

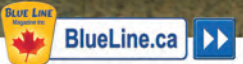
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Canada's Law Enforcement Information Specialists

August / September 2012



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## Warm fuzzy policing can result in cold hard reality

It's a warm sunny day and, despite stop and go traffic, the motorist feels good about his drive to work. He slows to let in a car from a side street. Friendly waves are exchanged and a smile makes him feel even better about the day ahead.

Suddenly a police car appears in his rear view mirror with its lights flashing and the adrenaline kicks in.

"What have I done? Oh no, was it illegal to let that car in? No, it can't be. I certainly wasn't speeding, my seatbelt's on, my car is in tip top shape." A sickening feeling in the bottom of his stomach unnerves him as he pulls over to the side of the road. "What on earth did I do wrong?"

The officer approaches with a smile on his face. "What kind of masochist is this guy? He is actually enjoying this ... this... whatever it is I have done."

The motorist busies himself frantically getting out his drivers licence, ownership and insurance papers. "Golly, I hope I have all that stuff here."

"Do you know why you were stopped?" "I have no idea, officer," the motorist replies nervously. Allowing another driver to go ahead was a nice gesture, the officer informs him. "I simply wanted to congratulate you on being so polite."

Now there are various directions events can take from here and since so many agencies see this as only positive, I will play the devils advocate.

**Scenario one:** "Then tell me officer, why I am now a nervous wreck? It's because you scared the bejeepers out of me. While you're at it, would you mind telling me what gives you the right to stop me for doing absolutely nothing wrong? Now listen carefully here officer; instead of continuing in to work I will be going to my doctor to see if I can up my blood pressure medication and maybe get something to calm me down. Then, I'm going to my lawyer's office, where we will try to calmly sort out what my next steps will be."

**Scenario two:** "Well I see officer, but I must confess that I am under suspension and you probably already knew that when you checked my plate."

**Scenario three:** (Officer giving court evidence after scenario two). "Well, your honour, I was actually pulling the motorist over for doing nothing wrong – err... actually he was doing something right. Well, actually, it was

neither wrong nor right, just polite... and he was so nice, he confessed he was under suspension so I charged him.... err... right after I gave him a gift certificate... which wasn't an inducement for the confession."

These "rewards programs" are not new and many agencies across the country have flirted with similar initiatives in an effort to, as they claim, make a difference in road safety.

It is, in reality, a disingenuous attempt to place the police service in a warm light with the public rather than anything to do with road safety. If you need a quick refresher then check out sections 7 and 9, with just a dash of section 10, of the Charter of Rights and Freedoms.

There are long tried and true methods for police to reduce accidents and ensure the orderly movement of traffic. They are, above all, legal and do not place the officer, or the department, in jeopardy of a wrongful detention action or worse.

Police agencies who initiate such programs do not understand, have forgotten or simply do not appreciate the daily perils every officer encounters in catching people doing things wrong. Each stop is fraught with unpredictability and potential hazards. Expecting an officer to now expand this to those doing nothing wrong simply multiplies the potential for things to go sideways.

Police work can be far more appreciated by the public if it keeps them safe in their homes and on the streets. Crime prevention is the number one job of every cop and this is accomplished in a variety of ways. Some are more subtle than others but all are, or should be, within the law.

For police traffic safety is best served by catching people doing things wrong. This has a side benefit of pleasing people who do things right. They appreciate that they never have to talk to a police officer. They really do not have to get friendly with them or thrust their kids up against one dressed in a fuzzy clown suit to appreciate their efforts to keep the community safe.

A cop's job is not always popular but it is necessary and the public really gets that.



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# Partnering with the community to protect and serve

by Desiree Vassallo

Fostering community leadership to ensure security and quality of life is the vision Chief Peter McIsaac and the Cape Breton Regional Police Service (CBPRS) has set in its 2012-2015 Strategic Plan, which also outlines four strategic pillars of focus for the future.

- 1) Valued human resources – to professionally and personally support members, the organization's most valuable asset.
- 2) Serving the community – addressing public safety, the basis for its existence.
- 3) Ensuring effective partnerships – working “with” the people members serve, who share a desire for public safety.
- 4) Pursuing financial stability – providing the most fiscally responsible and efficient service possible within ongoing economic pressures.

The plan, developed in consultation with

the community, local government and service staff, is a first for the CBRPS. It will guide service delivery and provide a basis to measure activities and ensure accountability.

While the plan may be new, the vision of community leadership has guided the organization since it began policing in 1995.

## The path to the present

The CBRPS was formed through the amalgamation of the Cape Breton Regional Municipality (CBRM) – the second largest in Nova Scotia – uniting officers and services from the former Sydney, North Sydney, Sydney Mines, Glace Bay, New Waterford, Dominion and Louisbourg police forces.

The 204 sworn officers and 30 civilian staff police the CBRM, all rural areas of the Cape Breton County and the Membertou First Nation, serving 102,000 people over a 2,500 kilometre area. The service has nearly

15 different specialized sections and teams – including patrol, K-9, forensic identification, emergency response, marine/dive and polygraph – making it one of the few full-service police agencies in Nova Scotia.

An in-house records department stores and maintains all necessary information to complete files and move cases through the courts, handling public requests for police reports, criminal records, fingerprinting services and Freedom of Information Act requests.

The CBRPS also houses an on-site lock-up facility operated by six jailors.

Partnerships are key to police operations; with municipal funding for 169 officers, the service receives nearly \$4 million a year in cost recovery from other sources, including the Nova Scotia “Boots on the Street” program, the RCMP through the Integrated Traffic Unit, Membertou First Nation and Cape Breton-Victoria Regional School Board (for school



liaison officers).

CBRPS members are also seconded to the Criminal Intelligence Service of Nova Scotia and the RCMP National Weapons Enforcement Support Team.

CBRM call volume has increased steadily over the last five years while the crime rate has dropped – it was down 19 per cent from 2009 to 2010, the most recent year for which verified official statistics are available.

Violent crime has dropped 33 per cent, property crime is down 15 per cent and crime severity has decreased to 66.8 per cent (down from 82.5 per cent in 2009), continuing lower than both the provincial (83.5 per cent) and national (82.7 per cent) averages.

### A community police service

Vital to the CBRPS success is its community-based approach to service delivery, a policing model for which it is well-known and respected. Based on a shared goal to build safe and healthy communities and a strong quality of life, the service works with the people it serves and values the important role community partners play in achieving a balance between enforcement and prevention.

The organization prides itself on forging strong partnerships with key players, including the provincial justice department, municipal police services, the court and public prosecution services and the Cape Breton health authority, school board, university and YMCA – just to name a few.

CBRPS community officers are at the core of the policing concept, working closely with citizens, not-for-profit agencies and partners across the CBRM. They educate service groups, business, students and seniors on crime prevention, set up Neighbourhood Watch Groups and manage several community-based programs.

Perhaps most importantly, they keep the lines of communication between residents and police open, building opportunities for involvement in designing and developing programs and services to keep communities safe. They work hand-in-hand with the Association for Safer Cape Communities (AFSCBC) – a diverse group of more than 60 community leaders who work collectively to assess and respond to issues in the interest of



preventing crime and keeping communities safe. A CBRPS officer acts as the association's executive director.

Together, the AFSCBC and CBRPS officers have mobilized many communities, helping them find opportunities to become involved in making their neighbourhoods safer, significantly reducing the need for police response and intervention.

Community projects in North Sydney, New Waterford, Glace Bay and Sydney Mines saw the groups approach residents with a questionnaire designed by Cape Breton University Community Studies Program students to identify safety concerns and priorities. Based on this information, they're able to work with residents to come up with the most effective means of addressing those needs.

Only one year ago, a community scan of North Sydney showed many run-down vacant properties. Residents were seriously concerned about high crime rates, including vandalism, drug use and break and enters. The AFSCB and CBRM began improving properties and cleaning up neighbourhoods, while the CBRPS stepped up foot patrols and enforcement to address and prevent some of the more frequent crime among youth believed to have been connected to the vandalism. The AFSCB also opened a community office for residents to access programs and services. Today, North Sydney residents express amazement at the transformation they see in their community.

Community offices are the most evident success story of the projects, made possible through a partnership between the AFSCB,

CBRM, Bell Aliant and the Cape Breton Island Housing Authority. They help officers engage and stay connected to residents, collaborating with them to address challenges and needs and create healthy opportunities – the community says what it needs and then helps to make it work.

Residents can access programs and services which, particularly for youth, help strengthen social skills, break down barriers and build trust and relationships with other individuals, including police. They receive coaching, mentoring and the guidance they need to help make positive life choices. Community offices also provide access to key services such as the Internet, that people would otherwise not have the opportunity to use.

### First Nations policing

Community collaboration has also earned accolades in the Membertou First Nation, which chose the CBRPS as its police service in 2007.

The Mi'kmaq people were the first inhabitants of the CBRM, one of the oldest regions in Canada, and continue to be very important members of Cape Breton society. Today, the Membertou First Nation sits in the city of Sydney, at the centre of the CBRM's community of communities. Home to more than 1,260 people, Membertou is one of five Mi'kmaq communities in Cape Breton and 13 in Nova Scotia.

It is named after Grand Chief Henri Membertou, who led a group of Mi'kmaq hunters and fishers during the late 15th and early 16th centuries in the area now known



as the Annapolis Basin. Grand Chief of the Grand Council of the Mi'kmaq, Membertou was a greatly respected and influential leader with a tremendous following. His baptism into the Roman Catholic Church inspired many Mi'kmaqs to convert to Christianity because it was seen as a symbolic gesture of the traits that remain central to the culture today – friendship, loyalty and respect.

These same values are at the heart of the policing philosophy that works so well for the CBRPS and Membertou. The service has built a collaborative and integrated approach to policing which focuses on the needs of the community; citizens show tremendous support for the work police do and remain dedicated to a continued partnership with the CBRPS.

Officers have built a trusting relationship by getting to know residents and learning about the Mi'kmaq culture, traditions, smudging ceremonies and healing circles, religion and the role of community elders – all important to the Mi'kmaq way of life. Learning about these values and respecting their importance helps the service understand what works for the people and then adjust how it delivers services to best meet their needs.

CBRPS officers constantly interact with residents, working together to establish programs and initiatives – including a Neighbourhood Watch, Block Parents and the Membertou Pli'smenaq Boys and Girls Club – which residents are proud to own. Weekly spots on the local radio station provide updates on what police are doing and the service is represented at band council meetings.

The CBRPS has three First Nations officers who are active members of the Membertou community. Other officers have

learned the Mi'kmaq language. The service has hired local residents for support staff in its Membertou office, which has an officer on duty 24/7 and has achieved some of the fastest response times in Canada. The band makes police feel like part of their community and a strong bond and significant level of trust allows officers to help resolve issues very efficiently and effectively.

Many Canadians know Membertou as home of the late Donald Marshall Junior, who had a profound impact on policing. It will again make history later this month when the CBRPS host the 107th annual CACP conference Aug. 19-23. For the first time, parts of the conference will take place on Aboriginal soil, within facilities on the Membertou First Nation, which inspired the conference theme. “One Nation, Many Peoples: the Full Circle of Policing in Canada” will explore the connection between policing and Aboriginal peoples and the challenges and opportunities all agencies face in recruitment, funding, governance, standards and trust.

With its collaborative and interactive approach to policing on a First Nation, the CBRPS will help police chiefs address the issues and find the answers to embrace our diversity and the contributions we all make to creating a strong, co-operative and collaborative circle of policing.

### The way forward

The CBRPS' strength is co-operation and collaboration. It understands that continued success depends upon public trust and confidence. Committed to serving residents with the highest professional standards for public safety, it has laid out its goals and objectives in

a new strategic plan to hold itself accountable to the job and people it serves.

The CBRPS will continue adapting to the changing world of policing, ensuring it keeps providing the top-notch, professional service residents expect and deserve. Technological advancements such as the installation of ROADS computers in police cars will ensure officers have the tools they need to do their jobs.

The service will focus on increasing training and mentorship opportunities to develop and coach younger officers for succession planning and will be guided by an intelligence-led model of policing – targeted, focused crime prevention based on trends in the community. A new criminal analyst is monitoring and analyzing crime trends to identify issues and prolific offenders, allowing the service to deploy resources according to where they're needed.



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**Mission**  
In partnership with the people, the Cape Breton Regional Police Service is committed to serve and protect our community.

**Vision**  
The Cape Breton Regional Police Service fosters community leadership to ensure security and quality of life.

**Values**  
The Cape Breton Regional Police Service believes in maintaining law and order, by: The highest professional standards and integrity; Being accountable and transparent; Working collaboratively and having a strong community spirit; Providing effective and efficient service; and Respecting diversity.



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# Officers convicted after 14 years

Five former Toronto police drug squad officers have been found guilty in June of attempting to obstruct justice after a months-long trial, eight days of deliberation by a jury and 14 years after the offences first came to light.

John Schertzer, Ned Maodus, Raymond Pollard, Steven Correia and Joseph Miched had been variously charged with obstructing justice, perjury, assault and extortion in relation to a series of incidents in which it was alleged they beat up and robbed drug dealers and then lied to cover it up.

In the end, all five men were found guilty in Ontario Superior Court on June 27 of falsifying notes in relation to the search of an apartment in February 1998 that was carried out without a warrant.

Pollard, Maodus and Correia were also found guilty of perjury for lying during a preliminary inquiry related to the raid.

However, the jury found all five men not guilty of robbing and assaulting an alleged drug dealer named Christopher Quigley.

Quigley claimed he was savagely beaten by drug squad officers while in custody at 53 Division near Yonge Street and Eglinton Avenue in 1998.

More than \$14 million was spent on investigations and prosecution in what is the largest case of alleged police corruption in Canadian history. The trial began in January.

Six officers were originally charged in January 2004 after a Toronto Police Special Task



L to R: Ray Pollard; Steven Correia; Ned Maodus; Joe Miched; John Schertzer

Force, led by a single RCMP chief superintendent, spent three years investigating.

In 2008, a trial judge stayed all charges, ruling that delays by the prosecution infringed on the officers' rights. But in 2009, Ontario's Court of Appeal rejected that and ruled a trial should proceed for five of the six officers, noting the complexity of the case. Charges against Richard Benoit, though, were dismissed.

All but one of the five men have retired from the force, many of them spending many years "suspended with pay" while collecting full benefits.

In November 2007, former detective sergeant John Schertzer - leader of the group of accused officers who were all members of Team 3 of the TPS Central Field Command drug squad - retired with full pension as he turned 50, with

32 years of service to the force. Steve Correia is still on the force, but had been suspended while collecting full pay since he was charged criminally in January 2004.

The outcome of the trial did not satisfy former Toronto police Sgt. James Jim Cassells, who served on the Special Task Force investigating the drug squad and who turned whistleblower.

"I am afraid that the conclusion of this case does nothing to solve the real problems uncovered during the investigation of this case. As painful as they may be, there are still many issues that were uncovered during the course of the investigation that have been left unresolved," said Cassells in an email to CBC News.

The five men are scheduled to be sentenced on November 5. (CBC)

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# Hearing Footsteps

## *The Economics of Policing*

by Robert Lunney

An ominous threat hangs over Canadian policing and it's all about money.

The global financial collapse profoundly affected policing in the United States. A survey reported by the *Police Executive Research Forum* (PERF) in April 2012 listed data for 416 agencies from 2010 and 2012. Seventy-eight percent of departments experienced budget cuts in 2010, while 51 percent experienced more reductions in 2012. All reported reductions of sworn officers.

Oakland, CA suffered budget cuts of seven percent in the current year, with a further five percent scheduled for 2013. Detroit is bracing for a 15 percent decrease in 2013, after losing 400 sworn officers through attrition. San Jose, CA is anticipating a reduction of 10 percent next year. Camden, NJ, one of the worst affected, laid off more than 200 employees. Faced with impending bankruptcy, the City of Scranton, PA unilaterally cut the pay of all city workers, including police.

There is a more disturbing dimension in the United Kingdom, where the central government is carrying out a program of austerity with deep reductions to public spending. Police budgets in the U.K. rely upon a sizable grant from the central government, a levy against the local tax base and other minor contributions. The government announced a 20 percent across the board funding cut by 2015. The initial impact nationally will amount to 5,800 fewer front line officers and a non-front line reduction of 7,600.

By the end of the U.K. program the total workforce will shrink by an estimated 28,000 across 43 forces. Further cutbacks may be needed.

If that were not enough, the March 2012 report of *The Independent Review of Police Officer and Staff Remuneration and*

*Conditions*, (referred to as the Winsor Report after Chairman Tom Winsor), proposed a massive restructuring of police salaries resulting in reductions to some police salaries of between £3,000 and £4,000 per year. The Winsor Report noted that police pay was 10 to 15 percent higher than that of other emergency workers and the armed forces.

On 10 May 2012, 20,000 off duty police marched in protest through the streets of London.

The great shocker is the manner that some British forces prepared to cope with this 20 percent reduction. Two large regional forces, West Midlands and Surrey, turned to privatization as the way out of their budget dilemma. Ten more police forces were considering outsourcing deals. The British approach to privatization defined these target areas:

**Front line:** Officers in everyday contact with public and who directly intervene to keep people safe and enforce the law.

**Middle office:** Managing or supporting those officers, doing policing-specific jobs, such as control rooms, custody and intelligence.

**Back office:** Support services such as IT, catering, finance, HR, training and press and communications.

Mr. David Taylor-Smith, head of the G4S security firm, quoted in *The Guardian* on 20 June 2012, predicted that within five years, large parts of the U.K.'s police forces would be run by private companies, taking responsibility for duties ranging from investigating crimes to transporting suspects and managing intelligence.

G4S is a British multinational security services company headquartered in the United Kingdom. It is the world's largest security company measured by revenues and has operations in more than 125 countries with over 657,000 employees. Events unfolding on July 12 related to commitments

of G4S to the London Olympics may put the brakes to this audacious plan. Just two weeks before the opening ceremony G4S admitted an inability to meet obligations to provide trained security personnel for the Games. The British government was forced to order the armed forces to make up for the shortfall. Within days Surrey Police shelved its privatization plan. This is a serious blow to the privatization option and sure to frustrate the coping plans of the British police.

Canadian police are hearing footsteps. In advance of the 2012 Toronto municipal budget the mayor called for a 10 percent reduction to the funding of all departments, including the police. After considerable controversy city council settled with the Policing Board for a 4.6 percent budget reduction in 2012, and an agreement for a 5.4 percent cut in 2013. The reduction was offset by wage increases committed earlier. Nevertheless, this was acknowledged as a shot across the bow on policing costs, signalling serious funding concerns not only in Toronto but in other cities and provinces.

Concern for the cost of policing is resonating with the Federation of Canadian Municipalities and the Canadian Association of Police Boards. On 28/29 June 2012 the Canadian Police College hosted an Executive Symposium on The Economics of Policing – Ensuring a Sustainable Future – involving a cross-section of delegates from government, governing bodies, police leaders and other stakeholders.

The premise of the gathering was reform, restructuring and the evolution of policing in Canada. Strategies for attention going forward included innovation and technology, public-private and public-public partnerships, workforce issues and leadership development.

