We can't throw the towel in on our people when they do err and cast them aside like an empty coffee cup. We should always differentiate honest mistakes from maliciousness when doling out punishment, or we will dissuade our people from ever taking risk in their daily duties.

An admission of a mistake by a leader resonates greatly, probably because the men and women of the organization have so seldom heard such a declaration from above. Why are many leaders so reluctant to admit they were wrong, but then expect their people to fess up when they are? They likely view admitting that they are in fact human as a frailty, when in reality it is indeed a strength.

Actress and comedienne Lucille Ball once said: “I'd rather regret the things that I have done, than the things that I haven't.”

If you are afraid to take risk or will point fingers and run screaming into the night when things go bad, then accept that leadership is not for you. Find another role. It will save you a lot of stress and a ton of heartache for those around you.

(Source: Excerpted in part from the book *Never Stop on a Hill*, which has yet to be published.)

Commissioner (Ret.) Chris Lewis was a member of the Ontario Provincial Police for 36 years, serving across Ontario in a variety of operational and command roles. He continues to consult, write and lecture on policing and leadership issues. He can be reached at: [www.lighthouseleadershipservices.com](http://www.lighthouseleadershipservices.com).

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