

Blue Line Magazine

September 1989



Canada's Independent national magazine produced by and for the law enforcement community

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Cover story:

IN THIS ISSUE

FEATURES:

Sanctuary for scum: Editorial - Andy Barrie	5
Letters to the Editor	5
The value of appropriate policing - Louise Dueck	6
Gun calls: the most demanding response - Robert Hotston	8
Calendar of Upcoming Events	12
Mounties get their women - Lois Dudgeon	13
Unsafe motor vehicles - Morley Lymburner	16
You asked for it! - Entrapment	20
I am not a racist...but - Mohammed Dawood	29
Book Reviews	32

NEWS:

California outlaws military-type weapons	11
Windsor's new chief faces challenging future	14
Ontario innkeepers must watch drinkers	18
Toronto cited as crack capital	18
Airliner siezed under drug law	18
Chase ends in \$1.4 million award	19
Ottawa considers "zero tolerance" drug laws	19
Transit security officer saves stabbing victim	19
England loses count of its guns	19
Winnipeg force praised in study	21
Holland introduces "Sniff Prints"	22
Man arrested in police magazine scam	22
Police diver symposium in Hamilton	22
Charter is challenged in minor traffic courts	33

CASE LAW:

Search warrant's date cannot be changed	11
Officer failed to give complete caution	11
Saskatchewan's roving vehicle stops offend Charter	23
"Intoxicant" may not be alcohol	24



Constable Perry Dewbury of the Kincardine Police Force displays the only method available to protect our school children.

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There is nothing wrong with keeping a calm voice and saying please and thank you. This stop is only one of thousands you will make in a career and you will remember little or nothing about it in the future. But the motorist will remember every detail. The motorist will also tell the story to many other people. The manner in which you stop that person will make the difference between the driver feeling that he made a mistake or feeling that he just found the meanest cop in town who just gives tickets out because he didn't get the toaster last month.

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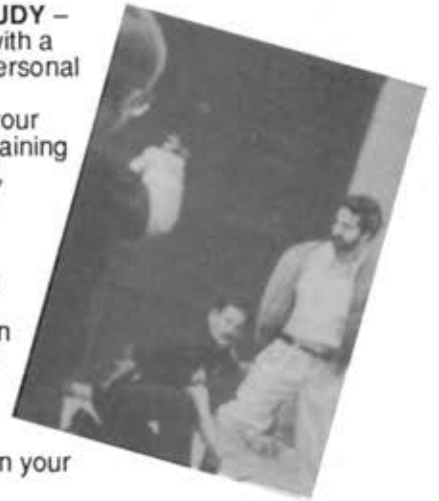
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Editorial

Sanctuary for scum

- Andy Barrie -

Accused rapist Fred Merrill's lawyer is now asking Canadian courts to lighten up on his client, something that's not likely to happen when Merrill returns to the States to face up to forty years in jail. If he ever returns to the States.

Here in Toronto, Mattn Abdul Muhalmin, a convicted killer who came here after escaping from a South Carolina jail two years ago, is hiring lawyers to delay his deportation.

The convicted terrorist and murderer Mahmoud Muhammad Issa Mohammad, who lied his way into Canada, is still here, two years after the then-Minister of Immigration promised to deport him.

And according to the Mountie investigating alleged mass murderer Charles Ng, Ng studied law books in Levenworth and learned that Canadian extradition

laws would make it next to impossible for the U.S. to get him back. He's been here for four years.

When a man accused of killing 13 people reads up on Canadian law the way you'd go to a travel agent, when Simon Waisenthal, the Nazi hunter refuses to come to Canada because he says we're doing so little to get rid of the criminals hiding out here, you have to wonder whether Canada's becoming a sanctuary for the scum of the earth.

Over the border in New York State, they're days away from restoring the death penalty. That means we're weeks away from a flood of Fred Merrills, Charles Ngs and Mahmoud Muhammads crossing the Rainbow Bridge to the promised land. We want to be a humane country, but we're being badly taken advantage of by some of the most inhuman people in the world.

...

Reprinted with permission of CFRB Radio and Andy Barrie from a broadcast on June 22nd, 1989.

Letters to the Editor

Although I am pleased that a member of our force, particularly a member of this Detachment is on the cover of the April 1989 issue of Blue Line magazine, I wish to point out that this picture does not depict our member in a "normal" working day, as indicated in the cover story.