The American response, fast and reflexive, relies upon hastily contrived funding cuts. In the U.K., the government provoked

a risky leap into massive privatization. In Canada the economic challenges may not be as dire but federal, provincial and municipalities are running deficits demanding correction. In the past Canadian police have dealt with funding restrictions through downsizing, service cuts and civilianization. In many places these strategies have reached their potential.

Chiefs now face a dilemma. They either deliver up more downsizing and service reductions, or resist and tempt governments to arbitrarily reduce budgets and introduce controls over pay and benefits. If you think this can't happen, there is the spectre of the 1993 Social Contract in Ontario when police wages were effectively reduced then held static for up to three years. Neither the American nor the U.K. strategies are palatable, begging a made-in-Canada solution or Third Way.

Strategic outsourcing is a practical alternative for turning crisis into opportunity, but not the model pursued in the U.K. On 1 June 2009 the Canada Not-For-Profit Corporations Act came into force, establishing a framework for social enterprises. The obligation of the social enterprise corporation is to organize exclusively for the social welfare and civic improvement beyond financial profit, harnessing civic and entrepreneurial energies for community benefit. Legal obligations are stipulated in the organizational rules and open to public scrutiny. The not-for-profit has no shareholders and no ability to make profits. There is no danger they can be taken over or acquired by a "corporate raider." The not-for-profit social enterprise, if strategically partnered with police needs for cost control, offers an intriguing alternative to privatization and a legitimate Third Way.

This is an option or Third Way, is worthy of investigation, albeit with a hefty degree of caution, considering the UK problems, and careful consideration of the impact on the current workforce and labour relations.

In the words of American humorist Arnold H. Glasgow, "The trouble with the future is that it usually arrives before we're ready for it." Near term budget cycles require that police services advance their search for solutions that protect core services while shielding policing from outside influences inherently different from the public service culture. Partnering with a reliable not-for-profit may provide a cost saving option to service reductions.

The message from America and Britain is plain enough – find a better solution or have one handed to you – one that you may not like.

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Robert Lunney is the former chief of the Edmonton and Peel Regional police services. He is *Blue Line Magazine's* Police Management editor and he is the author of *Parting Shots - My Passion for Policing*. He may be contacted by email to [lunney@blueline.ca](mailto:lunney@blueline.ca).

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## Tribute to the Map Man

by Ian Mason

On October 27th, 2011, while returning from a Chief's of Police conference in Chicago, York Regional Police Superintendent Mark Grant was tragically killed in a motor vehicle collision.

Mark joined York Regional Police in 1979. He was promoted to the rank of Sergeant in 1990 and worked in many areas of York Regional Police including Criminal Investigations and the Drugs and Vice Bureau. In 2003, he was promoted to Inspector and assigned to the Communications Bureau. In June 2010 he was promoted to Superintendent and was the officer in charge of Information Services.

Mark was a very well-liked and respected man, whose love of motorcycles was very well known. He had always enjoyed time with his close friends in a yearly motorcycle trip



to the New Hampshire area where his reputation for arranging rides caused his many friends to give him the nick-name "Map-man."

His close friends decided this year to dedicate a memorial ride for Mark and opened the invitation to all of those who knew his favourite activity. On June 16th, 47 riders left for Gorham, New Hampshire to share in the memories of a great man. The trip lasted seven days, and covered four states and a few thousand kilometers.

The Map Man memorial ride was a tribute to a great man and an even better friend. His memory will live on in all those who participated and appreciate the legacy he left for us.

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Detective Constable Ian Mason, is a 22 yr member of the York Regional Police Service and currently with the Major Fraud Bureau.

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# Organizational change through managing risk

by Michael Barnhart

In today's world of rapidly changing economic realities, the need for organizations to be able to shift and adapt has never been more important. Policing, like all public sector services, is not immune and is arguably the most exposed due to the ever increasing share of tax dollars needed to fund our current service delivery model.

The policing profession must embrace organizational change management, ensuring that changes reflect the ongoing desire for improved efficiencies in support of the service's strategic plan, which ultimately supports taxpayer expectations.

This task is easier said than done, for policing's strength is also its greatest weakness. As a paramilitary organization, we draw our focus and determination through structure but have looked at change as a potential hazard. This is where the risk management approach to organizational change becomes useful.

Normally the need for change is identified

either at the top (the executive level has a greater global view) or bottom (members who 'live' in the environment and personally experience the need for change). The top has more impact when articulating and initiating the need for change than the bottom. As a result, top down change management receives a limited degree of acceptance by front line workers; many feel there's a disconnection between their world and that of the executive team.

Peel Regional Police, Integrated Risk Management (IRM) has taken a different approach in affecting organizational change through a process called Area Risk Self-Assessment (ARS). With this approach, the concerns our executive team identify create the parameters that the ARS team will use to develop its own change management plan.

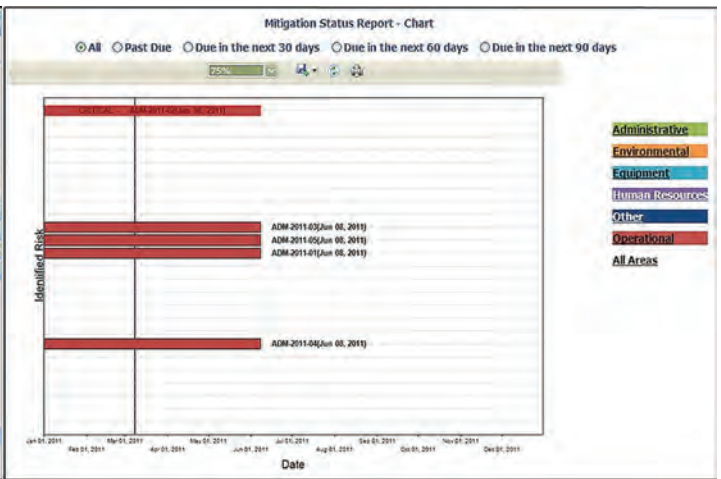
The ARS process is initially driven by direction from our Risk Management Committee (RMC), which consists of the chief (chair), the three deputy chiefs, general counsel (acting in an advisory role) and IRM unit members, who also act in an advisory

role. The RMC identify areas of concern within the organization (often identified through emerging operational themes) and then direct IRM to initiate an ARS in that unit or bureau.

IRM members then meet with the officer/manager-in-charge of that specific unit and outline RMC concerns and inform them that their area will be the subject of an ARS. The rationale behind this process is that the most effective risk managers are those who actively work in the environment where the risk exists and thus should develop the strategies to manage change.

A cross-disciplinary working group drawing from a sampling of members in each of the areas primary functions and ranks is selected from the subject unit. Normally, these working groups have 10 to 15 members. The officer/manager-in-charge is appointed as the work group chair and the IRM and our Organizational Process Management (OPM) units are also represented in the workgroup.

IRM and OPM members are embedded



so they may act as coaches for the self-assessment process and assist in identifying and mapping out the area's key processes. The chair then explores the concerns and observations related to the identified theme from the cross disciplinary team, with an ultimate goal of developing an effective mitigation strategy for each risk the workgroup identifies.

Generally, this process lasts between four and eight weeks and could involve bi-weekly meetings, depending on the theme's complexity. The team is responsible for agreeing on and drafting a mitigation strategy to address each of the issues they identify (normally six to 10 though there is no upper limit). With this approach, members at the operational level have full carriage and ownership of the change management process.

Even with a cross-disciplinary team in place, all team members expect to seek input from all other unit members (in between the scheduled meetings) to help in developing possible mitigation strategies. For this process to be fully effective, Peel has found all unit members need to have a voice as it relates to identifying risks and proposing potential solutions.

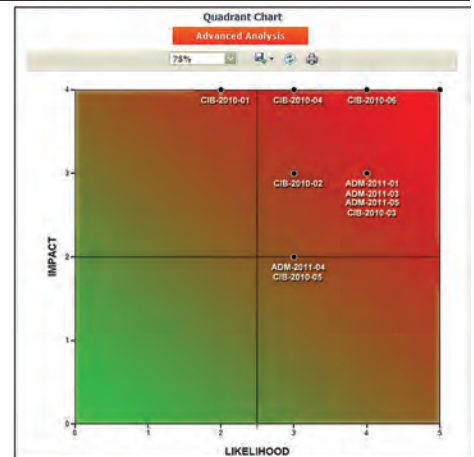
After workgroup meetings conclude, the chair, with help from IRM members, enters the issues, proposed mitigation strategies and a target for completion dates into our electronic ARS program, which stores and tracks the data to provide a corporate memory. The program also includes several project management tools that the chair may wish to use when tracking the progress of various mitigation strategies.

Once submitted, the embedded IRM member presents the report during the subsequent monthly RMC meeting thus ensuring an expeditious review and, where appropriate, approval of the mitigation plans. Once approved, the assessed area is responsible for implementing the mitigation plans.

This approach has ensured that the concerns identified at the operational level are presented as originally drafted to the

executive team. Members of the assessed area feel they have a voice and direct input into the changes required to ensure the high level of effectiveness expected of their unit. Each member therefore becomes their own risk manager and fully embraces the organizational change because ultimately it's a change in which they have all had an active hand.

Insp. Michael Barnhart is the Oic of Risk Management with Peel Regional Police. Contact him at michael.barnhart@peel.police.ca for more information.



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## Make Canadian roads the world's safest



### The goal: Make Canadian roads the world's safest

Canada's third national road safety strategy (2011-2015) has a long-term vision to make our roads the safest in the world. Its four strategic objectives are expected to also result in safer road users, infrastructure and vehicles through:

- Raising public awareness and commitment to road safety;
- Improving communication, co-operation and collaboration, enhancing enforcement; and
- Improving road safety information in support of research and evaluation.

Road Safety Strategy (RSS) 2015 is considerably more flexible than previous plans. It no longer sets targets at the national level that become de-facto targets for each province/territory. Rather, its success will be measured by achieving a yearly national downward trending in fatalities and serious injuries. Progress will also be determined using rate-based measures, rather than the previous practice of setting percentage-based targets and translating these into actual numbers of fatalities and serious injuries.

The strategy will provide jurisdictions with a framework of best practices which they can adopt or adapt to address specific road safety challenges. Some have been proven effective; measured effectiveness

for others is not yet available.

Jurisdictions will have the responsibility for their respective plans and the option, if they wish, of developing their own quantitative targets for specific casualty reductions during the five-year timeframe.

A number of key elements contribute to the strategy's uniqueness:

#### Flexibility

RSS 2015 outlines best practices and initiatives that jurisdictions will have the flexibility to adopt depending on their suitability, feasibility and acceptability in their area. Each jurisdiction will develop and 'own' their respective road safety plans.

#### Holistic approach

The strategy is holistic in nature, providing a co-ordinated approach which includes initiatives to address road users, infrastructure and vehicles. This acknowledges the interdependencies that exist between drivers, roads and vehicle safety design and will move the strategy to more of a "safe systems" framework. It represents the outcome of very strong collaboration between CCMTA (Canadian Council of Motor Transport Administrators) and members of the Engineering Research and Support Committee (ERSC).

#### Targets

RSS 2015 will seek to achieve directional downward trends in fatalities and serious injuries throughout its five-year duration. Jurisdictions will continue to report fatalities and serious injuries to Transport Canada on an annual basis. It will produce a report on national progress of reducing fatalities and serious injuries using this rate-based measurement approach.

#### Best practices

Central to the strategy is a framework of best practices designed to address key target groups and contributing factors that drive fatalities and serious injuries on Canadian roads. The framework includes a variety of road safety initiatives proven effective here and/or in other OECD countries based on a comprehensive environment scan undertaken by CCMTA. The nature of the framework is such that it will be a fluid document regularly updated as new road safety strategies are introduced or existing strategies evaluated and their effectiveness in reducing fatalities and serious injuries established.

#### Ownership

While CCMTA led development of the strategy and will manage it, each jurisdiction will "own" it and use the "best practice" framework



to develop their own jurisdictional plans.

As custodian, CCMTA, working through the jurisdictions and its committees and task forces, will be responsible for updating the strategy. Updates may include documenting progress made on new research projects undertaken, identifying new initiatives to be included in the multi-cell matrix of key target groups and contributing factors, revising the framework of proven best practice initiatives and reporting on its progress.

#### Timeframe

A mid-term evaluation of the strategy's success will be conducted in year three.

#### History

Since 1996, Canada has had a road safety vision of having "the safest roads in the world." Jurisdictions under the auspices of the CCMTA, along with police forces and road safety organizations, have been working towards this vision through the direction of road safety plans.

Canada's inaugural national road safety vision and plan, Road Safety Vision 2001, was adopted in 1996. Fatalities decreased by 10 per cent and serious injuries by 16 per cent, despite steady increases in the road user population.

Road Safety Vision 2010 retained the vision and strategic objectives and added an overall national target and sub-targets. The quantitative targets were intended to provide broad-based benchmark data of key road

safety indicators, against which intervention efforts could be measured.

The national target called for a 30 per cent decrease in the average number of road users killed and seriously injured during the 2008-2010 period over comparable 1996-2001 baseline figures. The sub-targets' proposed reductions ranged from 20 to 40 per cent to address the specific areas of occupant restraints, impaired driving, commercial vehicle safety, vulnerable road users, speed and intersection safety, rural roadways, young drivers and high-risk drivers. It was expected achieving these targets would further reduce Canada's road fatality total to fewer than 2,100 by 2010.

As result of a mid-term review of the plan and evidence that indicated progress had stalled, jurisdictions made a concerted effort to accelerate the reduction of fatalities and serious injuries in the areas of greatest concern: curbing the incidence of drinking and driving, excessive speeding and non-use of seat belts. Recent indications suggest that progress has improved significantly. The 2007 fatalities were six per cent lower than the baseline, while serious injuries were almost 15 per cent lower.

The 2010 plan also played a pivotal role in raising the profile of traffic safety concerns among law enforcement. In their efforts to help achieve the vision's objective, they for the most part changed the traffic services delivery model from a random patrol enforcement

strategy to a team service delivery model. Data analysis was combined with education and enforcement strategies to address key causal factors through targeted enforcement.

Core to the strategy is a framework of best practices, consisting of a multi-cell matrix of key target groups and highway safety issues or contributing factors, along with a variety of road safety initiatives that jurisdictions may adopt to address their specific priorities. They will have the flexibility to adopt these initiatives and strategies depending on their suitability, feasibility and acceptability.

#### The vision

The vision to have the world's safest roads is aspirational in nature and need not necessarily be achieved within the strategy's timelines. Canada would need to reduce fatalities to five per 100,000 population. In 2007, there were 2,767 fatalities (8.4 per 100,000) – this number would have had to be reduced by 1,120 to 1,647 to achieve the goal.

This national vision represents Canada's desire to strive towards being a world road safety leader.

The strategy's vision is intended to inspire all stakeholders to work together towards the common objective of making road travel safer. It can best be achieved through implementing initiatives consistent with the four strategic objectives.

Nationally, the strategy serves as an impetus to CCMTA's standing committees, task

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forces and working groups to collaborate in the development and implementation of numerous initiatives and focused interventions aimed at improving road safety.

### Principles

The development of the 2015 strategy is based on key guiding principles, including year-over-year downward trends in fatalities and serious injuries, safer systems concepts, five-year timeframe, continuation of collision reporting by province/territory and a framework of best practices.

### Downward trends

The strategy seeks to achieve directional downward trends in the rate-based number of fatalities and serious injuries – successes against which will be measured at the national level on a yearly basis, rather than the actual fatalities and serious injuries. Trending will be measured using rolling averages to smooth out short-term fluctuations, since year-over-year reductions may not be practical or attainable.

Two rate-based indicators are commonly used internationally: fatalities (or serious injuries) per million population and fatalities (or serious injuries) per billion kilometres travelled.

### Safer systems concept

A coordinated “safer systems” approach includes strategies to target road users, vehicles and infrastructure. This concept is an effective means to bring all stakeholders together by recognizing the interdependencies that exist between these elements. It incorporates safer systems concepts rather than a safe systems approach, which traditionally involves very significant long-term investments over a protracted period of time.

### Five year timeframe

The five (rather than 10) year term could be renewed or extended. A shorter timeframe will help build and maintain momentum for jurisdictional initiatives.

### Best practices

A framework of best practices is core to the strategy. The framework consists of a multi-cell matrix of key target groups and contributing factors, along with a variety of road safety initiatives that jurisdictions may adopt to address their specific priorities. Jurisdictions will have the flexibility to adopt specific strategies depending on their suitability, feasibility (i.e.: resources) and acceptability (i.e.: operating environment).

The framework is intended to be fluid, meaning that new target groups, contributing factors and suggested initiatives and strategies can be added over time, depending on the needs identified by jurisdictional members and research of best practices in other OECD member countries.

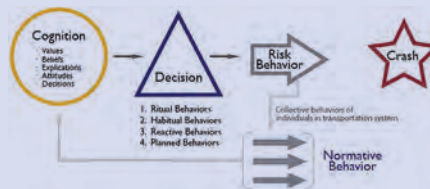
Visit [www.ccmta.ca/crss-2015](http://www.ccmta.ca/crss-2015) for more information.

## Changing a mind set

It has been argued that the decline in impaired driving during the 1980s and 1990s can be attributed at least partly to a cultural shift such that this kind of behaviour is no longer socially acceptable. This shift was promoted by tougher laws, improved technology and mostly an aggressive media campaign from many organizations. It is no longer the norm to go out to a party and have three beers, three glasses of wine, and a glass of liqueur and then drive home.

This cultural shift was most noticeable among young people who started designating drivers who would not drink and would drive them home safely. Even among adults, it has become the norm not to drive while impaired by alcohol. That does not mean that there are not drivers still out there who engage in such behaviour.

Currently, there is a new paradigm for understanding risky behaviour and promoting safer behaviour among road users through a change in the traffic safety culture. According to one study (Ward et al. – 2010), traffic safety culture can be defined as, “the perceptions people have about what behaviours are normal in their peer group and their expectations for how that group reacts to violations to these behavioural norms. In terms of traffic safety, this definition applies to behaviours that either increase crash risk (e.g. speeding) or are protective (e.g. wearing seat belts), as well as behaviours related to acceptance or rejection of traffic safety interventions.” The Ward study proposed the following model for understanding traffic safety culture and the normative behaviour it engenders:



Model for understanding traffic safety culture and the normative behaviour it engenders

The Ward study argues that “it is not enough to focus just on the traffic safety culture of the driving population. It is also necessary to consider the culture of those agencies that propose and enforce traffic safety policy that can impact the driving population; the culture of governments that allocate resources to various traffic initiatives that may hinder or foster risk; the culture of communities that encourage or discourage risk-taking; and the culture of societies as they endorse or condemn risky driving”.

Can we change the road safety culture in Canada?

About two-thirds of fatal and 30 percent of injury collisions in Canada occur in rural areas, and these collisions often involve speeding, alcohol use and non-use of seat belts. Is there a difference in traffic safety cultures between rural and urban communities?