"This month's cover shot of Provincial Constable Lori Ducharme typifies today's woman in policing. No longer looked upon for their strength by gender, the female officer of today is seen as a rank and file officer capable of day-to-day street work."

This member was a volunteer in a fund-raising campaign for the United Way. The particular event she was participating in is called the "dunk-a-cop" booth. The picture was taken during this event, held at Queen's park during lunch period.

To portray this member in this fashion, as if it were an "on-the-job" photo during normal duties, is unfair.

Provincial Constable Ducharme is a very professional police officer and pres-

ents herself in that manner. If a comment had been added to the cover story, explaining the activity during which the photograph was taken, it would have pictured her in a very much different light.

H.J. Lawrenson, S/Sgt.
Detachment Commander
Queen's Park Detachment
Toronto, Ontario

I had requested a photo for the front cover that would depict a female officer of the O.P.P. at work. The intent was not to cause Lori embarrassment. I do not think anyone seeing Lori would think this was a typical look for her. Our intent was to get the message across (I dare say we failed) that women today are assigned to doing the normal day-to-day work that their male counterparts are doing.

Be it writing tickets, taking statements, doing traffic control, catching criminals and maybe even sitting on dunking machines if their superiors feel this activity to be suitable to the image of the force. If I had chosen a photograph of anyone of these operations it would not give justice to a "nor-

Continued on page 31

**The Report of the
Race Relations and Policing Task Force - 1989**

The value of appropriate policing

- Louise Dueck -

This is the first of a two part series that summarizes the final report by the Ontario Task Force on Race Relations and Policing. Our feature writer has written a comprehensive review of this history-making document released last April.

Many things have occurred since the release of this report. The Metropolitan Toronto Police Commission, in a July meeting, endorsed seven parts of the report immediately: 1. Mandatory hiring and quick promotion of members of minority groups; 2. Allowing civilians and non-police officers to join the force at a rank above constable; 3. A plan to have the ethnic make-up of each police force across Ontario reflect that of the community it serves; 4. A commitment that religious dress does not automatically bar a person from police employment; 5. Mandatory hiring targets; 6. Improved race relations training; 7. A provincial team of police and civilians to investigate police shootings across the province and the laying of charges within 30 days.

There is no doubt that this document will affect every police officer in Canada. It is important that all officers have an understanding of its contents and rationale.

This recent report and its controversial recommendations has already received wide publicity, but it is an important document with direct bearing on the police profession. As such it deserves a closer look at the factors under consideration which led to those recommendations.

This report follows six previous ones dating back to 1975, and the Task Force looked at those earlier recommendations to see if they had been implemented and with what degree of success.

The mandate of the Task Force was broad: "To address the very serious concerns of visible minorities respecting the interaction of the police community with their own", as announced by the Honourable Joan Smith, former Solicitor General of Ontario; further, to inquire into and report on the training members of police forces currently receive as it relates to visible minorities; ways to improve this training and education; police

hiring practices and promotional processes, including the establishment of employment equity programs; ways to improve the interaction of the police with the visible minority communities through the establishment of liaison officers, committees, community education programs and race relations training; ways in which a monitoring system may be established to provide for a regular review of the interaction between visible minorities and the police; and finally, the policies and practices of the police relating to the use of force.

*Fact or myth? Although the news the public receives might seem to paint a picture of racism on the part of police officers, what is the truth of the matter? The Task Force took aim at a controversial issue.
Photos: Canada Wide*



The oath of office which all police officers swear (or affirm) states "that I will well and truly serve Her Majesty the Queen in the office of... without favour or affection, malice or ill will." This is viewed by the public as well as the profession as the ideal provision of service and a "prescription for tolerance and fairness." However, the presentations received by the Task Force revealed a perceived failure by police forces to meet that ideal while at the same time "expressing a belief in the value of policing appropriate to a democratic society."

While it may appear that the police have been singled out to be made scapegoats for the wider society's ills, it was recognized by Dr. Frances Henry in a recent address that "the current tension

between police and visible minorities is merely a metaphor for the race relations climate of our society generally."

A study by Dr. Joseph Fletcher, Centre of Criminology at the University of Toronto, released in January this year revealed "that racist attitudes are represented in police forces at least to the degree that they are present in society as a whole." This indicates that racist attitudes may be perceived to be higher among members of a force.