We know that young drivers 16 to 20 years of age engage in more risky behaviour than older drivers, perhaps with the exception of impaired driving, and as a result they are more likely to die in collisions. Does the young driver culture value risky driving perhaps to express anger, fight boredom or impress friends?

Given that youth generally believe that they are invincible and that they will never die in a traffic collision, can we convince them that they may end up becoming a quadriplegic for life or that they may end up hurting or even killing their friends?

Better understanding of the beliefs, attitudes, and norms underlying behaviour would help in the development of appropriate measures to shift the traffic safety culture in a better direction.

A compendium of road safety countermeasures prepared by the U.S. National Highway Traffic Safety Administration can be found at: [www.nhtsa.gov/lib/32000/32300/32356/6626\\_Countermeasures\\_01-06-10-v1.pdf](http://www.nhtsa.gov/lib/32000/32300/32356/6626_Countermeasures_01-06-10-v1.pdf)

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# BATH SALTS ABUSE

by Rob Williams

The substance known on the streets as bath salts or plant food began increasing in popularity in North America in 2010, causing a steady increase in visits to emergency rooms, mental health facilities and poison control centres.

These substances, known in medical circles as methylenedioxypropylamphetamine (MDPV), are a group of designer stimulant hallucinogens. They work by inhibiting the re-uptake of neurotransmitters such as norepinephrine, dopamine and serotonin, resulting in a feeling of euphoria. Many users are attracted to the drug because of its cheaper street prices, easy availability, sensationalized media attention and belief that it is a legal high.

The drug has a fine powdered sugar texture and ranges from pure white and gray to tan. It has a slight odour that has been compared to fish, which can worsen as it's exposed to air and moisture. MDPV was first identified in Japan in 2006 and designated a designer stimulant drug. It became popular in Europe the next year and eventually made its way to the United States. It is produced mostly in China, Pakistan and India.

The drug is commonly found in head shops, through known drug dealers and online. The names it's sold under in Canada include Cloud Nine, Rave, Ivory Wave, Whack, Meow Meow and Ocean Burst. The product is usually labelled "not for human consumption," an attempt to avoid government regulations.

Although currently legal for sale in Canada, federal health minister Leona Aglukkaq announced in June that it will soon be listed as a schedule 1 substance of the *Controlled Drugs and Substances Act*. It is expected to be illegal to possess, traffic, import, export or produce MDPV by fall of this year. Currently, it is listed as a controlled substance in most European countries and the US.

The Maritime provinces have reported an increased presence of MDPV in the club scene. Police seizure and subsequent testing has identified illegal drugs such as marijuana and cocaine mixed in with the MDPV. This is a serious concern, as users may be unaware they're taking the additional drugs. Hospital records from the Atlantic provinces are indicating an increase in the number of people being admitted under the effects of MDPV. To date, there have been no deaths in Canada directly attributed to the drug.



Officials of Illinois' Macoupin County hold a news conference in February in advance of plan to ban synthetic drugs like bath salts. Known euphemistically as "bath salts," they are chemical concoctions that are sold over the Internet or on convenience-store shelves under names like "Purple Wave," "Zoom," or "Cloud Nine."

## Effects

When snorted, MDPV has similar effects to ecstasy or cocaine. Its main effect is a sense of euphoria. It has been noted that users also demonstrate an increase in body temperature and blood pressure. Some of the more serious effects include seizures, paranoia, hallucinations, high levels of violence and death. Many of the documented deaths, especially in younger people, are from suicide while under its influence. There have been no studies completed to demonstrate the drug's long term effects. However, most users who stop abusing it have been identified as suffering from long-term psychological effects.

Users of MDPV can become addicted in a matter of days or weeks. Many have several re-admissions to medical facilities shortly after release from initial treatments. Recent studies have identified that abusers can enter a unique state known as "hallucinatory delirium." This results in extreme paranoid delusions and violent behaviour in response to vivid hallucinations.

## Dosages

Many users have reported the main issue with the drug is the inability to control the dosage and frequency of usage. Self-reported doses can range from only a few milligrams up to a few grams. The

high causes euphoria, resulting in increased alertness, awareness and energy, and sexual stimulation that may last for 1-3 hours depending on the user and dosage. High dosages have been known to cause users to stay awake for days and they may not eat or drink during this time, which can also cause dehydration. The street price for the drug is \$25 per gram in the US and England.

## Signs and symptoms

First responders need to be able to identify the signs and symptoms of people suffering negative effects after consuming large dosages, usually over a number of days. Reports indicate the effects of MDPV can be similar to other drugs such as cocaine and ecstasy. Many abusers, when asked, will admit to using it as they do not believe they have committed a crime. Abusers can show signs of extreme paranoia, fearing that their lives are in grave danger. Others have also reported deep depression; suicide is common among MDPV users. Subtle signs can include chapped lips from dehydration, bloodshot eyes, headaches, grinding of the teeth and lethargy.

## Concern for police

MDPV has the potential to be fatal, however very few medical studies have been done to explore this concern. The few that do exist describe the manner of death as being



similar to that of excited delirium syndrome. A US case study described a patient with a history of bipolar disorder who snorted and injected an unknown amount of the drug. He became paranoid and believed people were out to kill him. His delusions eventually resulted in him becoming uncontrollable, extremely aggressive and agitated. He also began removing his clothes, most likely because his body was overheating.

The suspect displayed violent behaviour and considerable strength when police confronted him and it took three kinetic energy weapon applications to finally subdue him. He continued yelling incomprehensibly and behaving in an aggressive manner during ambulance transport. Sedation was attempted unsuccessfully at the hospital.

Eventually, without medical aid, the male became very quiet and distant and, five

minutes after entering the hospital, went into cardiac arrest. He was revived and admitted into the intensive care unit. Over the next 42 hours he began to lose brain function, was eventually declared brain dead and died.

Upon admittance to the hospital the patient was unable to advise medical staff the amount or types of drugs he had consumed. In postmortem lab work, the man tested positive for MDVP. He also had a previous history of cocaine abuse.

Although this case is non-typical, the signs displayed were similar to excited delirium and have been noted in several other case studies where the patient made a full recovery. Agitation and paranoia are two of the most common reported side-effects of MDPV abuse. This has the potential to increase the likelihood of danger to the users and others.

Users have reported both hallucinations and paranoid psychosis. Many of the first hand reports have indicated users have also abused other drugs simultaneously, which has the potential to compound the negative effects of the drug.

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Robert (Rob) Williams is a Peel Regional Police Service member with degrees in Sociology, Anthropology, Applied Criminology and a diploma in Disaster and Emergency Management. He is currently working on a Masters in Disaster and Emergency Management through Royal Roads University. Contact him at [robert.williams2@peel.police.ca](mailto:robert.williams2@peel.police.ca)

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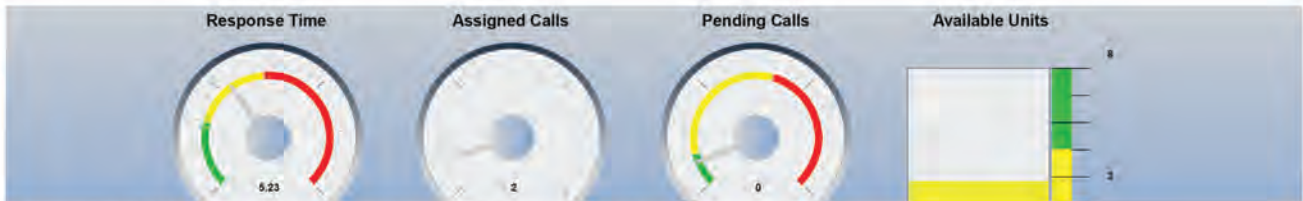
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## Uncover Hidden Intelligence by Exposing Trends

by Mark Patrick

Public safety agencies create volumes of data during incidents, such as time, location, and unit response. While response systems are critical, they fill only a part of an agency's needs. To optimize public safety services, you need to expose data relationships and trends.

Our previous article discussed the power of spatial analysis and its relevance to public safety. To complete the analysis, Intergraph's Business Intelligence for Public Safety now includes mapping. Using this integrated toolset, agencies can make smarter decisions by seeing previously hidden information.

Unlocking incident data is only the beginning – you must then transform it into actionable

intelligence. For example, command staff might analyze data to determine when and where to deploy resources throughout a jurisdiction, or to reduce crime in a high-risk area.

When police departments need to compile reports, they often need quick access to critical 9-1-1 call data. However, creating reports from the CAD system can take multiple steps, increasing the time needed to generate a report. Using Intergraph's Business Intelligence for Public Safety, these departments can access and analyze 9-1-1 call data, run reports in minutes with a single click, and monitor police department performance faster than ever before with easy-to-visualize dashboards and reports, as shown in the figure above.

Various scenarios lend themselves to business intelligence analysis. For instance, how should you deploy resources to react to an influx of displaced people caused by a disaster in a neighboring location? Do you have appropriate resources in place to deal with high volumes of domestic disputes or a major catastrophe?

Learn how to accelerate smarter decisions with Intergraph's reporting and analysis solutions by visiting [www.intergraph.ca/bi](http://www.intergraph.ca/bi).



# Zebra Centre helps abused children



by Anne Gray

Walk through the unassuming doors of the Edmonton-based Zebra Child Protection Centre and your eyes are immediately drawn to a beautiful rendering of a zebra whose stripes fill an entire canvas.

A big stuffed bear wearing a pink tutu sits gracefully on the corner of the receptionist's desk. The walls throughout the centre are either soft, muted earth tones or vibrant jewel tones.

"At the Zebra Centre, we work with children who have been physically or sexually abused. When they walk through these doors with their parents or caregivers, we want them to feel comfortable and safe above all else. I think we've achieved that goal," says S/Sgt. Kent Henderson, Edmonton Police Service (EPS) Child Protection Section.

The centre also works with adult victims who are cognitively delayed and clearly functioning at a level younger than that of a 16-year-old.

## Zebra team

A multi-disciplinary team of professionals work together at the centre, including 17 EPS officers. Many are directly partnered with social workers from the Edmonton & Area Child and Family Services Authority.

The facility is operated by Zebra Centre, a non-profit organization responsible for addressing the integral tasks associated with supporting victims and families. It provides information and ongoing support through



(From left) Andrew Seeley, Leah Gatti, Gerti Love of Zebra and S/Sgt. Kent Henderson, EPS Child Protection Section.

the criminal justice process, including court preparation and referrals to counseling and other important community services. Zebra partners include the Stollery Children's Hospital Child & Adolescent Centre and the Crown Prosecutors Office.

Specially trained volunteers play a crucial role and provide many support services – everything from welcoming new families to accompanying children to court.

Children who have been victimized and their loved ones are interviewed by a trained forensic interviewer and gain access to the supports Zebra offers. Approximately 40 per

cent of the Zebra files investigated by police result in criminal charges being laid.

## A child-friendly place

The Zebra team is very proud of the child-friendly centre, including the warm and inviting interview room.

"Having child-friendly interview rooms results in the child being able to relax and provide us with the crucial information we require as part of our investigations," said Henderson.

Younger children typically start their interview sitting in an armchair. In no time you will see the interviewer and child both sitting on the floor having a fact finding, neutral conversation.

"Each interview room features mics that accurately capture small, subdued voices," explained Henderson.

"Ceiling-mounted cameras record all interviews. In files where charges are laid, these recorded interviews may be played in court. A professional, forensic interview of a child can make all the difference in whether or not a perpetrator can be convicted."

## Going to court

When a child must go to court, Zebra staff, volunteers and the Crown Prosecutor "all pull together," said Henderson. "We

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go out of our way to ensure the child feels protected, safe and supported at all times.

A few weeks prior to the actual court appearance, the Crown Prosecutor is introduced to the child and family so they're not facing a stranger. Becoming familiar with them is another important step toward a successful court outcome.

Zebra volunteers prepare children to testify and show them what the courtroom looks like. The child usually testifies from behind a protective screen with two monitors in front of them – one showing the face of the person asking them a question and the other showing their recorded forensic interview. This is integral in supporting the child and working toward a successful outcome. The child does not have to see the face of the person who abused them unless identity is an issue.

### Satisfying work for detectives

Interviewing a child takes a lot of patience, kindness and expertise. "There's no question, it can be challenging to work here," noted Henderson.

"I've been a cop for a long time. I know that when a call about child abuse comes in, not everyone is eager to respond to it. Those calls are tough. Hearing a little one talk about things that no child should ever have to experience isn't always easy but knowing that we're making a huge difference in that child's life is very satisfying... it keeps us going."

### Conviction rate

The Zebra Centre enjoys an 80 per cent conviction rate in cases which go to trial, with the majority involving a guilty plea by the accused.

"It's incredibly satisfying to put a perpetrator behind bars. When we're in court, the entire investigative package, including the child interview, may be presented by the Crown," noted Henderson. "Defense lawyers end up plea-bargaining with the Crown due to the strength of the child's credible disclosure interview conducted months earlier at the Zebra Centre."

Delegations from across the country and around the world have been drawn to the centre because it has a stellar reputation for providing victim support, investigations and successful court outcomes.

The Zebra team shares a strong commitment to supporting children and their families and putting them on the path to healing.

"Children leave here knowing they are not in trouble and with smiles on their faces and that makes all the difference in the world to us," Henderson said.

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Anne Gray is Senior Communications Specialist at Edmonton Police Service. Contact her at [Anne.Gray@edmontonpolice.ca](mailto:Anne.Gray@edmontonpolice.ca) for more information or go directly to [www.zebracentre.ca](http://www.zebracentre.ca).

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# Cultured police officers

by Nancy Colagiacomo

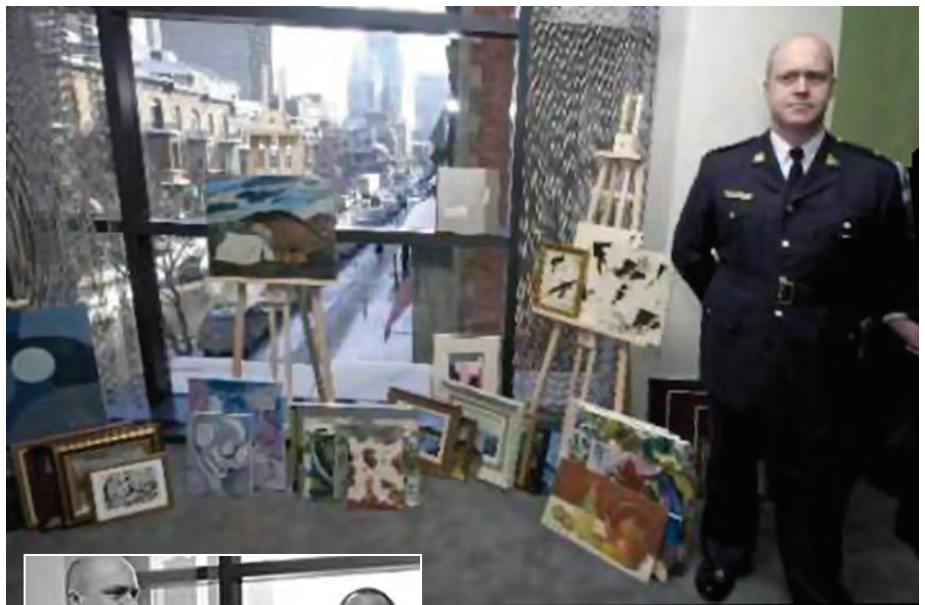
Valuable antiquities worth hundreds of thousands of dollars, including a marble head from the Roman Empire and a piece dating back to the fifth century BC, were stolen from the Montréal Museum of Fine Arts last October.

The museum called in art recovery specialist Mark Dalrymple, a London-based loss adjuster, who investigated the theft along with provincial police and AXA Insurance. This is not the first time pieces have been taken from the museum. In 1972, 18 paintings were stolen during a spectacular skylight theft in the middle of the night; only one has been recovered. Just one of the paintings, a Rembrandt, is worth \$1 million, according to a 2003 *Globe and Mail* estimate.

Hollywood romanticizes art theft or art-napping as glamorous and non-violent but experience paints a different picture. The truth behind art crime is far more sinister and intriguing. It is a melting pot of international organized crime, the drug trade and terrorism. Experts say most thieves have no idea of the value of what they steal and so wait until the estimated worth is reported on the news to figure out what they can get on the black market.

Although Interpol ranks art theft as the fourth largest criminal enterprise after drugs, money laundering and weapons, most countries do not have specialized art police. Italy, known for its heritage and history, reports between 20,000 and 30,000 art thefts each year. Its stolen art squad, established in 1969, has 300 agents and is the largest and most successful in the world. Other countries such as France and Spain followed suit but Québec is the only Canadian province to have a stolen art unit.

Established in 2009, it works closely with



the RCMP, Interpol and the CBSA.

The specialized officers fight what is believed to be one of the fastest growing crimes. Members come from a wide variety of backgrounds. Some have (or are working toward) art history degrees while others have expertise in counterfeiting. Art theft is grow-

ing rapidly and losses can easily climb to \$20 million annually.

The success rate for recovering stolen art is quite low and prosecutions are relatively rare. In Québec alone, the SQ has investigated no fewer than 450 cases related to art since 2004, making more than 20 arrests and seizing nearly 150 stolen or faked works of art with a market value of more than \$2 million.

Richard McClintock is one of the more notorious criminals arrested. A Québec art forger for 50 years, he sold copies of renowned paintings to galleries. Nearly 80 works were seized, including replicas of Jean-Paul Riopelle, Paul-Émile Borduas and Marcelle Ferron. He was charged with 72 counts of fraud, forgery and possession of property.

Another suspect was arrested and charged with stealing bronze sculptures from parks and buildings.

More recently the specialized unit arrested and charged two individuals for fraud and stealing 34 artworks estimated to be worth more than \$250,000. They are believed to have used false identities and fraudulent credit cards to purchase works from art galleries.

Retired Montréal police officer Alain Lacoursière founded the special unit. Believing in the concept when no one else did, his perseverance and know how led to the art squad's creation. Lacoursière obtained a masters degree and insisted members earn university degrees in art history.

A little expertise in the field doesn't hurt since that's what it takes to distinguish between original and forged artworks. Not always an easy task since counterfeiters use an array of technology to produce fakes.

Nancy Colagiacomo is *Blue Line Magazine's* Québec correspondent. Anyone with stories of interest on Québec policing may contact her at: [nancy@blueine.ca](mailto:nancy@blueine.ca).

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# It's never too late

by Danette Dooley

Danny O'Keefe wasn't surprised when several classmates at the RCMP training depot mistook him for an instructor in 2000. At age 53, O'Keefe was 35 years older than his youngest troop mate and decades older than many others.

"Before they got to know who I was, some of them would say, 'Good morning, sir,' until they realized I was in the class," he said.

It was O'Keefe's second time at depot and third time applying to the force.

A native of Ferryland, Newfoundland, O'Keefe initially applied as a young teenager out of high school. When he didn't meet the physical requirements, he headed to Memorial University of Newfoundland to earn a bachelor of education.

He was accepted into the RCMP training program in 1975 but left before graduation and returned to his job as a teacher.

"The timing just wasn't right for me back then," O'Keefe said.

He went on to earn masters degrees in educational administration and learning resources, as well as a certificate in criminology and taught for 30 years in his home province.

By the time he retired from teaching in 1997, O'Keefe had spent a decade as an auxiliary constable with the federal police force. He also served on the Ferryland town council, with the volunteer fire brigade and in numerous other community initiatives.

O'Keefe returned to RCMP training depot in August 2000. Upon graduation, he was assigned to the Trinity Conception District in Newfoundland. He did general policing duties for most of his career, prior to becoming court liaison for the district based in Harbour Grace, Newfoundland where he retired April 30.

O'Keefe, who celebrated his 65th birthday April 4, was the second oldest RCMP officer in the country and the oldest in Atlantic Canada.

He's given many hours of his time to the Law Enforcement Torch Run in support of Special Olympics. He gets much more out of his involvement with the organization than he gives, he said.

"I went to Québec City with them in 2008 for the winter games. There were something like 1,500-2,000 athletes gathered in a snowstorm on the Plains of Abraham. You just could see where you were, but not one of them complained. They just stayed there all through the opening ceremonies."

O'Keefe said his wife, Marie and his entire family have always supported him in both his working life and volunteer commitments.



Marie is also a retired teacher and they have been married 40 years.

Like teaching, policing has also been a rewarding career, O'Keefe said.

"I have made a lot of community contacts from one end of the district to the other. All the people I worked with, the RCMP, (Her Majesty's Penitentiary), court staff and crown attorneys were excellent to deal with. It's been a great place to work," he said.

While it's time to retire for a second time, O'Keefe likely won't sit idle. His involvement in community

activities will no doubt continue.

Never one for "what ifs," O'Keefe said if you want something badly enough, go for it.

"It's never too late to try something new or to pursue your life-long dream," he said.

Many people are inspired when they hear O'Keefe's story of how he went through training in 2000 and accomplished the goal he'd set back in the mid-1970s, said Sgt. Marc Coulombe, who worked with O'Keefe.

"He's a great man. He's dedicated to the job. He's dedicated to the people. He's just a joy to work with, a joy to be around," Coulombe said.

Cpl. Kent Coish graduated a few years before O'Keefe and heard his name long before he moved to the Trinity Conception District in Newfoundland less than a year ago.

"I remember when he was going through Depot. The word around was that he was an older gentleman from Newfoundland, but that physically he was something to be reckoned with in his troop," Coish said. At the end of the training, O'Keefe placed second in the physical fitness assessment.

Coish said O'Keefe is always upbeat and positive and is well respected in the community and the district. Young officers see him as a father figure, he said.

"Sometimes, you don't realize what you have until it's gone and I believe that's the way it's going to be with Danny's retirement. We will fill his position but he will be missed for a long time to come," Coish said.

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



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# DNA evidence

## *What every officer should know*

by the National Institute of Justice

In 1996, Gerald Parker – then serving time for a parole violation stemming from a 1980 child rape – was charged with raping and murdering five women between December 1978 and October 1979 and killing a fetus during a 1980 rape.

DNA samples from the crime scenes were run through California's sexual assault/violent offenders database and four of the cases were found to have been committed by the same perpetrator. After DNA tests linked Parker to the victims, he confessed to the crimes and a similar murder for which another man had been wrongly convicted and served 16 years in prison.

Just as law enforcement officers have learned to look routinely for fingerprints to identify the perpetrator of a crime, they also need to think routinely about evidence that may contain DNA. Recent technology advancements are enabling police to solve cases previously thought to be unsolvable. Investigators with a fundamental knowledge of how to identify, preserve and collect DNA



evidence properly can solve cases in ways previously seen only on television.

Evidence invisible to the naked eye can be the key to solving a residential burglary, sexual assault or child's murder. It also can link different crime scenes to each other

in a small town, province or even across the nation. The saliva on the stamp of a stalker's threatening letter or the skin cells shed on a ligature of a strangled victim can be compared with a suspect's blood or saliva sample. Similarly, DNA collected from the perspiration on a baseball cap discarded by a rapist at one crime scene can be compared with DNA in the saliva swabbed from the bite mark on another rape victim.

### **Similar to fingerprints**

DNA is similar to fingerprint analysis in how matches are determined. Evidence collected from the crime scene is compared with the "known" print or sample. If enough of the identifying features are the same, the DNA or fingerprint is determined to be a match. However, if even one feature of the DNA or fingerprint is different, it is determined not to have come from that suspect.

### **What Is DNA?**

DNA, or deoxyribonucleic acid, is the fundamental building block for an individual's entire genetic makeup, is part of virtually every cell in the human body and is the same in every cell. It is a powerful tool because each person's DNA is different except for identical twins so DNA collected from a crime scene can either link a suspect to the evidence or eliminate a suspect, similar to fingerprints. It also can identify a victim through relatives, even when no body can be found, and evidence from one crime scene can be compared with that from another and linked to the same perpetrator.

Forensically valuable DNA can be found on decades old evidence however it can be affected by several factors, including the

An advertisement for Colt Canada. It features two soldiers in tactical gear, including helmets and goggles, holding rifles. The background is dark with a large, stylized 'COLT' logo in the center, featuring a red maple leaf above the 'T'. At the top, the text reads 'THERE'S A REASON THAT THE MOST ELITE UNITS IN THE WORLD CARRY COLTS.' At the bottom, it says 'COLT CANADA MILSPEC' and provides contact information: 'Tel: 519-893-6840 Email: postmaster@coltcanada.com WWW.COLTCANADA.COM'.

environment (e.g., heat, sunlight, moisture, bacteria and mold). Therefore, not all DNA evidence will result in a usable profile. Further, just like fingerprints, DNA testing cannot tell officers when the suspect was at the crime scene or for how long.

#### Where to look

DNA evidence can be collected from virtually anywhere and has helped solve many cases when imaginative investigators collected evidence from nontraditional sources. One murder was solved when the suspect's DNA, taken from saliva in a dental impression mould, matched that from a bite mark on the victim. A masked rapist was convicted of forced oral copulation when the victim's DNA matched a sample swabbed from the suspect's penis six hours after the offence.

Numerous cases have been solved by DNA analysis of saliva on cigarette butts, postage stamps and the area around the mouth opening on ski masks. Analysis of a single hair (without the root) found deep in the victim's throat provided a critical piece of evidence used in a capital murder conviction.

#### Evidence collection and preservation

Investigators and laboratory personnel should work together to determine the most probative pieces of evidence and to establish priorities. Every officer should be aware of important issues involved in identifying, collecting, transporting and storing DNA evidence. These issues are as important for the first responding officer as they are for the experienced detective and crime scene specialist.

Biological material may contain hazardous pathogens such as HIV and the hepatitis B virus that can cause potentially lethal diseases. Given the sensitive nature of DNA evidence, officers should always contact laboratory personnel or evidence collection technicians when collection questions arise.

#### Contamination

Because extremely small DNA samples can be used as evidence, greater attention to contamination issues is necessary when identifying, collecting and preserving samples. Evidence can be contaminated when DNA from another source gets mixed with that relevant to the case. This can happen when someone sneezes or coughs over the evidence or touches his/her mouth, nose or other part of their face and then the area that may contain the DNA to be tested.

A new technology called "PCR" replicates or copies DNA in the evidence sample so the introduction of contaminants or other unintended DNA can be problematic. With such minute samples being copied, extra care must be taken to prevent contamination. The PCR process will copy whatever DNA is present; it cannot distinguish between a suspect and DNA from another source.

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*DNA is contained in  
blood, semen, skin cells,  
tissue, organs, muscle,  
brain cells, bone, teeth,  
hair, saliva, mucus,  
perspiration, fingernails,  
urine, feces, etc.*

---

#### Transportation and storage

When transporting and storing evidence that may contain DNA, it is important to keep the evidence dry and at room temperature. Once secured in paper bags or envelopes, it should be sealed, labelled and transported in a way that ensures proper identification of where it was found and proper chain of custody.

Never place evidence that may contain DNA in plastic bags because they retain damaging moisture. Direct sunlight and warmer conditions also may harm DNA, so avoid keeping evidence in places that may get hot, such as a room or police car without air conditioning. For long-term storage issues, contact your local laboratory.

#### Elimination samples

As with fingerprints, the effective use of DNA may require collecting and analyzing

elimination samples to determine whether the evidence came from the suspect or someone else. An officer must think ahead to the time of trial and possible defences while still at the crime scene. For example, if a residential burglary suspect may have drunk a glass of water at the crime scene, an officer should identify appropriate people, such as household members, for future elimination sample testing. These samples may be needed to compare with the saliva found on the glass.

In homicide cases, be sure to collect the victim's DNA from the medical examiner at the autopsy, even if the body is badly decomposed. This may serve to identify an unknown victim or distinguish between the victim's DNA and other DNA found at the crime scene.

When investigating rape cases, it may be necessary to collect and analyze the DNA of the victim's recent consensual partners, if any, to eliminate them as potential contributors of DNA suspected to be from the perpetrator. If this is necessary, it is important to approach the victim with extreme sensitivity and provide a full explanation of why the request is being made. When possible, the help of a qualified victim advocate should be enlisted for assistance.

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For further information you may refer to [www.dna.gov/audiences/investigators/](http://www.dna.gov/audiences/investigators/)

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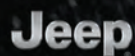
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# CPC introduces new funding for Aboriginal police

by Tony Palermo

Nine proud Aboriginal police officers representing the Treaty Three Police Service, Kahnawake Mohawk Peace Keepers and Nishnawbe-Aski Police Service graduated from the Canadian Police College's (CPC) Senior Police Administration Course (SPAC) February 23. Their success would not have been possible without help from the newly created Aboriginal Professional Policing Development Fund (APPDF).

"This is a good news story for Canadians," says Insp. Lennard Busch, Director, Professional Development Centre for Aboriginal Policing (PDCAP). "The APPDF allows First Nations police services access to advanced and specialized training – training that was previously out of reach due to underfunding and fiscal restraints."

The CPC created PDCAP in 2006 based on the findings of a training needs assessment it conducted earlier at the request of the First Nations Chiefs of Police Association. It showed significant training gaps in several areas and concluded officers serving in Aboriginal communities had a unique dual-role since they operate as both peace keepers and traditional law enforcers. It recognized Aboriginal police services needed more culturally appropriate and relevant training to effectively respond to the unique legal, emotional and cultural aspects of policing their communities.

"First Nations and Aboriginal communities in Canada rely on their police service as a social safety net," explains Busch. "Standardized policing methods used by larger police services in municipalities across Canada may not necessarily be transferable to an Aboriginal community's needs and demands."

While PDCAP had a very positive impact once it was introduced, Busch says CPC really wasn't seeing the numbers coming through that it originally expected.

"We found out budgetary concerns were the biggest hindrance for these police services to attend training," he notes. "It wasn't that they didn't want to go, it was that they couldn't afford to go. The money just wasn't there."

Busch set out to find a solution and, together with the RCMP Foundation, went looking for other partners. Motorola Solutions stepped up to the plate and under its philanthropic arm, the Motorola Solutions Foundation, donated a whopping \$100,000 to help create the APPDF.

"To help public safety professionals be



February 23 marked a special graduation day at the Canadian Police College for the first group of Aboriginal Professional Policing Development Fund recipients. From left-to-right are: Back row: Cpl. Kenneth Montaur and Investigator Thomas Lahache of the Kahnawake Mohawk Peacekeepers, Sgt. Merle Loon (Nishnawbe-Aski Police Service). Front row: Fred Semerjian and Roger Wright of the RCMP Foundation, Sgt. Jackie George, Cpl. Stephen Stacey, Cpl. Landon Meloche and Cpl. Margaret Meloche of the Kahnawake Mohawk Peacekeepers, Insp. Lennard Busch (Manager, PDCAP), A/Comm. Cal Corley (DG CPC). Photo courtesy of the RCMP

their best, the Motorola Solutions Foundation supports training programs for first responders and the general public around the globe," says director Matt Blakely. "When the RCMP Foundation approached us with the idea to provide this kind of training we felt it was a natural fit that filled an important need."

Sgt. Jackie George is a 13-year veteran of the Nishnawbe-Aski Police Service, a service of 150 sworn members that polices upwards of 30,000 people spread over 210,000 square miles. George was part of the first graduating group to receive funding and knows first-hand how important the APPDF is to Aboriginal police services.

"Training opportunities are limited due to the extreme funding limitations placed on First Nations policing," says George. "The funding from the APPDF allowed me to attend CPC and take a well-known, respected course that I might not have otherwise had the opportunity to take."

George, whose responsibilities include both media relations and recruiting, remarks that the course had an immediate, positive impact.

"With the instruction and guidance of

the SPAC course personnel, I developed a business case in the area of policing career preparation," she says. Her chief approved it immediately.

This year, it was originally expected the APPDF would cover training and related travel costs for at least 30 Aboriginal police officers from across Canada. That number is now closer to 50 and applications are still coming in.

"I don't believe I would be amiss in speculating that of the 50 we have registered, 45 or more would most likely not have had the opportunity to access the training by other means," says Busch. "As I said earlier, this really is a good news story for Canadians."

Visit [www.cpc.gc.ca/en/APPDF](http://www.cpc.gc.ca/en/APPDF) to learn more.

Tony Palermo is *Blue Line's* correspondent for the Eastern Ontario & Western Quebec region. A freelance writer and former federal corrections officer, he is working on his first book about the 2009 murder of Ottawa Police Cst. Eric Czapanik. Contact: [tony@blueline.ca](mailto:tony@blueline.ca) or [www.tonypalermo.ca](http://www.tonypalermo.ca).

# DISPATCHES



Stephen Tanner, currently the police chief in Kingston, will take over the top job at Halton Regional police in September. He will replace Chief Gary Crowell, who retired June 2. Tanner started his policing career as a constable in the Halton force for 16 years before moving up the administrative ladder with police services in Guelph, Belleville and more recently Kingston. He was also recently elected president of the Ontario Association of Chiefs of Police. "This is very much an opportunity to return home," said Tanner in a release, noting he was born and raised in Oakville. Acting Deputy Chief Andrew Fletcher will head the force until Tanner is ready to take over Sept. 1.



Julian Fantino was named Canada's international development minister in July, taking over the country's \$5-billion foreign aid program. Fantino had been the Associate Defence Minister responsible for overseeing the F-35 stealth fighter program and other military procurement projects. Fantino was responsible for Ontario's aid assistance to the



United States after hurricane Katrina, and he travelled to Pakistan in 2008 as part of the province's contribution following a devastating earthquake. Fantino had a long career in law enforcement that saw him rise through the ranks to become chief of police in London, Ont., York Region and Toronto before taking on the role of OPP Commissioner. He entered federal politics two years ago by winning a byelection to become the MP for the Ontario riding of Vaughan.

Jacques Delisle is believed to be the first Canadian judge tried for murder in Canadian legal history. A jury came down with the first-degree murder verdict in June at the Quebec City courthouse. It had deliberated for three days. The retired Quebec Court of Appeal justice was accused of first-degree murder in the slaying of his wife, Marie-Nicole Rainville, on Nov. 12, 2009. Delisle's lawyer claimed that Rainville committed suicide. The prosecution told a different story: that the 77-year-old ex-judge shot his wife because she was an obstacle to his plans to live with his former secretary, with whom he was having an affair.



Supt. Craig Gibson has been appointed Prince Edward Island's new commanding officer. RCMP Commissioner Bob Paulson made the announcement on June 15. Gibson was formerly the district policing officer for Southwest Nova, based in New Minas, Nova Scotia. He has 30 years of policing experience, including a stint with the detachment in Alberton, P.E.I., in the late 1980s. He takes over the position of chief superintendent from Tracy Hardy, who will become the new commanding officer for Newfoundland and Labrador. Hardy comes with 31 years of experience with the RCMP.



Much of her experience had been with western and northern Canada postings. Gibson and Hardy are expected to change over command in September.

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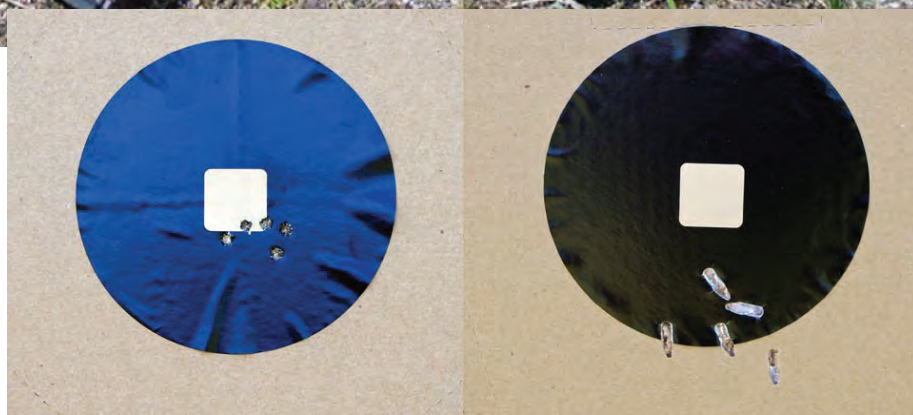


## Carbine training challenges

by Matthew Kirkpatrick

Police patrol carbine programs are becoming very common in Canada. Given their increased range, it may be challenging for some police services to find a safe and suitable place to train with center fire rifles.

The range danger template for standard 5.56 mm ball ammunition is 3.3 km long. This is much larger than ranges for pistols and occasional shotgun use were designed for. Urbanization and residential encroachment of many existing police ranges has only complicated the challenge to find a



Conventional 5.56 mm (left) and SRTA (right) fired at 50 meters at a 5 ½ inch circle.

suitable training environment.

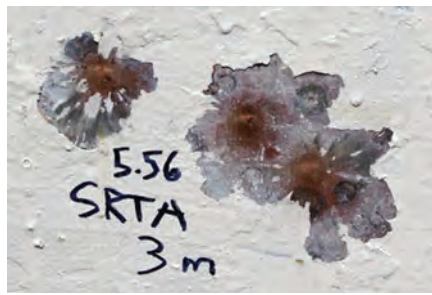
A new product may solve this problem for many agencies. Simunition Shortstop short range training ammunition (SRTA) is now available in 5.56 mm – suitable for police patrol carbines such as the Colt Canada C8. The maximum range danger template for SRTA is only 600 m, less than that of 9mm.

This new ammunition is designed to destabilize very quickly outside the muzzle, lose velocity and fall to the ground

quickly after closely following conventional bullet trajectory out to 100m. Nearly all rounds, regardless of the angle from which they're fired, will be on the ground before 350 meters thanks to four small vanes on the nose of the bullet.

The bullet is constructed from an injection molded nylon and copper mix that is completely frangible and easily stopped by ¼ inch steel plate. The curved outline (ogive) closely resembles standard ammunition and feeds reliably in any firearm





designed for 5.56 mm or .223 Rem.

I obtained a sample of several hundred rounds and tested it in a number of scenarios through a Colt C8 IUR at the MILCUN Range Complex near Minden, ON.

Groups were fired on paper targets alongside military full metal jacket ammunition at 25, 50, 70 and 100 m to test for accuracy and ballistic match.