The report states that "The vital police function is often fulfilled in circumstances which are difficult and charged with emotion... The issue is not that the police are worse than the rest of us. The issue is that what is the worst in all of us is capable of being revealed, with serious

consequences, when tested in a policing circumstance.

"The police must therefore bear the brunt of criticism... They must be a model to us all." The Task Force members state their belief that police are ready to accept this as a challenge, "a demand on their tradition of public service which recognizes the capacity of the police to help society fulfill its ideal of fairness and justice."

The challenge involves sustaining and improving policing while eliminating alienation of visible minority communities. To this end the assistance of the community is needed. The Task Force found that visible minority communities want the law enforced and want to participate with the police in preventing crime.

The Task Force also found public support for a high quality of policing, that good officers and good forces are prized. The critical issue as seen by the Task Force is not that of support; rather it is whether the police are, and are perceived to be, providing service to all residents of the province with the fairness necessary for effective policing.

In conclusion, the Task Force presented its report "in acknowledgement of the high quality of the Ontario Police Service and in a desire to prevent the deterioration of that service through loss of public confidence."

Monitoring

The Task Force found that many of the recommendations put forth by previous reports for improving police and minority relations have never been implemented. This led to a public perception that little change has resulted and that the system is unable to deal with race relations problems. There was also no public account, and thus a cyclical pattern re-emerged of the same issues with each new crisis or report.

This is the basis for their recommendations in this section (No. 1-5). They recommend a comprehensive plan of tangible, measurable and observable deeds. The notable recommendations in this section are:

Continued on Page 15



Handling Gun Calls

The most demanding response

- Robert C. Hotston -

Shortly before 4:00 PM on July 14, 1984, James Huberty entered a MacDonald's Restaurant in San Ysidro, California, a suburb of San Diego. He was armed with a 9mm semi-automatic version of an UZI submachine gun, a Browning "High-Power" 9mm semi-automatic pistol, and a .12 gauge pump shotgun. There were approximately 50 people in the restaurant, including customers and staff. Huberty entered and ordered everyone to get down on the floor. He then immediately began shooting people. He walked up and down the aisles shooting people, furniture and light fixtures, and then began shooting at San Diego police officers as they arrived at the scene.

Huberty continued to shoot people in the restaurant for approximately a half hour, firing 245 9mm rounds and 12 shotgun blasts. Some of the rounds he carried were capable of piercing an 18 layer bulletproof vest. A little over an hour after he had entered the MacDonald's, Huberty lay dead, shot once through the chest by a San Diego Police SWAT sniper. Huberty left 21 persons dead and another 17 wounded, making this the worst mass murder in United States history.

By luck and design Canadian society has managed to avoid the development of the gun culture so prevalent in the United States, a culture which led to the deaths of 8,092 persons by handguns alone in 1985. Yet firearms in the hands of offenders do confront Canadian police officers. During one weekend in February of this year two police officers from small town Ontario police forces were confronted by shotgun-wielding males, as they responded to "gun calls." The weapons were discharged in both incidents, one officer suffered non-lethal wounds, the second was saved from injury by his soft body armour.

The police officer with an appreciation for the "rules" of safety knows that any call or contact can be life-threatening. He or she also realizes that certain incidents call for even more caution, recognizing the radio broadcast of a "gun call" as a challenge demanding the use of everything he or she has learned about staying alive.

Police trainers often point out that even a situation that did not involve a gun initially, does so as soon as the police arrive. At that point, a police officer's firearm becomes a potential danger should he or she become disarmed in a struggle.

Hazardous police calls

There are certain circumstances that are especially dangerous for police. The discovered or interrupted crime, such as an armed robbery in progress, is one. In 1987, an RCMP Special Constable assigned to an airport detachment was gunned down as he investigated the occupant of a vehicle who had failed to pay for a gasoline purchase.

Domestic disputes present an additional threat to officer safety. The presence of firearms when emotions run high can spell tragedy, as two RCMP officers discovered when they were shot to death

*The one call where all the training pays off. Lessons learned in each incident increase the officer's skill in controlling the next one.
Photo: Canada Wide*



in Sundbury, New Brunswick in 1978.

Emotionally disturbed persons also pose a threat to officer safety. An unstable mental condition can make a person highly unpredictable. An unstable person who was unarmed the last nine times he was encountered may have a gun the tenth time. Potential suicides may present a danger to those who are trying to save them. Intent on death, but unable to kill themselves, some suicidal persons have fired on police, hoping to be killed by the return gunfire. This is the so-called "suicide by cop" syndrome.