The marketing literature claims a ballistic match to 25 metres however it was nearly a perfect ballistic match out to 50 m. While the SRTA impacted noticeably low beyond that, it was still close enough for most training purposes out to 100 metres. Since the ammunition works by destabilizing the projectile, all impacts were disconcertingly sideways, however the groups were astonishingly tight and there were no stoppages.

A full magazine was fired at painted

steel plates from 30 metres and then three meters to determine frangibility. Several rounds were fired at a steel plate from 1 meter through a cardboard target 50 cm from the steel plate to check for splash back.

There were no fragment holes through the cardboard. The remainder of the magazine was fired in automatic bursts from 2m with no splash back. The C8 was zeroed for conventional ammunition yet all shots on twelve inch steel plates with SRTA were solid, centered hits.

The SRTA performed accurately enough to be used in all but the longest-range patrol rifle qualifications that I have witnessed. It was reliable, with no malfunctions, and would be a transparent change for any user to switch to for training or evaluation.

The benefits of SRTA will be immediately

obvious to any service with patrol carbines and limited access to ranges designed for rifles. The US Army has converted some older conventional ranges with limited space into combat ranges capable of firing 360 degrees using SRTA.

The ammunition is non-toxic and frangible, making it an ideal choice for indoor ranges previously certified only for pistol calibers. This will also be of interest to any service facing environmental scrutiny on their range programs. The bullet, primer and propellant contain no heavy metals. The ability to shoot at close range on steel reactive targets safely adds flexibility and interest to any range training program.

Shortstop short range training ammunition provides a unique opportunity to enable or enhance patrol rifle training for agencies with limited rifle range access or indoor facilities. The potential cost savings of using existing pistol ranges for rifle training can't be ignored. The fact that it is non-toxic and frangible is just an added bonus.

Matt Kirkpatrick is a technical communication consultant specializing in firearms training and documentation. He has 20 years of military experience, including deployments to Afghanistan and Bosnia and has trained soldiers and police officers across Canada and internationally for more than 10 years. He may be contacted by email to: [mjkirkpatrick@rogers.com](mailto:mjkirkpatrick@rogers.com).

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# The Grandparent Scam

by Nancy Colagiacomo

Longueuil police have been confronted with an increasingly common kind of scheme; fraudsters feeding off vulnerable senior citizens to fill their pockets.

Incidents were first reported roughly two years ago across the country and about a year ago in Quebec. The suspects operate by placing phone calls to the victim's home passing themselves off as the grandchild or a friend of the grandchild and giving a bogus story about being in trouble, in an accident, having a medical problem or having been arrested and being in urgent need of money.

Police don't know how the caller has access to the names of victims' grandchildren but it is suspected it could probably be through social networking sites. Often these calls are purposefully placed from a busy sector thus amplifying surrounding noise to camouflage their voice. In addition many grandparents are unfamiliar with the sound of their grandchildren's voices especially over the telephone. Amounts solicited can range anywhere from \$2000 to \$5000 and are sent through currency exchange companies to overseas bank accounts.

In the first part of this year alone complaints

have tripled compared to the first part of 2011.

In a new twist this past winter the modus operandi took a new turn. The basic idea remains the same but the caller says that someone will go directly to the senior's home or some other nearby location to pick up the money. In all reported cases the victim was warned not to contact another family member saying that their grandchild would face serious consequences from the parent or fear shame.

This direct contact is of great concern to the Service Police Agglomération Longueuil (SPAL).

"Considering this new personal contact element, it was crucial that something had to be done" says Annie Gougeon, Detective Lieutenant responsible for the specialised crime unit. "Traditional prevention methods were simply not enough, we analysed the reported incidents over the past 18 months and came to the conclusion that we needed to work with our partners within financial institutions, the bankers association as well



as the anti-fraud centre. All were eager to participate."

Victims have no choice but to go to the bank teller. The transactions can't be done by Interac considering the large amounts requested. "We had to be proactive with the staff. The public affairs unit was also put to work in making this campaign a success. Press releases, live interviews and several news features were a big part of the programs success. Media coverage helped shed light on the matter by reaching out to victims who had yet to file a report.

A total of 80,000 brochures were printed with the heading "Did someone phone you to ask you for money in an urgent manner?"

It continues: "Before giving or sending money to someone always ask a family member about it first." Officers then visited close to 100 banks and financial establishments, meeting with bank authorities and elderly clients to help raise the awareness of this scam.

According to the specialized crime unit, this type of crime is difficult to investigate. Suspects use phone lines and shipment methods that journey across several countries and continents making it difficult to locate the actual origin. The age of the victims is also a challenge because of their fragility and fear of repercussions if they report the suspects.

The program is not only targeted to the elderly, but in some cases their families and bank personnel as well. The true picture of crime is not known for several reasons. Victims are often reluctant to file complaints because they feel naive, guilty, and stupid and are worried about arguments with their children.

Police 9-1-1 dispatch operators also had to be made aware of the scam; in most instances they are the first contact with the victims. Providing them with the knowledge of asking proper questions can, in many cases, lead to an arrest. They encourage callers to validate the information provided by third parties believed to be relatives before transferring or delivering any money.

Recently police arrested a suspect in seven cases of fraud with seniors and suspect the individual of being involved in other cases where victims did not report the fraud. The shame of having been deceived causes many seniors to not complain or not to inform their families. For this reason police believe this type of fraud has claimed many more victims than have been reported.

Nancy Colagiacomo is *Blue Line Magazine's* Québec correspondent. Anyone with stories of interest on Québec policing may contact her at: [nancy@blueine.ca](mailto:nancy@blueine.ca).

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Photo credit: MCpl Dany Veillette, Rideau Hall © Office of the Secretary to the Governor General (2012)



# Seeing beyond your experience

A friend recently earned his PhD. That's not a really big deal in my line of work. You actually HAVE to have a PhD or other doctoral degree in most areas of Canada to be a psychologist, so I hang around with a lot of PhDs. Thus, none of us are terribly impressed with the rest of us.

However, this friend is not a psychologist – he is a retired police officer and no spring chicken. I believe he has celebrated his 29th birthday at least 30-something times now so I consider earning a degree quite a monumental feat. When I reflect on this, two thoughts come to mind:

1. Congratulations!! Well done!
2. Are you out of your mind? Why on earth...

These thoughts are not unique to me. I may be over-educated but I am not deaf. I hear many of you sniggering about “piled higher and deeper,” lack of common sense, no-real-life experience and too much book learning. Yeah, I get all that. I definitely know some PhD people who are more than a little odd around the edges. They would be odd even without a PhD, I might point out. That's a whole ‘nuther story.

Today's story is more general and asks a rather generic question: is it useful for a police officer to have some “higher education?” In this context, “higher” means past Grade 12. I am willing to take it as a given that most people are not dying to get a PhD (and having been-there-done-that, I am unlikely to disagree), but what about your basic degree or diploma?

Does all that book learning get in the way of solving “real life” situations? Or does it convert you into a superior human being, capable of leaping tall buildings with a single footnote? Is it important in policing



to know your op cits and ibids from your modus operandi and mens rea?

Back in the day, higher education was a no-no for police officers. Rumor has it that they even weeded out candidates who were too bright because (1) they would be smarter than their bosses (I am not touching this one with a ten metre pole) or (2) they would have their head in the clouds and get shot while pondering options and philosophizing. I know some of you think this is still true because you e-mail periodically to tell me so but I have to tell you, the facts are not in your favour.

There is some pretty decent evidence that officers with post secondary education (particularly degrees rather than diplomas) actually do perform differently – and often better. To some extent, this reflects changes in the nature of policing over the years. To avoid boring you to death I will refrain from citing references and quoting data – but I think we are all familiar with the notion that policing has become increasingly complex in recent years.

Less specialized people – like bylaw enforcement and security officers – do a lot

of the more straightforward stuff police used to do. What is left is often more complex. Nowadays, your average police officer has to have a grasp of complicated and multi-faceted social issues, ethical dilemmas and the intricacies of legislation.

Evidence suggests more highly educated officers engender fewer complaints from citizens, due in part to having a less dogmatic and authoritarian approach to their work. Officers with post secondary education tend to be more “professional” (whatever that means), may receive better performance appraisals and are less likely to use force.

Within my little area of particular interest, police with degrees are more likely to refer people with mental illnesses to psychiatric services and are less likely to arrest them. Generally, officers with post secondary degrees have been found to be more open-minded and, not surprisingly, generally do better at the academy level.

But wait! What about the study showing people with arts-related bachelors and masters degrees did better on all sorts of measures than officers with criminal justice and law enforcement-related degrees? What about the studies that show people with just a high school diploma tend to do better earlier on in their careers, right out of police academy, compared to officers with degrees? What about the several studies showing there are really no differences between groups and that people who started a degree and never finished it were the worst of the lot?

Apparently, the relationship between formal education and performance as a police officer is not so simple. The

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research literature says this – and so does my personal experience. I know some cracker jack senior officers and chiefs with only a high school diploma – and some real morons with degrees (both in policing and elsewhere). I also know there are degrees... and degrees.

Some of the research in this area has investigated (for example) officers who live and work in rural Louisiana and attended schools that sell degrees. I am not sure this research generalizes to the Canadian context. There is also a huge difference between a community college diploma in police foundations and a masters degree in political science. I am not saying one is better or worse – just that they are different. It's not surprising that when you lump these folks all together, the results are kind of a mess research-wise.

I believe that any knowledge or experience leading one to have a broader perspective, an open mind and good problem solving skills has got to make for better police officers in the long run. You might be able to get this knowledge and experience working at the local bar or on an assembly line but it would be easier to get it – and to prove that you got it – in school.

People who start things and don't finish them (e.g. drop out of school) need to have a good explanation of why they chose that path. I am pretty sure that while formal education is important, it is not sufficient

and needs to be considered only when one knows for sure that a person has the basic competencies required for all police officers.

I suspect the value of higher education increases as one goes up the hierarchy and the issues become more obtuse and less well defined. I am fairly convinced that people who openly disparage higher education have a lot to learn from people who have it – but they will never learn that.

I REALLY strongly feel education is not something you get before you are 25 and then forget about. It is too bad there are not any studies looking at people who complete degrees after becoming police officers. It's likely not the specific content of a degree program that matters. If it did, the criminal justice majors would be running the world.

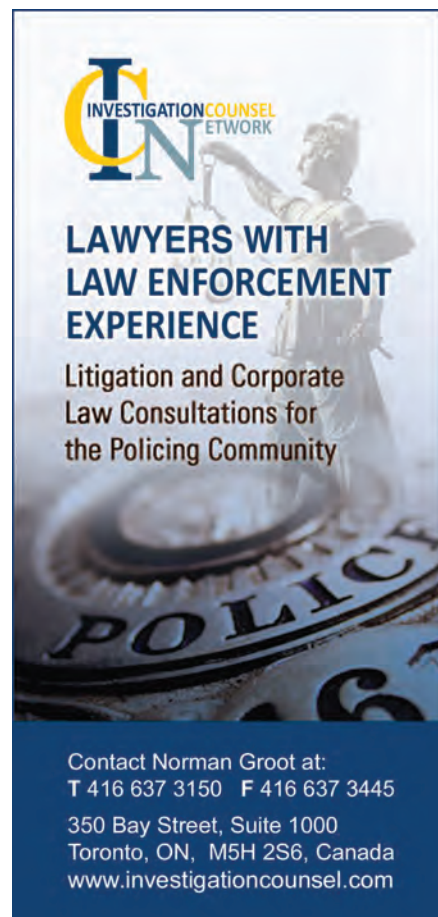
What is important is learning to think differently from how you might naturally think – seeing beyond your own experience, considering options, learning to change and knowing how to identify a problem or weakness and sort out ways to address it.

Is it ever too late to learn these things? Hell no – no matter how many 29th birthdays you have had.

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

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# Security in the mobile and BYOD world

It's sometimes difficult to fathom how much the mobile computing world has changed. Laptops and their smaller siblings, the netbook, ruled the market just two or three years ago but high-speed cellular data, smartphone and tablets took over in very short order.

Near universally available high-speed cellular Internet access (if you can afford it) allows users to do virtually any computing tasks on the go, anytime and anywhere, with a pocket-sized device that outperforms full-fledged computers from just a few years ago.

An increasingly mobile workforce and people wanting always-on Internet access, often primarily for social-media applications like Facebook and Twitter, have embraced these devices and their go-anywhere ability.

Freeing computing power from the relative safety of the desktop and office environment poses a variety of risks to the safety of the device, the often private and/or confidential nature of the data on it and the reputation of the company, organisation or individual to which it belongs or is associated.

Theft or loss of the device is obviously the first and foremost threat. In most cases, I suspect the value of the hardware is the payoff for thieves and other "finders" of laptops, smartphones and tablets. This is not to diminish or discount the value of the data or the smaller risk posed by targeted thefts, where the data is the truly valuable commodity being sought.

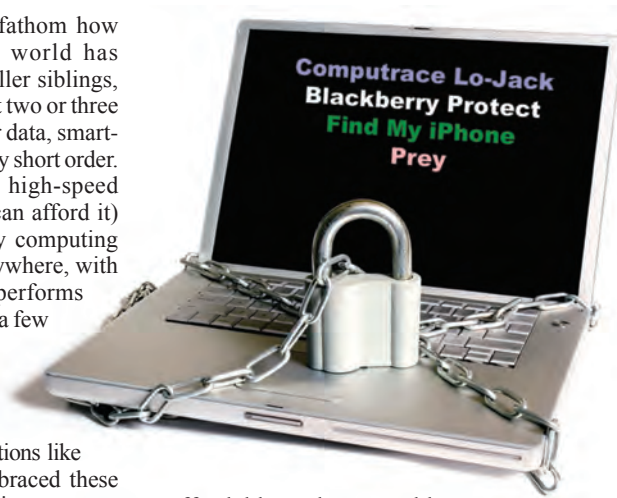
Computer viruses, malware and hacking also pose a variety and degree of risk that should not be discounted, particularly when these mobile devices are used on free WiFi networks such as at the neighbourhood coffee shop.

When the mobile office trend began, key personnel were issued company-owned devices but that too is now rapidly changing. Many private companies have begun permitting employees to Bring Your Own Device (BYOD); the employee chooses what they wish to use and, in some cases, even provides it.

Some companies allow staff to choose from a pre-approved list of devices, offering a variety of funding arrangements including picking-up the entire tab, cost-sharing the device and/or data plan or some other kind of mutually agreeable arrangement.

BYOD carries a huge number of serious ramifications to the entire mobile computing and smartphone arena. Companies previously could control the entire environment – hardware, software and applications – but BYOD has quickly eroded that.

For larger organizations, controlling all these risks and threats is probably fairly



affordable and reasonable to implement and manage but its more of a problem for smaller organisations because they typically don't have the in-house expertise or budget to make it all happen.

## Remote control

Fortunately, none of this should stop any individual or organization from getting everything under control, because there is help out there. Absolute Software Corporation is a world leader in managing device and data security on desktop and mobile devices of almost any kind.

Its LoJack for Laptops product was revolutionary when introduced several years ago, offering hope to people looking for their lost or stolen laptop. The core of the technology is now installed on most laptops during the manufacturing process and can be activated for \$40 for a one year licence or \$90 for three years.

The technology routinely checks-in with the Absolute system when connected to the Internet, establishing a trail of known locations. If and when a laptop is reported stolen, the system flags it and a recovery team springs into action to locate it the next time it checks-in.

Using a variety of techniques, including the location of the Internet Protocol (IP) address, they then liaise with the local police service to make the recovery. The company is so confident in its product and investigative recovery team that it offers a refund of up to \$1,000 if a laptop is not recovered.

Absolute has expanded its software offering substantially with a complete suite of mobile device management, control, tracking and recovery services under the Computrace brand. Many computer manufacturers embed its "persistence module" into the firmware of new computers – desktops, portables and tablets – where it resides virtually tamper-proof and invisible to all but the most skilled

computer users. It can also be installed on devices where it was not pre-installed.

Since it is loaded and run from the firmware, it goes into action before the computer operating system even loads, making it far less vulnerable to discovery or tampering.

The company's products permit organizations to centrally manage all their IT infrastructure (not just mobile) and includes inventory control and management, dealing with lost and stolen devices, software policy control and enforcement and password security enhancements.

Additional features include remote deletion of sensitive data, freezing a device, displaying custom messages and tracking the device's location using geotechnology. Digital forensics can be used to monitor and record precisely what is being done on a particular device. Many of the features work even if the device is off the corporate network, allowing organizations to constantly monitor and control their mobile assets.

If data deletion is required (such as with a stolen device), it can first be frozen to stop unauthorized use and access to the data on it. A message directed at the unauthorized user can be displayed on the screen. Custom messages can also be used for operational purposes such as service requests and leased device returns.

On devices where data deletion has been performed, the system can provide a complete audit trail to prove that the deletion occurred complies with corporate or government regulations.

Computrace geotechnology utilities can be employed in a number of ways. Using WiFi (and GPS if the device has it), the company can track the physical location of devices so organisations know their location 24/7 and whether they've been lost or stolen. Virtual "geofences" can be created for devices, which alert system administrators if they are moved outside a predefined permitted area.

The service functions with almost all Microsoft Windows computers and Macs using OSX v10.3 or higher whenever they are connected to the Internet.

Computrace Mobile offers virtually all of the above utilities but is designed to run on a wide variety of mobile devices, including Windows XP and up (with some exceptions), Blackberry 4.5 or later, Windows Mobile 5 and up, Windows Phone 7.0 and later, Android 1.5 and later and Symbian (Nokia) S60 3rd edition or later.

The device must have an Internet connection, Microsoft IE or Firefox 3 or later or Apple's Safari browser.

The company's numerous recoveries range from the ordinary – officers surprise the unsuspecting buyer of a stolen laptop and promptly confiscate their computer "deal" – to

the extraordinary. Recovery teams have helped lead police to individuals engaged in a wide range of other criminal activities, including drugs, weapons, explosives, identity theft and stockpiles of other stolen property. Many of these collateral finds also include outstanding warrants for various offences and breaches of bail and probation orders.

Visit [www.absolute.com](http://www.absolute.com) for additional information.

### Free alternatives

Several free security utilities offer most of the basics. Aimed more at individual smartphone owners, they include Blackberry Protect, Apple's Find My iPhone and Prey (Android). There are some inherent dangers in using these services unless police are informed of the theft and invited in on the recovery or return.

Properly managing, controlling and securing mobile devices against loss and theft is increasingly important. The recent crime trend of snatching smartphones and tablets right out of user's hands, thefts from cars and homes and unattended and forgotten devices presents serious liabilities for businesses and even individuals.

Many smartphones cost upwards of \$500 if purchased without carrier subsidies, making replacement an expensive proposition.

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## Crime Stoppers There's an App for that

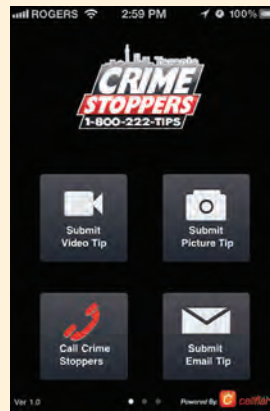
A Toronto police and Crime Stoppers smartphone app that lets users anonymously report crimes at the touch of a button was launched in July. It is believed to be the first of its kind in North America.

Toronto police said they expect its use will quickly spread to other jurisdictions across Canada and the United States. It will give police far more resources than traditional telephone tips to Crime Stoppers, said app developer Steve Nesbitt from Cellflare.com.

"A video tip and a picture tip (are) worth a thousand words, versus somebody phoning in and, you know, briefly describing the situation they just saw," Nesbitt said.

The app includes interactive features that enable Toronto-area residents to alert police in real time about a crime or potential crime through photos, video, emails, text and a button that autodials Crime Stoppers.

The value of Crime Stoppers is in the ability to report crimes without fear of being identified and the app will still ensure anonymity, said Const. Martin Douglas, a Toronto Crime Stoppers youth and social media officer.



The app does not collect emails, phone numbers, names or locations. When people submit a tip, they are provided a unique ID and password that they can use to communicate with Toronto Crime Stoppers and vice versa.

People can opt to use - or not to use - GPS when they download the app. Crime Stoppers hopes bystanders will "feel more empowered to be socially responsible and take action," Douglas said. The app went into action the last week of June and it had 1,000 downloads.

Toronto area Crime Stoppers currently receives more than 200 anonymous tips each week.

The app also includes a database of some of the city's wanted criminals, social media updates and a GPS locator to nearby police stations. "Whether it's schoolyard bullying, drug abuse or shootings, we need Toronto's residents to step up and help keep our neighbourhoods safe with information on criminal misconduct," said Toronto Crime Stoppers chairman Gary Grant. "Ultimately we have a responsibility to look out for each other."



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If you are a **uniformed member** of a police/justice agency, a member of the Canadian Armed Forces Military Police, or employed in private security, you must meet the following criteria to be eligible to receive credit for 23 out of the 30 courses required for the Police Foundations Leadership diploma:

- minimum of three years' experience
- have completed the Ontario Police College (OPC) training or equivalent, such as the Regular Force MP QL3 course or MPOC
- have worked to gain community experience

If you are a **civilian member** of a police/justice agency, you will be eligible to receive credit for 20 out of the 30 courses required for the Police Foundations Leadership diploma if you meet the following criteria:

- minimum of three years' experience
- have worked to gain community experience

The remaining seven courses for both uniformed and civilian members are scheduled in a flexible study format. That is, over three months in an accelerated hybrid delivery format combining intensive weekends in class (i.e., two or three Saturday/Sunday sessions) followed by two or three weeks of online education. Civilians will be required to complete three additional courses that are offered in May each year.

**For more information, contact**  
Police Leadership Liaison  
**Stephen Duggan**, 416.253.1918 ext. 3771  
[stephen.duggan@humber.ca](mailto:stephen.duggan@humber.ca)

[communityservices.humber.ca](http://communityservices.humber.ca)



# LAW ENFORCEMENT WEST OF THE ROCKIES

## Part 3 *External Pressures*

by Andrew F. Maksymchuk

### The power of the Crown

A bitter wintry wind blew across the mine-slime flats off Wishman Street in Kirkland Lake. The chill convinced Glen Bradley to choose Old Crystal Lake Road for his usual run with his beagle pup – the trees paralleling the road would offer some shelter.

Bradley parked and set out with his excited pup but they soon came to a startled stop. A body lay on the roadway ahead. They cautiously approached; the dishevelled clothing, enormous bloodstain and gaping neck wound made it obvious the woman was dead. Bradley's mad dash back to the pickup would be the end of his physical workout for the day – Sunday Nov. 22, 1981.

The wheels of homicide investigation procedures were quickly set in motion but after more than 18 months of active probing, the case went cold. It appeared that justice for the victim, 18-year-old Suzanne Heffern, an estranged single mother of a baby girl, wasn't to be. Whoever had beaten and tried to strangle her before slitting her jugular vein with the same knife used to savagely stab her 14 times remained at large.

I was transferred from the OPP Criminal Investigation Branch's main office in Toronto to its two-person satellite office in North Bay in the summer of 1989. As was the common practice of all detective inspectors, I delved into the cold cases within my new region in my "spare time." Even though at least three others had looked at the Heffern case, I felt it had promise, re-opening it and assigning investigators. A prime suspect emerged. Unbelievably, with a bit of coaxing, Guy Bazinet agreed to undergo a polygraph examination. His failure propelled all of us into enthusiastic overdrive.

After all witnesses were re-interviewed

and additional witnesses located, the case still remained circumstantial and lacked a confession. Nevertheless, we put together an updated, restructured court brief, presented a copy to the Crown attorney and told him we intended to lay a murder charge. His response was unexpected; skeptical of the validity of testimony from a main witness and our overall case material, he made it quite clear he would refuse to prosecute.

If a similar homicide occurred any time after July, 1991 in British Columbia, the Crown's lack of support would have meant the end of the active file. Bazinet would never have seen the inside of a courtroom, let alone a jail cell.

I was confident in our evidence and, based on my OPP training and knowledge of criminal law, believed there were sufficient grounds for conviction – but was now in dire need of a prosecutor. I took my problem up a notch and, in cooperation with the OPP CIB director and the regional Crown, a different Crown attorney was assigned to prosecute.

On December 2, 1991, a decade after the brutal killing, a jury returned a verdict of "guilty of first degree murder." Bazinet, 42, was sentenced to life imprisonment without parole for 25 years. The family finally had closure in the untimely death of an innocent young mother.

The Crown Counsel Act came into force in BC on July 27, 1991 following the submission to government of the Discretion to Prosecute Inquiry Report by Commissioner Stephen Owen<sup>1</sup>. The BC judicial system promptly took a giant step backwards.

The act places the authority to decide what, if any, charges will be laid in criminal matters with Crown counsel. Québec and New Brunswick are the only other provinces with such an old, American-style justice system. If we are to have a modern, community-based system of justice, who better to decide whether to lay charges than those who deal daily with the citizens of a community – police?

I do not envy those police officers who investigate a crime and submit a report, only to find the Crown refuses to authorize charges

for any of a variety of reasons – and not necessarily always law-related (dare I mention bad days, over-worked, back-logged?). Then, while Crown counsel sits behind his/her desk within the protective bowels of a government building, police must return to face and try to explain their reasons to a disbelieving public and a distraught and angry victim. They also must sometimes endure the "Trudeau Salute" from smirking, uncharged suspected perpetrators as they're released from custody.

A recent example of this – a police surveillance team saw four adult males carrying electronic equipment out of a home and loading it into a vehicle. The stolen property was recovered and the men arrested for possession. Officers were stunned when the Crown failed to endorse the charges police recommended and they had to release the suspects. The responses to the decision were:

Crown: "Proving who was in possession of the property would be difficult." Victim: "I'm a little nervous. I'm wondering if I'm going to be targeted again. Do you need to have a picture of them taking the items?" RCMP Corporal: "We're going to look at the (Crown's) rationale when it comes, but at this point charges have not been laid."

Police officers are sufficiently trained to determine from the evidence they collect whether there's a substantial likelihood of conviction and if it is in the public interest to prosecute. In more difficult cases they may seek advice from supervisors, detectives and other police specialists and, from time to time, consult with Crown counsel on legal procedural matters.

It is somewhat disturbing to realize that Crown counsel alone has the power and authority to decide who will be charged within a community based solely on a police report. Are there checks and balances in place to spot incompetence, favouritism, fear of defeat, laziness or other human frailties that may creep in over time?

Police work in the trenches, know many of the people involved and the community, possess sufficient knowledge of law and



evidence as to the probability of conviction and can better determine whether the community's best interests will be met by laying a charge in a criminal matter. They must be prepared to defend their actions to their supervisors and there is a constant system of checks and balances on the quality of their work.

When I queried the system in BC, then Attorney General Geoff Plant sent me a letter stating the obvious. "It is the Crown that has the legal training, knowledge of current case law, objectivity and court experience that enables them to perform this function most effectively."

I'm sure that seven provinces would agree but also argue that their police are trained to a necessary standard and are knowledgeable enough to determine whether the evidence in a criminal case is sufficient to be dealt with effectively in court.

The BC system "avoids practices of overcharging and wrongful convictions," Plant added. I wasn't aware of past wrongful convictions in BC but supervisors usually quickly identify and straighten out over-zealous cops.

What the letter didn't justify was the amount of additional paperwork required to be submitted by our already paper-swamped police or the court delays created while Crown counsel reads every case summary.

Former US Chief Justice Warren E. Burger<sup>2</sup> stated that unless the courts quickly resolve disputes, there is no justice. Time has already seriously impacted the judicial system in BC. Serious cases, many involving charges against persons suspected of unlawfully causing death, are in jeopardy of being tossed due to lengthy court delays.

"Justice delayed is justice denied" is a statement attributed to former British politician William Gladstone<sup>3</sup>. It is a declaration that can also be traced as far back as the Magna Carta. Not only is justice denied when it takes a long time for a case to come before the courts, it also loses its impact on the public. Time fades memories and thereby lessens, in the minds of people, the horror of the crime, the suffering of the victim, public vexation or the brazenness of the act.

The differing approaches of police in two recent riots are good comparisons in point:

- Stanley Cup Riot, Vancouver, June, 2011. Following their investigation, police were required to prepare a written report to Crown counsel, who then reviewed the evidence to determine whether there was a substantial likelihood of conviction and if it was in the public interest to prosecute. Months went by before police were permitted to begin laying charges approved by the Crown.
- St. Patrick's Day Riot, London, Ontario, March, 2012. Several people were arrested and police began laying charges within hours of the riot.

Officials in Vancouver contend their conviction rate will be higher. We shall wait and see.

Coroners without MDs

George Lapushniak, 49, of Ukrainian descent, lived alone in a small home outside

of Keewatin, the most westerly town along the Trans Canada Highway in Ontario. He suffered from severe headaches and a minor heart condition but most recently had become depressed over what he felt was a bad business deal in the purchase, with a partner, of a local service station and garage.

Early one hot August afternoon he took his .303 Lee Enfield rifle and headed for the privacy and isolation of a neighbour's vacant barn. Removing his right boot, he held the muzzle to his chest and applied pressure to the trigger with his toe, sending a bullet crashing through his heart. It was four hours before his body was discovered.

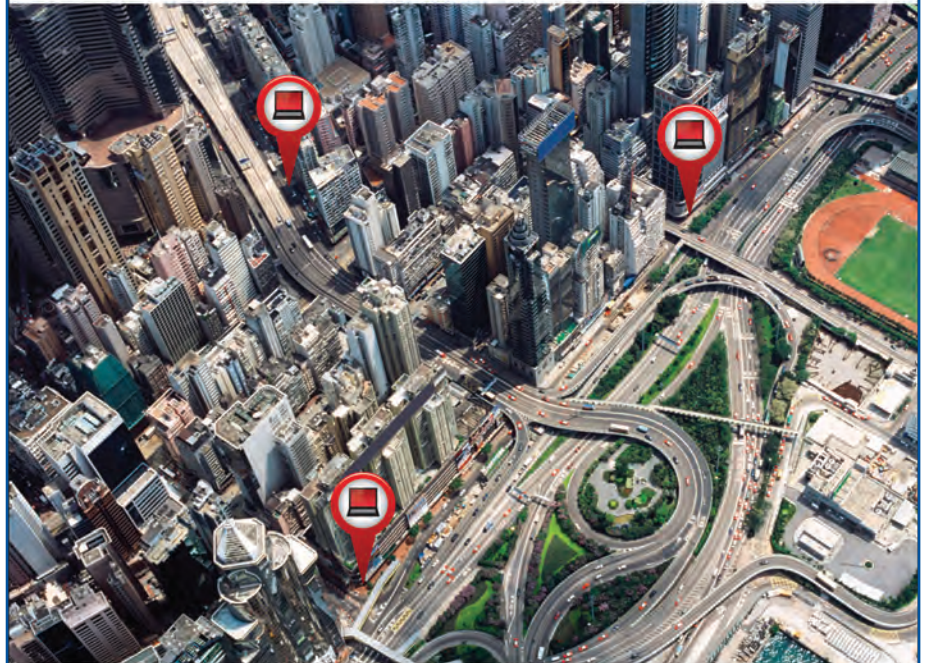
I arrived at 5:20 pm and, as the first officer there, my primary duties were to check for

signs of life and, if absent, secure the scene and contact the coroner. Within 40 minutes Dr. S. M. Burris was by my side. I had been a police officer for two years but this would be my first close working relationship with a coroner on a case from beginning to end.

While Burris examined the body, I searched the log wall of the barn for the fatal bullet. I hadn't noticed the wasp's nest until one of its inhabitants decided I was getting too close and stung me on the neck. My yelp alerted the doctor. Instead of offering quick relief from his bag, he suggested I "put some mud on it. That's what my mother used to recommend."

"Mine, too," I said as I reached down and scooped up a little dirt from the barn

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floor and began mixing it with spit. I guessed modern medicine still hadn't surpassed that old-fashioned remedy.

As I applied the mud pack Burris called my attention to the minute insect larvae already wriggling in the corners of the mouth and eyes of the deceased. I was nose-to-nose with the corpse before I could see them. Amazed at the rapidity of their development, I was assured that under favourable atmospheric and climatic conditions it wasn't uncommon to find maggots in the delicate, moist tissues in such a short time.

The time lapse in the egg-to-adult development of flies can assist in establishing time of death and I would use the services of a forensic entomologist in future homicide investigations for just that purpose. It wasn't a critical finding in this case since neighbours had heard the shot, but I would have missed that important piece of evidence had it not been for the doctor's knowledge and sharp eyes.

The secluded and protected surroundings meant there was no need to rush the investigation. While the ID unit officer took photographs and collected exhibits, I prevailed upon the accommodating doctor to guide me through the remarkable features of a dead body, in support of what I had been taught at the Ontario Police College. We discussed post mortem lividity and the manner in which rigor mortis affects the body and can be used to establish time of death. The victim's age and physical condition, mode of death and temperature also affects its progress, he cautioned.



The initial examination of a homicide or unknown cause of death scene is one of the most important facets of the investigation. Combining the perspectives of a medical practitioner and a law enforcement officer is

crucial in a fact-finding probe and provides a better chance of "hearing the dead speak."

A coroner who is also a medical doctor can not only officially pronounce death but also continue with police in a medical-legal investigative partnership.

Only six provinces have legislation requiring that medical doctors be appointed as coroners. Unfortunately, BC is one of the four which hires lay people (real estate agents, school teachers, retirees of any profession or trade, etc.) to perform that duty (Saskatchewan, Québec and New Brunswick are the others).

Some of the findings the coroner pointed were not critical to the outcome of the Lapushniak investigation, but they convinced me, early in my career, of the value of a medical expert at the scene. As medical and technical advances have been made, this relationship has become increasingly important and necessary in determining cause, time and manner of death.

<sup>1</sup> [www.qp.gov.bc.ca/statreg/stat/C/96087\\_01.htm](http://www.qp.gov.bc.ca/statreg/stat/C/96087_01.htm)

<sup>2</sup> Warren Earl Burger, 15th Chief Justice of the US, (1907-1995)

<sup>3</sup> William Ewart Gladstone, British Politician, (1809-1898)

Andrew F. Maksymchuk retired as an inspector after serving more than 30 years with the OPP, including five years as a CIB Det/Insp and eight years as coordinator of the elite Tactics and Rescue Unit. He wrote the book *From Muskeg to Murder, Cops: A Matter of Life and Death* and *TRU: The last resort in policing*. He retired to Vernon, BC. and may be contacted by email to [oppmax@shaw.ca](mailto:oppmax@shaw.ca)

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## Distinguishing between science and pseudoscience

by Brent Snook, Kirk Luther  
and Scott O. Lilienfeld

From making split-second choices during use-of-force encounters to determining whether a person is a suspect, nearly all aspects of police officers' jobs require them to think critically. There appears to be an endless number of practices available to help them make good decisions in uncertain situations. Unfortunately, police work, like many professions, contains a mixture of scientific and pseudoscientific practices.

Although most officers know that not all the "police toolbox" contents are useful, the question often arises about how to know which practices are legitimate. At the most basic level, officers can protect themselves and serve the community best by adopting a skeptical approach to thinking. Skepticism often carries negative connotations such as cynicism, pessimism and the rejection of anything but the status quo. This is an incorrect view.

Being a skeptic means not accepting a claim or endorsing and/or engaging in a practice until compelling empirical evidence supports its use. A skeptic's response to a claim is "show me the data." This approach is different from cynicism, which means dismissing claims before the evidence is in. Skeptics are open-minded but insist on good evidence.

Police officers can avoid falling prey to practices not based on compelling scientific evidence. Look for these 10 "warning signs" (in no particular order) to increase your ability to critically assess practices. None by itself is proof positive that a claim is unreliable but the

more warning signs that accompany a practice, the more skeptical you should be of it. We have applied these signs to two investigative practices.

### Warning signs 1: *Lack of falsifiability and overuse of loopholes*

The first sign that a practice may be pseudoscientific is if it cannot be tested. For example, a psychic's claim to communicate with a deceased person about their current activities would not be falsifiable. Related to this issue is frequently using loopholes to explain away findings that show the practice or claim to be flawed. For instance, when a psychic detective fails to produce accurate predictions, they may present loopholes such as "the experimenter's skepticism is interfering with my powers" or "I wasn't given all of the necessary information." Be wary of those who make statements that cannot be tested or who make up frivolous excuses to explain failures.

### 2: *Evading and ignoring peer review*

In science, virtually all claims are subjected to the peer review process, which typically involves (a) researchers submitting their study findings to editors of scientific journals and (b) editors requesting independent scientists to conduct blind reviews to seek out potential flaws. If any major concerns are identified, the editor asks the reviewers for their input and can then prevent the findings from being published and ever seeing the light of day. In contrast, pseudoscientists either avoid subjecting their claims to peer review by refusing to participate in studies that would properly

test their abilities or do not give enough information about their practice for scientists to test them independently. Pseudoscientists also may use practices unsupported by peer review. For example, graphologists use handwriting to infer personality or psychopathological characteristics (e.g., to detect child molesters and violent criminals) despite a lack of evidence to support its validity. When presented with a claim that piques your curiosity, ask advocates of a particular practice to show you the journal article and ask them where the study was published.

### 3: *Lack of self-correction*

Scientific claims tend to be self-correcting over the long run – erroneous claims or ineffective practices are eventually weeded out and accurate claims and effective practices persevere. For instance, some psychologists once believed people's personalities could be determined by examining the bumps on their skull. However, through systematic study of this claim, this pseudoscience practice – called phrenology – was discredited. Pseudoscientific claims, however, tend to endure long after they're shown to be wrong. For example, research has long shown that "truth serum" – typically a barbiturate that supposedly elicits truthful information – does not work. This is because people can lie under the drug's influence and it often produces false recollections, yet some practitioners continue to use truth serum. One way to determine if progress is being made in an area is to ask the claimant for a copy of a recent study published on the topic in a top-notch scientific journal.