Fortunately, the police officer can apply specific techniques and tactics to increase his or her chances of safely handling a gun call. A police officer's

personal safety program begins with recruit training and continues with in-service training. Perhaps the most important preparation, however, comes through the experience the officer has acquired over time. By making mental notes of what did or didn't work in the past, the officer can make better preparation for the future. Mental preparation for facing danger is vital. Officers with a positive survival attitude realize their personal limitations and act accordingly, expecting that their training, physical conditioning and intelligence will enable them to defeat an adversary.

The officer answering the gun call or responding to any armed confrontation should begin gathering facts as soon as

the call is received, continuing until the situation is resolved. Although he or she may be forced into immediate action upon arrival, there is usually time to gather information before confronting the gunman directly.

Witnesses, victims, fellow officers and the police agency's records can provide answers to such questions as:

- Who is the armed person?

- What is the apparent cause of the incident? An interrupted crime? Domestic dispute?

- Is the situation what it appears to be? Could the police be dealing with a youth in possession of an imitation firearm?

- What is the location? A residential neighbourhood? A highrise apartment? Tactics will vary with each.

- How many persons are involved? Do the police know where they're located?

Planning a response

Planning a response to the gun call should begin as soon as it is received. The officer should begin planning about how to deal with the specific confrontation in question, by attempting to answer still more questions. These range from how the scene would be approached to what weapons may be required to deal with the incident. Other questions will present themselves, as each situation is different. Planning, like information gathering, is a never ending process.

The on-scene officer must also assess the threat level of the incident and select an appropriate course of action ranging from immediate confrontation to containment and negotiation. These options may be limited by the human and material resources of specialists such as special response teams and negotiators. An officer from a small force conversely might find that he and his backup must perform these roles. Regardless, the assessment of the situation **MUST** be continuous, as the danger level of the incident may change as the factors involved change (i.e. the offender becomes calm or agitated, a hostage escapes, police establish negotiations, etc.)

Continued on Page 27



New Police Titles from Carswell

Police Interrogation

Seumas Woods

Improper interrogation of an accused can turn into a legal loophole for a suspect to slip through. This new work gives police and officers solid examples of how to avoid these loopholes and implement effective interrogation techniques.

The author presents a complete examination of the law and practice relating to interrogation as it concerns police officers. A variety of interrogation techniques are examined, including:

- The "you did nothing wrong" approach
- The "speak now or regret it later" approach
- Ego manipulation
- "Tricks"
- How to identify suspects most likely to confess

In addition the author draws upon sociological studies and psychological writings as well as the effect of the Charter.

L459-33921 September 1989 approx. 300 pp.
softcover \$24.00

Police Officer's Manual, 11th Edition

Gary P. Rodrigues

Canada's criminal law arranged in dictionary form. Includes statements of offences, forms of charges and outlines of evidence. This new edition provides the section numbers of the new Revised Statutes of Canada 1985 and the old numbers they replace plus a Table of Concordance in the Appendix.

L459-37560 April 1989 834 pp. softcover \$19.95

Pocket Criminal Code 1989

This 1989 edition incorporates all renumbering and changes to the Code brought about by the Revised Statutes of Canada 1985. Plus all amendments to the Criminal Code enacted in 1988. Features include a Table of Concordance with both the old and new section numbers of the Criminal Code and a detailed Table of Contents that clearly indicates the subject matter of each new Criminal Code section.

L459-32791 December 1989 770 pp.
softcover (4½" x 7") \$13.95

Snow's Annotated Criminal Code 1989 Bound Edition

D.R.H. Heather, Editor

Provides the complete text of the Criminal Code, *Narcotic Control Act*, *Food and Drugs Act* and related federal statutes. Annotated with over 3,000 case references. Statute parts and sections are renumbered according to the Revised Statutes of Canada 1985 and its supplements. Contains suggested wording of charges for Criminal Code offences.

L459-33141 April 1989 932 pp.
hardcover Special Police Price: \$21.00

The Law of Traffic Offences

Scott C. Hutchison and John G. Marko

A current survey of the law relating to Ontario traffic offences and the procedural law applying to their prosecution and defence. Separate chapters examine procedure in traffic cases; speeding; careless driving; common offences and defences; Ontario's demerit point system; and sentencing. A chart sets out the progress of a provincial offence from laying of a charge to final appeal.

L459-33061 May 1989 338 pp.
softcover \$24.95

Ontario Provincial Offences 1990

Prepared by Patrick Quinn

Ontario Provincial Offences is a convenient, pocket-size reference to Ontario's most commonly enforced statutes. This up-to-date new edition provides the proper wording for designating each charge under 33 Ontario statutes, including: *Provincial Offences Act*; *Highway Traffic Act*; *Compulsory Automobile Insurance Act*; *Motorized Snow Vehicle Act*; *Dangerous Goods Transportation Act* and more. New statutes include the *Liquor Licence Act*, the *Truck Transportation Act* and the *Game and Fish Act*.

L459-33801 August 1989 approx. 1100 pp.
softcover \$19.95

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CASE LAW:
Search warrants

Warrant's date can not be changed

(Regina Vs. Jamieson) Nova Scotia

The Nova Scotia Court of Appeal recently dismissed a charge of trafficking because the face of the search warrant had been amended by the Justice to read a different day and date from when it was originally sworn.

Evidence revealed that the officer attended on December 10th, 1985 before a Justice of the Peace and swore out a search warrant that indicated a quantity of drugs would be located at an address on Wednesday the 11th of December, 1985. The search warrant was never executed; the officer returned and indicated that the information was in error and that the drugs would be at the residence on Friday the 13th of December.

Instead of having the officer swear to the new information the JP simply changed the day and date to the appropriate date and returned it to the officer. The warrant was executed and a quantity of drugs obtained and the charges laid.

The Nova Scotia Appeal court justice, Angus MacDonald, finally ruled the warrant was not legal and that the drugs obtained were not admissible. In summation the judge stated that the statute "speaks in the present tense and requires a belief that the narcotic is in the house that is the subject of the search." Therefore the officer should have returned to a JP and had a new search warrant sworn for the date concerned.

CASE LAW:
Caution prior to statement

Officer failed to give complete caution

(Regina Vs. Campbell) P.E.I.

A Supreme Court justice in Prince Edward Island has refused to admit a statement into evidence after hearing the officer failed to advise the accused of his right to remain silent. The ruling mirrors similar judgements in the United States under the well known "Miranda" cases.

The case involved the arrest of a man for trafficking in a controlled drug under the Food and Drug Act. The arresting officer advised the suspect that anything he said can be used against him in court. However the officer failed to advise the accused that he had a right to remain silent.

The Supreme Court relied on previous case law on similar matters and determined that a further problem arose as there was no evidence that the accused understood what was said to him. In previous cases it was determined that although the right to remain silent is not specifically spelled out in the Charter of Rights it is understood in Charter section 7. ("Everyone has the right to life, liberty and security of the person and the right

not to be deprived thereof except in accordance with the principles of fundamental justice.")

Previously the courts in Canada, unlike those in the U.S., have not excluded evidence automatically when the caution has not been given. A breach of this rule was simply something for judges to consider on the voluntariness of a statement's admissibility. It being one of the Judge's Rules imported from Britain in 1912, the P.E.I. Justice determined that it has become a principle of fundamental justice in this country.

Consequently, the court decided that evidence brought out as a result of this breach should be excluded. Application has been made to appeal this decision to the Supreme Court of Canada. It is case law that is quite strong however and officers are advised to give the caution completely before taking statements. It would be further advised to make note of a person's response after giving the caution to remain silent to ensure that he fully understands it.

California outlaws contentious military type weapons

California has become the first American state to outlaw all military style guns in a controversial bill passed by the government in May. The new law prohibits import, manufacture, sale or possession without special permit of more than 50 types of weapons.

People of that state in possession of such weapons have until January to register the weapons with police or face seizure and a fine if treated as a misdemeanour. It means automatic jail if charges are proceeded with as a felony.

Police forces in areas such as San Diego, Los Angeles, and Stockton have strongly backed the legislation after each city faced wholesale slaughter of its citizens in recent violence. San Diego's infamous McDonald's slayings and the recent killings in a Stockton school yard raised the public's awareness of the awesome damage that these weapons can cause. Up to now, however, there has been little police could do to take these weapons off the streets.

In a recent interview California Governor George Deukmejian stated: "In the face of such firepower, our state's officers need all the help that we can give them."