#### 4: No safeguards against confirmation bias

Confirmation bias refers to the exclusive focus on evidence that supports our beliefs and claims while ignoring or distorting evidence that does not. Science, including psychological science, contains numerous safeguards against confirmation bias, including the peer-review process (other researchers point out biases to researchers) and blind designs (the researcher is prevented from knowing certain information that could bias the results). However, because pseudoscientists lack safeguards against this, their beliefs about the effectiveness of a practice are based only on the “hits” that support it but not the “misses.” The Reid Model of Interrogation provides an example of how confirmation

bias can come into the picture. Specifically, this model’s use of a nine-step interrogation technique is often supported by claims that it obtains confessions, but false confessions are often ignored or minimized. The desire to focus exclusively on outcomes that support our beliefs and ignore those that might challenge them is certainly a difficult task for all of us to manage without proper controls.

#### 5: Over-reliance on testimonial and anecdotal evidence

Anecdotal evidence relies on informal personal evidence, which can range from a vivid success story to testimonial from a well-respected individual, to validate a claim. In the sciences, personal evidence does not

constitute sufficient support, although it can sometimes be a helpful starting point for research. However, pseudoscientists rely heavily on anecdotal claims when providing support for a hypothesis – it is often the end of their research endeavour. For example, statement validity analysis lacks hard data to show that it works, although it is easy to find many anecdotal stories of how it has supposedly worked. When you hear vivid stories of how something “works,” you should ask “Please show me the published studies conducted by independent researchers.”

#### 6: Extravagant claims without proper evidence

Sociologist Marcello Truzzi and later Carl Sagan, the great astronomer, professed that extraordinary claims require extraordinary evidence. Pseudoscientists’ claims are often extravagant yet not supported by necessary evidence. Take equivocal death analysis (EDA). Certainly, the idea that someone can examine forensic evidence and the behavioural/psychological history of the deceased to determine how they died (e.g., accident, suicide, or homicide) is quite extraordinary. Unfortunately, there’s not a shred of scientific evidence available to support EDA and psychological experts suggest the basis for such practice is highly questionable (see the APA’s expert panel in the Congressional review of the USS Iowa incident). If someone claims to be able to provide a quick solution to a complex investigation, request the evidence needed to support those extravagant assertions.

#### 7: If it has been around forever, it must be true

Just because a practice is really old does not mean it is useful. For example, hypnotic procedures date back to ancient times, where the Greeks visited shrines of healing and were given therapeutic suggestions during trances. Because its use for recovering memories has a lengthy history, it may be tempting to conclude it is strongly supported from a scientific standpoint but this conclusion would be wrong. We know from scientific testing that hypnotism is an ineffective method of enhancing memories because it increases both accurate and inaccurate information. Beware of people who say “But we have always done it this way, so it works!”

#### 8: Reversal of burden of proof

Scientists agree that the burden of proof should always lie with the person claiming that something works. In many pseudoscientific disciplines however, it is up to the skeptic to prove them wrong. As in our justice system, it is the responsibility of the claimant to provide evidence of the claim beyond a reasonable doubt. For example, if someone tells you they can speak 40 languages fluently and you are skeptical, it is their responsibility to demonstrate this assertion, not your responsibility to disprove it. Be skeptical of individuals who demand evidence that they are wrong about a claim.

#### 9: Absence of connectivity to research

Pseudoscientists are rarely guided by scientific principles or theories. Furthermore, they often fail to look at what is already known

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before presenting ideas and making claims. For example, if FBI profilers looked at the long-standing literature on theories of personality and the importance of situational factors on behaviour, they would have known their claims about most or all behaviours being determined by internal traits (or the ability to predict offender characteristics) would be met with skepticism. They would certainly have learned early on that their ability to produce profiles accurately would be highly unlikely! Why? Because a great deal of research shows human behaviour is influenced by both personal characteristics and situational factors. Make sure you ask advocates of impressive sounding practices to point you to the mounds of earlier research upon which their claim is built.

### 10: Over-reliance on hyper-technical language

Pseudoscientists often use technical and seemingly professional, scientific-sounding terms when asserting a claim. However, this complex language is often superficial and potentially used to mask the absence of scientific theory underlying their claims. Of course, some scientists tend to use overly complex terminology when explaining their work but at the end of the day, they ought to be able to explain it in plain language so their claims can be understood easily. For example, how would you respond to someone asking you to sign a petition banning the use of dihydrogen monoxide because it has been shown to be fatal if inhaled in large quantities, contributes to the erosion of our natural landscape and may cause severe burns? Sign and you would actually be agreeing to ban H<sub>2</sub>O, or water. If you cannot understand the language being used, ask for a lay explanation to get to the root of the claim.

#### Applying the warning signs

Armed with ten warning signs, let us now use them to evaluate two common police practices: Criminal Profiling (CP) and Cognitive Interviewing (CI). *Table 1* contains a summary of our evaluation of whether they pertain to each practice. We have estimated that CP contains seven of the warning signs and CI does not contain any.

After reviewing the literature, we conclude that both practices can be shown to work or not work through experimentation (although some profiler claims, such as “offender has deviant sexual fantasies” is not verifiable through objective means), neither relies on the argument that it must work because it “has been around forever” and neither practice relies entirely on hyper-technical language when explaining how it works (though, there are instances of psychoanalytic-based profiling that sound like gobbledygook).

WARNING SIGN	INVESTIGATIVE PRACTICE	
	Criminal Profiling	Cognitive Interviewing
#1. Lack of Falsifiability and Overuse of Loopholes		
#2. Evading and Ignoring Peer Review	✓	
#3. Lack of Self-Correction	✓	
#4. No Safeguard Against Confirmation Bias	✓	
#5. Over-reliance on Testimonials/Anecdotes	✓	
#6. Extravagant Claims Without Proper Evidence	✓	
#7. If It Has Been Around Forever, It Must Be True	✓	
#8. Reversal of Burden of Proof	✓	
#9. Absence of Connectivity to Research	✓	
#10. Over-reliance on Hyper-technical Language		

Table 1: Warning signs of pseudoscience

However, for the most part, profilers have largely evaded the peer-review process over the past 40 years or have ignored research suggesting that it does not work as currently conducted; in contrast, more than 60 peer-reviewed studies have tested the efficacy of CI. Throughout the existence of both practices, CP has essentially gone unchanged (for instance, the organized/disorganized typology still reverberates in the CP community even though it hasn't been supported by research), whereas CI is continually modified and refined based on the findings from studies. The success of CP is based heavily upon the reporting of known hits (and ignoring the misses), whereas the success of CI is based upon a comparison of the amount of correct versus incorrect information that it produces (CI also has had the peer-review process as a safeguard).

A review of the literature reveals CP relies largely on anecdotal claims to support its efficacy, whereas CI draws most of its support from experiments. It goes without saying that CP makes extravagant claims by saying that individuals far away from an area, with limited local knowledge, can look at crime scene residue and provide an accurate portrait of the offender. By contrast, CI makes rather straightforward claims based on what we know about how memory works, such as the assertion that providing people with cues and reminders about what occurred can enhance their memories of an event.

Profilers defend their practice by requiring that others show CP is ineffective or by refusing to participate in controlled studies. In contrast, those who have claimed CI is an effective tool are transparent about how it works and have examined when it works and fails.

Lastly, as mentioned above, CP is not based on what we know about behavioural influences or any other sound psychological theories. CI, however, is grounded in sound, psychological theories about the nature of memory.

How many warning signs are necessary

before alarm bells go off? Clearly, if a practice exhibits even a few, one ought to raise a skeptical eyebrow. If someone is unable to answer the questions posed above about a claim, a quick Google search will turn up a range of researchers knowledgeable about a particular issue so you can pool their opinions about the warning sign(s).

It's important to note that by using practices not based in science, investigators may not make the best informed decisions and waste valuable time pursuing fruitless investigative leads. Given the potentially devastating consequences of using questionable investigative practices (e.g., wrongful convictions, wasted time and resources), police organizations must be careful to ensure that the techniques their members employ are credible

and verified scientifically.

We hope the arguments laid out in this article can provide officers with some of the knowledge required to distinguish between techniques that have and do not have scientific support. Investigative practices ought to be grounded in research showing that the practice works. In cases where no studies have been conducted on a practice, research can determine if it has positive or negative effects on investigations.

We anticipate that some police officers might argue that a particular practice is “just a tool in the toolbox,” so should not be evaluated on its own merits and that this one practice among a range of others is unlikely to cause problems on its own. We believe such a response simply rationalizes an unjustified practice. One must ask the question – why would you use a tool that is broken or does not do the job you need it to do?

Others might argue that they do not have time to wait for scientific evidence that supports a practice because they must do everything necessary to assist them in their investigations. Although the last response may occasionally be justified, they should bear in mind the law of unintended consequences and recall that even well intentioned procedures can do great harm by contributing to erroneous decisions.

All of us are susceptible to falling prey to pseudoscientific beliefs without training on how to think skeptically. It is true that many of these questionable claims are seductive and appealing. We can all easily fall prey to them when trying to solve problems in an uncertain world. This is why we need a set of warning signs to help us spot pseudoscientific practices more easily.

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# Onus on accused to establish rights violation

The burden is on an accused to prove, not Crown to disprove, a Charter breach.

In *R. v. Furlong, 2012 NLCA 29*, police stopped the accused, administered a roadside breathalyzer test and then made a breathalyzer demand and informed her of her right to counsel. She said she understood and did not wish to speak to a lawyer. Furlong provided breath samples registering over the legal limit and was charged with impaired driving and over 80mg%.

Because there was no evidence elicited from the officer about the Legal Aid information he gave the accused, either through direct examination or cross examination, Furlong argued her right to counsel under *s. 10(b)* of the Charter was violated. The Crown, on the other hand, claimed the accused had not proven that her Charter right to counsel had been breached just because the officer did not testify he told her how she could contact Legal Aid.

A Newfoundland Provincial Court judge ruled there was no evidence that Legal Aid information had been given and therefore the accused's *s. 10(b)* right had been infringed. The breathalyzer certificate was excluded under *s. 24(2)* and both charges were dismissed for lack of evidence.



The Crown appealed to Newfoundland Supreme Court, submitting that the trial judge shifted the burden of proving a Charter breach from Furlong and was requiring the Crown prove that her right to counsel had not been breached. The appeal court judge dismissed the Crown's appeal, upholding the lower court ruling. There was no evidence supporting compliance with the informational component of *s. 10(b)*. Since there was no evidence from the officer respecting Legal Aid, Furlong's right to counsel was deficient.

On further appeal by the Crown, a unanimous Newfoundland Court of Appeal concluded that the absence of evidence concerning information about Legal Aid was insufficient to prove the right to counsel given by the officer was deficient and breached Furlong's Charter rights.

"Section 10 of the Charter accords positive rights," said Justice Hoegg for the court. "If an accused person claims a breach of a Charter right, he or she must assert the right and prove its breach on the balance of probabilities." Discharging this burden of proof requires more than the officer failing to give evidence that the right to counsel he gave her was complete. The burden is on the accused to

prove a breach, not on the Crown to establish that there was no breach.

*Proof on the balance of probabilities requires evidence. If there is no evidence respecting whether an accused has been informed of his or her right to counsel, including whether he or she has been informed of the availability of Legal Aid and how to contact it, then there is no proof that the crucial aspect of the Charter right was provided or not. In the absence of such evidence, a court cannot conclude that the information provided to (the accused) was deficient and that her s. 10(b) right was breached (para. 23).*

Further:

*Charter rights are not like the elements of an offence. An offence is a charge of the Crown against an accused person so the Crown always has the burden to prove each element of the charge in order to prove the offence. The right to counsel is a Charter right accorded to an accused. An accused must assert the right and evidence must be adduced to prove its breach, in much the same way as a plaintiff prosecutes a civil claim against a defendant, ie. a plaintiff who claims that he or she has been wronged by a defendant must adduce evidence to prove the wrong in order for the claim to succeed (para. 26).*

The officer did not testify, and was not questioned, about Legal Aid information. Had he testified that he had not provided it, then Furlong could rely on this evidence to prove that the information provided was deficient and a breach resulted. If the officer had said he had given Legal Aid information but Furlong disagreed, she could adduce evidence to support her position by either cross-examining the officer or calling additional evidence, including choosing to testify in her own defence.

Since there was no evidence on the Legal Aid aspect of the *s. 10(b)* right, the trial judge erred when he inferred from the absence of evidence about it that it had not been given.

"(The officer's) lack of testimony on the aspect of the right to counsel concerning Legal Aid does not prove that he did not provide the Legal Aid information to (the accused)," said Justice Hoegg. "It cannot be otherwise, for... a court cannot assume that things happened or did not happen in the absence of evidence. Neither can a court infer that things happened or did not happen in the absence of facts from which a reasonable inference can be drawn."

Furlong failed to prove her right to counsel did not include Legal Aid information and therefore it could not be said she suffered a Charter breach. The Crown's appeal was allowed and a new trial ordered on the over 80mg% charge.

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## Gun abandoned: s.8 not engaged

When an accused threw a gun out his window onto a neighbouring property he gave up his privacy interest in it, the Ontario Court of Appeal has found.

In *R. v. Stevens*, 2012 ONCA 307, a confidential informant told police that the accused was a drug dealer and kept a handgun and ammunition at his residence. The informant said he had been there and saw the gun during a certain time period.

An Information To Obtain (ITO) was drafted and a telewarrant obtained. Police executed a “stealth search” in the middle of the night. Moments before entering, officers outside the residence saw someone throw a white sock out the window with something in it. The sock landed in an adjacent yard and was determined to contain a semi-automatic firearm. Stevens was the sole occupant of the residence and no other drugs or weapons were found inside.

Although there were errors in the ITO, the Ontario Court of Justice declined to determine its validity. Instead, the trial judge held that the gun was discarded into an area where Stevens had no reasonable expectation of privacy, thus he had abandoned it. There was no s. 8 Charter breach and Stevens was convicted of unauthorized possession of a firearm, careless handling of a firearm and failure to comply with a condition of his recognizance.

Stevens then unsuccessfully argued that the validity of the search warrant needed to be determined before deciding whether the gun was properly abandoned. The Court of Appeal held that the firearm had been abandoned:

*In the factual circumstances here, the trial judge wasn't required to determine the legality of the search. In order to engage a person's rights under s. 8 of the Charter, that person must first establish a reasonable expectation of privacy. Having thrown the handgun out the window into a neighbour's yard, the (accused) no longer had any reasonable expectation of privacy respecting the gun. He no longer had possession or control over the gun; instead, he attempted to divest himself of possession or control of it. Indeed, he gave up the ability to regulate access to it when he threw it away. Furthermore, he offered no evidence of any subjective expectation of privacy in it...*

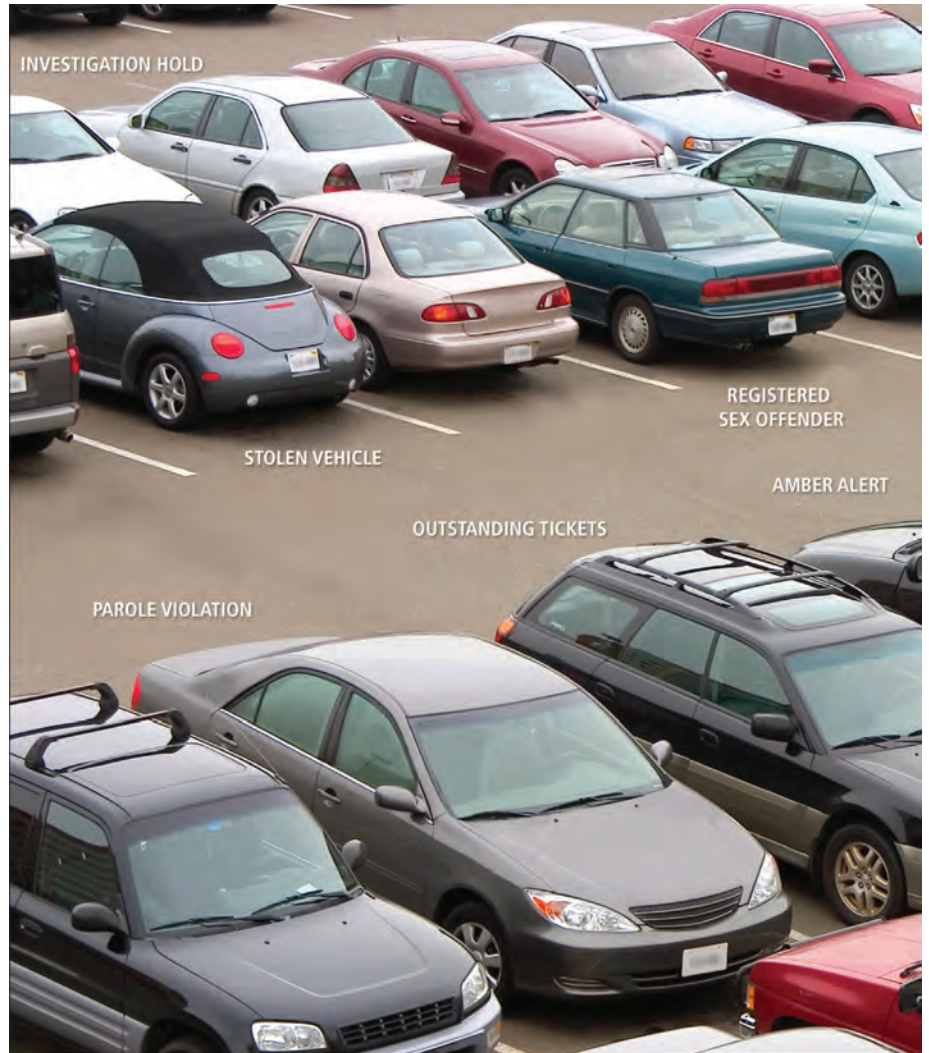
*Usually, it is only after the (accused) has established a reasonable expectation of privacy and the court is considering whether the search was an unreasonable intrusion on that right to privacy that there is a need to consider the reasonableness of the search and whether there has been police misconduct. Here, as the trial judge had correctly held that the gun had been abandoned, s. 8 wasn't*

*engaged and the trial judge wasn't obliged to consider the validity of the telewarrant or the legality of the police search.*

*Having regard to this conclusion, it is unnecessary for us to address the balance of the arguments put forward by amicus as they all relate to the legality of the search (e.g. whether the trial judge erred in holding there was no cognizable legal nexus between*

*the execution of the warrant and the seizure of the firearm and whether the validity of the ITO and therefore the search warrant would have had a bearing on the issues whether the police acted in good faith for the purpose of a s. 24(2) analysis)* (references omitted, paras. 8-10).

Steven's appeal was dismissed.



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## Crime scene re-enactment repetition of confession

Performing a crime scene reenactment wasn't a new jeopardy requiring a further opportunity to contact counsel, BC's highest court has ruled.

In *R. v. Evans*, 2012 BCCA 209, the accused, accompanied by his lawyer, turned himself in to Calgary police and was arrested for the strangulation murder of a Vancouver sex-trade worker but refused to say anything about it on the advice of counsel. He was flown to Vancouver, where the crime took place, driven to his lawyer's office and spoke in private for over an hour. Taken to the police lockup, he was then placed in an interview room. His lawyer attended and they spoke for 20 to 30 minutes.