The National Rifle Association has called the bill a fraud that will affect only law abiding citizens. The president of the NRA has stated that they will challenge the bill in court. Throughout the battle to get the bill passed the NRA put up a vigorous campaign in the media to defeat the bill.

10-20

We are attempting to locate the following subscribers. They have moved or given us incomplete addresses and we are saving their copies until we find them. Any one having any information about their whereabouts just fill us in on the return mail card.

Scott Buckley - Pickering
Robert Samuels - Toronto

Calendar of Upcoming Events

September 10 - 11

A Police Officer Survival Tactics (P.O.S.T.) Seminar will be held in Brandon, Manitoba.

Contact Marc Alain at (204) 725-2345 for further details.

September 10 - 15

The National Association of Police Planners (NAPP) will be holding their training conference in Toronto, Ontario, at the Downtown Holiday Inn.

Contact Sam Fairclough at (416) 324-6295 or Ed Robertson at (416) 965-2542. Commercial display booths contact Eric Jolliffe (416) 773-1221 ex.278.

September 10 - 15

The 84th Annual Conference, Canadian Association of Chiefs of Police.

To be held in Hamilton, Ontario.
For details call (416) 522-4925.

September 25 - 28

IPEC '89, International Police Exhibition and Conference, Barbican Centre, London, England

Contact Communication House, London, England 01-446 8211

September 25 - 30

"Communicating Beyond Words" is this year's theme for the International Association of Women Police to be held in San Jose, California.

For further information contact Region 11 rep, Joanne Tawton (705) 728-5588 or write c/o Barrie Police Force, Box 188, 65 Vespra Street, Barrie, Ontario L4M 4T2.

October 21 - 27

Community Policing Symposium will be held in Victoria, British Columbia. This symposium will explore a better understanding of community policing and methods of implementation.
Contact Gail Walker (604) 381-5822.

November 11 - 14

The annual conference of the Association of Police Planning and Research Officers International (APPRO) will be held in Scottsdale, Arizona. Among the many scheduled speakers will be Chief William Snowden of Victoria, B.C.

For further information contact Marcia Simmons, Scottsdale Police Dept., 9065 E. Via Linda, Scottsdale, Arizona 85258 or phone her at (602) 391-5093

November 22 - 25

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

September 14 - 15

Police Diver Symposium, Canada Centre for Inland Waters, Burlington, Ontario

Contact Rick Rozoski or Cam Rumpel (416) 574-6044

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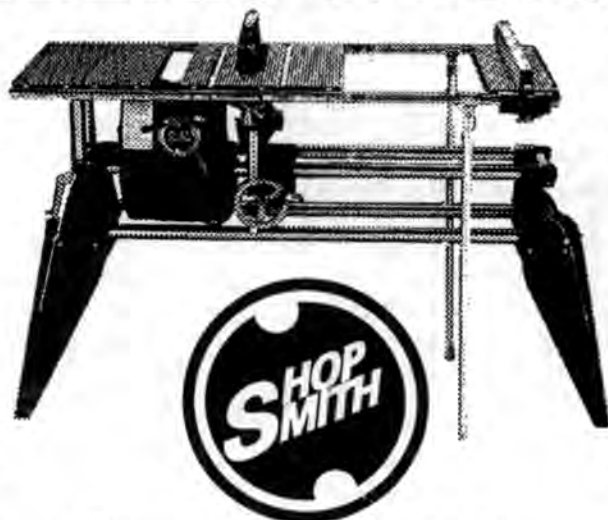
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Do you serve the Queen or her subjects?

Recently a new member of a police commission in this country refused to swear an oath of office that included any reference to Her Majesty the Queen. So to appease her trendy desires to be popular and individualistic she was permitted to delete all references to the monarchy.

Canadian Charter of Rights and Freedoms

1. Guarantee of Rights and Freedoms

"The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."

This part of the Constitution Act, 1982, sets out a Canadian Charter of Rights and Freedoms that establishes for all Canadians protection of certain basic rights and freedoms essential to maintaining our free and democratic society and a united country.

At the same time, in a democratic society rights cannot be absolute; they must be qualified in order to protect the rights of others. For example, freedom of speech must be qualified by libel and slander laws.

Each Province and the Federal Government has the right to make laws that conflict with the Charter. Any such law, however, expires after five years unless renewed, so that legislators rather than judges have the final say on important public policy.

In responding to the uproar within the community she stated that, "the focus of the commission is not to serve the Queen but to serve and protect Canadians." A few days later she waffled on this a little and stated she deleted reference to the Queen because for her to swear to protect Her Majesty's subjects would exclude some residents and visitors.

This "commissioner", who is also a lawyer, is in dire need of a history lesson or two. Police officers are sworn to serve Her Majesty the Queen so as to keep them above nitty gritty politics. In theory it is to keep them from becoming political pawns. It is for this reason we do not elect judges, sheriffs, and police chiefs. It means that governments can fall out of grace, be toppled by the people and worry about their futures. Meanwhile the judiciary, police forces, and police commissioners will continue to deliver the essential services they render without regard to the present or future government's status.

The Queen is duty bound to defend her subjects' rights against all possible encroachments. The queen, either in reality or in theory, has the right to keep governments from becoming too oppressive to her subjects. To this end she has enlisted the loyalty of an army and police forces that say in their oath of office that they will serve her in this noble cause.

So in reality to serve Her Majesty is to serve her subjects. To say that all police forces should serve the citizens of the country is to say that they will be reduced to common politics and populist ideals that may not be in the best interest

of the country as a whole. The only way to get around this lack of continuity is to copy the American experience and fragment jurisdictions so that if there is a lack of protection it can be kept to a small group or area and minimize damage. This fragmentation makes it very easy to be abused by a local political or private interest.

Canada was founded more on fear of the American system than on the need for a country. Canada did not become a reality until almost a hundred years after the American revolution. We fought a war with them and kept our country out of their hands while we were never politically united. However, we were united under the monarchy. The Americans thought they were going to take over four individual colonies in 1812. They found out they were wrong. They found they had to contend with a stubborn population inspired through loyalty to a head of state that could not be toppled on a populist whim.

Many of our ancestors fought in that war. Today many citizens of this country are entitled to bear the letters U.E. after their names because of their ancestors' belief in a united Empire based on the constitutional monarchy system of government. To take an oath to serve the monarchy is to keep faith with that heritage that has made us a unique entity in the world. Neither American, British or French.

It has been said that people who forget their history are bound to make the same mistakes. This commissioner can not serve two masters. Political and Monarchy. There has to be some continuity. Individuals must compromise their personal feelings to some degree for the common good. Our whole social fabric counts on it. This new commissioner will have plenty of time to make political statements when she gets into that arena. But for the present she should buckle down to the work at hand. Serve Her Majesty the Queen as a loyal subject and have the courage to say so. If this does not support her personal aspirations then at least it shows respect for those of us who have taken the oath and those of us who believe in it.

Morley Lyburner (U.E.)

New Chief enthusiastic about challenging future

- Al Porter -

Windsor's new Chief of Police, James Adkin, sees the future as holding many challenges and changes as he leads the 450 member force into the 90s.

Jim Adkin, 46, joined the department as a cadet in 1961 and this past November was appointed to his new position. He says his long-term goal is a plan to facilitate a "combining of police and civilians working together with the latest technology, making people safer."

One of the first steps in the implementation of this scheme was the beginning of an experiment in community-based policing in one of the city's high crime neighbourhoods. (See story in Blue Line's May issue)

He sees this type of policing as more than just a public relations attempt. Calls for service remain the mainstay of police work and as Adkin sees it, "if calls for service in the designated area decrease, then we're winning."

He expresses caution about devoting the entire resources of the Force to this form of policing and doesn't want "to throw manpower into something where it is not being used."

He says future projects of this type will be examined closely as to their necessity. "We might find we have to use different deployment tactics, more efficient, to concentrate on the needs."

The second part of Adkin's long-range plan is also being implemented. At present, department members are working to automate the entire records keeping capability of the force.

Adkin compares his force's requirements with that of a medium sized business. "Industry did it years ago for profit making. Police forces are notorious for running a little bit behind."

The Windsor force received authori-

zation to automate all their records in September and Adkin expects that this will be accomplished before the end of the current year.

Future plans also call for the department to implement a computer-aided dispatch center and mobile computer terminals in the individual police units.

As with any police force, Windsor is often concerned with financing for equipment. The budget must be approved by local politicians who oversee spending on behalf of taxpayers. "It's not sexy to put money into the police force, but it has to be done from time to time," Adkin says.