A detective then interviewed Evans for about two hours. He described how he met the victim, killed her and attempted to hide her body. The detective suggested Evans perform a reenactment of the killing as a form of "catharsis," but not at the crime scene. Evans sought legal advice by telephone and was given privacy for that purpose. The detective then suggested they go to Evans' apartment to find a hooded shirt he said he had taken.

Evans looked for the shirt but was unable to find it. The detective then said they would go to the deceased's apartment – the crime scene – and videotaped Evans reenacting his meeting with her, the killing and his attempt to conceal the body. He was charged with second degree murder.

In BC Supreme Court Evans argued that his jeopardy changed when police decided to expand the investigation from a videotaped interview at the police station to a videotaped reenactment at the deceased's apartment. In his view, he sought legal advice in relation to the intended location of the reenactment being at a place other than the crime scene. Had he known the reenactment was to take place at the crime scene and not elsewhere, he would not have consented to doing it. This change in jeopardy, he contended, required police to re-advise him of his right to counsel and provide him with another opportunity to consult with a lawyer. The trial judge disagreed.

There was no new jeopardy. Evans had given a full confession to the crime and the reenactment was simply an extension of that confession. Thus,

there was no s. 10(b) Charter breach and the crime scene reenactment was admitted. A jury found Evans guilty of second-degree murder.

In the BC Court of Appeal Evans argued, among other grounds, that the trial judge erred in not finding a Charter breach and admitting the evidence of the reenactment. He opined that his jeopardy changed because he did not have an opportunity to obtain legal advice about the reenactment taking place at the crime scene.

Justice Low, speaking for the Court of Appeal, found the trial judge did not err:

*It seems to me that the re-enactment wasn't anything more than a repetition of the earlier confession with the (accused) pointing out where he and (the deceased) were during the events in the bedroom, as captured by the police re-enactment video. In this sense, the judge was correct in describing it as an extension of the earlier confession.*

*I am unable to find fault with the judge's reasoning and I would not give effect to the (accused's) argument. The (accused) knew he was facing a murder charge before the detective proposed the re-enactment and he knew the extent of his jeopardy had not changed when he agreed to go to the crime scene for the re-enactment. By then, he had received legal advice at least four times. He must have known that he could cease co-operating with the police investigation whenever he chose to do so.*

*None of the cases relied upon by the (accused) with respect to this argument make a point in his favour. They are clearly distinguishable. All involve situations where the police, in withholding information from the accused, materially affected the accused's understanding of the extent of his jeopardy...*

*Nothing of that sort occurred here. This is so whether (the detective) changed his mind about going to the crime scene or deliberately misled the (accused) as to what he intended. There was no breach of the (accused's) s. 10(b) rights as a result of the re-enactment's taking place at the crime scene rather than elsewhere (paras. 36-37).*

Evans appeal was dismissed and his murder conviction upheld.

## Detention requires more than hunch

by Mike Novakowski

Police must have more than a bare suspicion when detaining a suspect.

In *R. v. Bruyere*, 2012 ONCA 329, a police officer received information from a sergeant in charge of a drug investigation that a man named Hyatt had just bought drugs at a hotel and was couriering them back to Fort Frances.

The officer followed a vehicle occupied by two unidentified men as it left the hotel. Suspecting one of the occupants may be Hyatt, the officer instructed that the vehicle be pulled over as it travelled on the TransCanada Highway toward Fort Frances. Bruyere was driving and Hyatt, a passenger, was arrested. A search turned up cocaine.

At trial in the Ontario Court of Justice the judge found the officer did not have sufficient grounds to justify an investigative detention of the vehicle's occupants at the roadside. In the judge's view, the officer ordering the stop did not have reasonable grounds to suspect that Hyatt was in the vehicle since he had nothing more than a hunch.

The judge ruled Bruyere was arbitrarily detained at the roadside (a s. 9 Charter breach) and that the search leading to the discovery of the cocaine was unreasonable. The evidence, however, was admitted under s. 24(2). The judge found exigent circumstances existed which, in part, mitigated the unconstitutionality of the stop. Bruyere was convicted of three drug related offences.

Bruyere challenged the ruling before Ontario's top court, arguing the trial judge erred in not excluding the evidence after properly finding a Charter breach. The Crown argued, on the other hand, that the judge erred in finding a Charter violation in the first place but properly admitted the evidence in any event. In the Crown's submission, the sergeant in charge of the investigation had sufficient grounds to justify Bruyere's detention. The sergeant's reasonable suspicion (as opposed to the detaining officer's suspicion) rendered Bruyere's detention constitutional under s. 9.

The Ontario Court of Appeal concluded that neither officer had sufficient grounds to justify the detention.

"Whether one looks at (the officer's) grounds for detaining the vehicle, (the sergeant's) grounds for detaining the vehicle, or combines the two, the result is the same," said the court. "The stop was arbitrary in that there were no reasonable grounds to suspect that Hyatt was in the vehicle before the officers stopped the vehicle."

Thus, the evidence discovered in the search, which followed immediately after the identification and arrest of Hyatt, constituted evidence obtained in a manner that infringed Bruyere's rights under s. 9 of the Charter.

His appeal was allowed, his convictions quashed and a new trial ordered.

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## Lack of subjective suspicion fatal to detention's legality

A police officer must believe they have the grounds to detain, otherwise it is unlawful.

In *R. v. Dhillon*, 2012 BCCA 254, police were dispatched to a restaurant parking lot for a fight complaint involving a group of 12 South Asian males. Officers found several South Asian males in front of the restaurant and there was a BMW with its passenger door open parked at an angle to the linear parking stalls, suggesting someone might have left it in a hurry.

An officer informed the group he was investigating a complaint about a fight. The men said there was none and police saw no evidence one had taken place. The complaint was concluded as unfounded but an officer recognized an individual in the group from previous dealings and police intelligence as someone involved in violent criminal activity and associated with firearms. Suspicious that weapons might be present, he asked who owned the BMW. Dhillon came forward and, when asked if he had any identification, produced his driver's licence from the middle console of the vehicle.

The officer could see scissors and some rolling papers in the middle console. In his experience those items were typically associated with the use of marijuana but he did not see or smell any. The possibility of drugs in the vehicle again made the officer suspicious that there might be weapons in the vehicle.

Although he had not seen any drugs or weapons, he decided to search the trunk and found a Norico assault rifle (an AK-47 knock-off) covered in towels, with a 30-round magazine attached. Dhillon was arrested, handcuffed, patted-down and placed in the back of a police vehicle. About four minutes had elapsed between Dhillon identifying himself as the vehicle's owner and his arrest.

Shortly thereafter, two men associated with a criminal gang arrived. They were known to carry handguns, wear body armour and were previously involved in shootings. More backup was summoned and all the men were handcuffed and searched. Forty-five minutes later the officer advised Dhillon why he was arrested and told him about his right to counsel. He was provided access to a telephone about one hour later at the police station for the purpose of contacting legal counsel.

In BC Provincial Court the officer acknowledged that he did not have reasonable grounds to obtain a search warrant, nor to arrest or detain the accused for investigative purposes and therefore no authority to conduct a search for officer safety reasons.

The officer claimed he had consent, which was later determined not to be valid. However, the trial judge concluded that there were no Charter violations. She found Dhillon was lawfully detained pursuant to an investigative detention. The presence of drug paraphernalia in the vehicle, the manner in which the vehicle

was parked and the presence of a known violent offender in the group of males gave the officer both subjective and objective grounds to detain the group of men, including Dhillon, for investigation in relation to the fight complaint.

"It would be naive and unrealistic to expect that the police when investigating an assault would accept the word of a group of people there when they deny an assault ever took place, especially given the known violent person within the group," said the judge. "Up to the point where the accused is arrested, interference with his liberty was minimal, only to the extent required for the officers to do their duty in checking out a potential assault."

Since Dhillon was lawfully detained for investigative purposes, the search of his vehicle for officer and public safety reasons was reasonable as incidental to the investigative detention. As for the 45 minute delay in providing a reason for detention and advising of the right to retain and instruct counsel, it wasn't intentional but due to the volatility and potential danger of the situation. Even if Dhillon's rights were breached, the firearm would have been still admitted as evidence under s. 24(2).

Dhillon was convicted of four firearm offences; possessing a firearm without a licence, carrying a concealed weapon, being an occupant of a motor vehicle knowing there was a prohibited weapon and possessing a prohibited device.

In the BC Court of Appeal Dhillon argued that the trial judge erred in characterizing the search as incidental to an investigative detention. In his view, the officer did not subjectively believe he had reasonable grounds to detain him and therefore his detention was arbitrarily under s. 9 of the Charter. The vehicle search, he suggested, was also unlawful and breached s. 8 of the Charter, thus the firearm should have been excluded as evidence. The Crown, on the other hand, submitted that even if there was no lawful investigative detention, the search was still reasonable as a justifiable use of po-

lice powers in the exercise of their duties to preserve the peace, prevent crime and protect life and property.

### Detention

Justice Smith, authoring the court's judgment, described the test for detention this way:

*Detention for Charter purposes exists where there is "a suspension of the individual's liberty interest by a significant physical or psychological restraint." Psychological detention occurs where an individual "submits or acquiesces in the deprivation of liberty and reasonably believes that the choice to do otherwise does not exist." The determination of whether there has been detention is an objective test. Where there has been no physical restraint and no legal obligation to comply with a demand by a police officer, the question is whether "a reasonable person would conclude by reason of the state conduct that he or she had no choice but to comply" (references omitted, para. 30).*

A detention will not be arbitrary under s. 9 of the Charter if it is authorized by either statutory or common law. Under the common law, police may lawfully detain someone for an investigation if they have reasonable grounds to suspect the targeted individual is involved in criminal activity. Objectively reasonable suspicion is more than a hunch and includes both a subjective and an objective element. In addition to the requirement of a reasonable suspicion, the detention must also be reasonably necessary in order to justify the otherwise unreasonable interference with an individual's liberty.

In this case, the appeal court found there was no detention. The officer said he did not detain Dhillon nor was there any control exerted over him. Dhillon wasn't physically restrained or directed to go anywhere or do anything other than to step back away from the vehicle when it was being searched. Even if Dhillon could have been lawfully detained, that is not what the police did. They arrested him.

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“When the police have wrongfully arrested someone, their actions cannot be defended on the basis that they could have detained this person on some other basis,” said Justice Smith. “In deciding whether the police infringed Charter rights they are to be judged on what they did, not what they could have done.”

Moreover, the officer did not have reasonable grounds to detain, as the trial judge mistakenly found. The officer did not form a subjective belief that Dhillon had been or was involved in a fight and found nothing to support the complaint, which was concluded as unfounded. Nor did the officer claim to search the vehicle incidental to an investigative detention. Rather, he acknowledged he only had a bare suspicion that he might find drugs and/or weapons in the trunk of the vehicle, which did not rise to the level of reasonable grounds for detention.

“The law requires both a subjective and an objective basis for an investigative detention,” said the court. “Even if the trial judge’s finding that there was an objective basis for detention were accepted, the complete absence of a subjective basis in this case is fatal to the finding that there was a lawful investigative detention.”

#### Search

Investigative detention: In some cases a detained person may be searched. “Where there exist reasonable grounds to suspect that a detained individual is connected to a particular crime, officer or public safety concerns may justify a search incidental to that detention,

which will typically involve a pat-down search of the detained individual,” said Justice Smith.

“A lawful search incidental to an investigative detention requires ‘reasonable grounds’ (i.e., an objective basis) for concerns about officer and/or public safety and that the search be ‘reasonably necessary’ to ensure the preservation of the officer and/or public safety.”

However, since the officer’s concern that Dhillon might possess drugs and/or weapons did not rise to the level of reasonable suspicion, the search of the vehicle could not be justified as incidental to an investigative detention for officer and/or public safety reasons.

Waterfield doctrine: Authority to conduct the search on the basis that it was reasonably necessary for officer and public safety reasons based on the Waterfield doctrine was also rejected. The Crown had tried to argue that the officer had a duty to search the trunk to protect the public and officers present because of the nature of the suspected crimes and the potential for a high risk of violence.

“To date, no court has recognized a police power to search based on a standard lower than that of objectively reasonable suspicion,” noted Justice Smith. “While I am not persuaded that a free-standing power to search for officer safety reasons should be recognized, if such a power were to be recognized, in my view it would, at a minimum, require this level of objectively reasonable grounds.”

The officer admitted he had nothing more than a bare suspicion to support his concerns for officer and public safety and that the vehicle could have been secured until more officers arrived, which ran directly counter to the

argument that the search was necessary for public safety reasons. Thus, the search was neither objectively reasonable nor necessary, failing the second branch of the Waterfield doctrine:

*In short, while the Waterfield doctrine has developed a robust history in Canada, it has been limited by constitutional constraints and, in particular, by a requirement that police show an objectively reasonable basis for the exercise of any powers. This criterion is reflected in the second branch of the Waterfield doctrine, which requires that police conduct not involve an “unjustifiable use of police powers.”*

*Canadian courts, to date, have held the exercise of a common law police power is only justified where its use is objectively reasonable and necessary. Thus, even if the Waterfield doctrine could be found to support the use of police powers based on concerns about safety rather than concerns about the commission of specific criminal offences, in my view at the very least those safety concerns would have to be objectively reasonable before they could serve as a free-standing justification for the use of police search powers (para. 70).*

As a result of the Charter breaches, the firearm was excluded under *s. 24(2)*. The Charter-infringing conduct was serious and the impact on Dhillon’s Charter-protected interests was significant. His appeal was allowed, his convictions quashed and acquittals entered. There was no need to address Dhillon’s *s. 10* Charter arguments.

#### More of the Waterfield doctrine

The English Waterfield or ancillary powers doctrine is used to determine whether a police officer was acting lawfully at common law. The test has two branches:

- Whether the police conduct, which involved a prima facie unlawful interference with a person’s liberty, fall within the general scope of any duty imposed by statute or recognized at common law, such as preventing life or protecting property?
- Whether the conduct, albeit within the general scope of such a duty, involved an unjustifiable use of powers associated with the duty. The interference with liberty must be necessary for the carrying out of the particular police duty and must be reasonable, having regard to the nature of the liberty interfered with and the importance of the public purpose served by the interference.

Examples of its use:

- The power of investigative detention on the basis of a reasonable suspicion (*R. v. Mann*).
- The power to forcibly enter a private home to investigate a 911 call and provide assistance to the caller (*R. v. Godoy*).
- The power to detain people (by stopping the vehicle) based on the existence of reasonable grounds to believe there were handguns in a public place, which posed a genuine risk to public safety (*R. v. Clayton*).
- The power to use a sniffer-dog to search luggage on the basis of a “reasonable suspicion” standard (*R. v. Kang-Brown*).

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).

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## Internet Evidence Finder

JADsoftware Inc had developed the Internet Evidence Finder (IEF) a data recovery solution designed for digital forensics examiners/investigators. The software comes on a USB stick to plug into a laptop or computer station in a police forensic lab for analysis. The software searches the hard drive, live RAM, or files for Internet-related evidence, organizes the information and generates a report.



## The Alternative a Less Lethal Weapon

The Alternative is a less lethal weapon system, patented by Awater Ltd, designed to be carried on an officer's duty belt. It can be rapidly affixed to the muzzle of a service weapon while the officer continues to cover the threat. Upon deployment, the weapon is clear of the device and is returned to its normal lethality.



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## Private Hot Line Service

The Hot Line service by Alternative Answers (AAMCL) is guided by three basic principles: Security- Speed - Value. The service will gather Hot Line leads, log the critical information, and then forward all leads directly to the correct investigative personnel in a logical manner. Alternative Answers' trained and secure staff is ready to activate a Hot Line 24 hours a day.



## Wireless Headset/Intercom

Sena Bluetooth, a wireless headset/intercom maker has developed the Sena SMH10. It connects motorcycle riders via Bluetooth to their mobile phones, GPS, MP3, and to each other via intercom. The SR10 allows 2-way radio users on a select channel to connect to their 2-way radios using their Bluetooth headsets, which do not necessarily have to be a Sena headset.



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# DODGING BULLETS

Learning from near misses

A message of concern from the John Petropoulos Memorial Fund

Many first responders literally dodge bullets and live to work another day, but the bullets don't always come through gun barrels. Countless deadly near-miss situations put emergency responders in harm's way every day.

Police, firefighters, paramedics and tow-truck drivers working at motor vehicle collisions face dangers from the wreckage and passing traffic. At crash scenes, vehicles moving at a fast rate of speed become bullets that can prove fatal to first responders.

Similar perils can be found at the work sites where emergency responders are called. Although they're not considered as menacing as gunfire, workplace hazards can be just as deadly. Missing safety rails, blocked exits, poor lighting, improperly stored materials and false ceilings can provide more than enough ammo to put them in the hospital or worse.

When these hazards don't actually kill or injure people they are called near misses.

Unfortunately, the term "near miss" carries with it an implication of relief and luck but the reality is that a near miss shrugged off and not addressed simply means that the hazard missed this time. Given enough time and inattention, the luck of a near miss can turn rather quickly and just as easily kill the next person who encounters it.

That said, there is some great pro-active work being done to address near misses and improve first responder safety.

One recent example comes from Alberta's Lac Ste. Anne County, where firefighters are looking at implementing a

hazard checklist system after they encountered exploding propane tanks on rural properties. The system is a simple and inexpensive solution that asks property owners – on a voluntary basis – to provide a list of potential hazards first responders could face.

Another near miss involving a pretzel-selling street vendor highlighted the dangers that can emerge from an unusual and seemingly innocuous situation. A fire began in a street vending machine and when a firefighter applied water to it the flames exploded outward with surprising intensity. It was discovered the vendor had placed a gasoline can inside the cart and the water splashed it up into the propane fueled fire. That incident – and the reporting of it – prompted discussion and analysis of hazards emergency responders can encounter.

Seeing first responders report near-miss dangers and come up with ways of eliminating these hazards is encouraging, but they should not be acting alone.

Eliminating traffic and workplace hazards requires everyone's attention, including employees, employers, safety professionals, first responders, clients, contractors, drivers, etc. You can help by ditching the bullets you find.

Take a look around and ask yourself: what could go wrong here? Once you've identified those hazards, take steps to eliminate them.

Visit [jpmf.ca](http://jpmf.ca) for more information.

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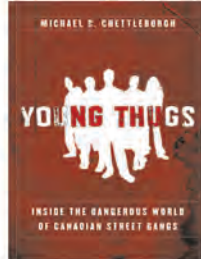

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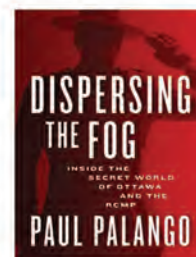
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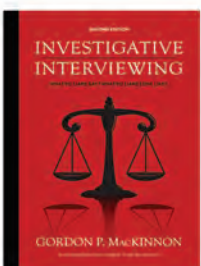
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