Adkin comments on numerous proposals concerning river front development which are being widely discussed in the city. While funding for the police might not be as glamorous as talk of renovating an aging community center or erecting downtown skyscrapers to attract tourists, Adkin says, "one of the things you have to have - you have to have safe streets." Otherwise he says, "The city might find itself stuck with facilities people won't use."

He intends to push for modernization throughout the department to keep abreast of what he sees as an inevitable expansion of the city and the requirements of his department. He says "I feel strongly, in order to do the job efficiently, you have to have things in place."

Adkin says he is also studying strategies to assist the department in equipment acquisition. He says that too often in the past, administrators have looked at new equipment and have judged it to be of use to their departments but have shied away when the price was revealed. He says such ideas are often self-defeating, "You can pay now or pay later."

Adkin expects a population explosion to occur in his area in the near future, and he also foresees the city increasing in size. He describes new Windsor mayor John Millson as "very enthusiastic", and says "If he can't do it, no one can."

Adkin says he has made it known to the members of his department that he expects a team effort from them. "People in positions must do the job they're expected to do," if his plans are to be brought to fruition.

A surplus in the pension fund of the Windsor officers has recently surfaced and many of them have found that prior service with any branch of government, municipal, provincial, or federal, has been purchased for them. This will allow almost 80 employees to retire earlier than expected.

Adkin says several senior administrative officers will be able to retire early and this will provide him "with a much younger administration."

Adkin also sees the media as an asset to be used to increase community interest and awareness of the job their police force is doing. He says he often wondered in the past why police were so guarded with "non-critical" information for the media.

He encourages his officers to make the media aware of happenings and to promote a better working relationship with members of the press. He is also, by example, encouraging a better working relationship among members of the department.

One long-time officer tells of recently being summoned to Adkin's office via radio. The officer went through several bad moments as he tried to recall what he had done that was serious enough to warrant such a summons.

The officer's fears were put to rest when Adkin presented him with his certificate for completion of a course at the Ontario Police College and congratulated him on his high standing on the course.

He says that in the past such certificates were anonymously placed in the officers' mailboxes. "What a difference. It made me feel that maybe I was important."

Task Force reports

Continued from Page 7

- That the Government of Ontario create an agency to be known as the Ontario Race Relations and Policing Review Board;

- That all police institutions and police governing authorities be required to prepare action plans in response to the recommendations and to submit those plans to the Review Board;

- The Review Board's role will be to assess and facilitate implementation of these general action plans as well as to provide knowledge and expertise and assistance in formulating clear and measurable objectives. In addition, the Task Force is proposing that the Review Board be given the power to approve and establish employment equity plans.

Hiring and promotion

The Task Force found that, between 1981 and 1986, only 35% of immigrants came from Europe or the U.S. The remainder have come from Asia, Africa, Latin America and the Caribbean. We are living in a new society where 9% of Ontario's population consists of visible minorities (20% in Toronto).

The Task Force considered how well the hiring practices and promotional processes of Ontario police forces reflect this population. From a survey of 99 police forces employing 18,283 police officers it was found that only 22 of these employ 346 visible minority officers, less than 2%. In 1988, only 12 of 64 forces hiring selected visible minority officers. And only 6 of the 99 forces have a written policy on this issue.

The Task Force rejects the view of police representation that claims employment equity results in "lowering standards". It maintains that employment equity programs are not responsible for the promotion of incompetents.

Special measures envisioned for employment equity programs include early identification of talented and promotable people, counselling about available opportunities and additional training to prepare candidates for a position.

"An employment equity program must be founded on a clear statement of executive support followed by the appointment of senior management who are given sufficient resources and then held accountable for a structured implementation", the Task Force says. This forms the basis for Recommendation #6,

which is called for by regulation from the Solicitor General, together with a five-year program of hiring and promotional goals beginning December, 1989.

The Task Force believes also that special measures are necessary to achieve and impact on the hierarchical distribution of members of visible minorities.

Because visible minorities are at present too few in number and inadequate in rank, the Task Force proposes lateral entry from other Ontario forces and of non-police personnel. Such persons from other professions such as law, teaching or social work could bring much-needed skills into policing. Recommendation #7 calls for developing mechanisms by which this can be accomplished.

The Task Force also recommends more staffing with civilians in positions not requiring sworn peace officers and the establishment of a Central Police Recruiting Unit to develop bias-free recruitment, testing and selection instruments and processes.

This section concludes with Recommendation #12 that police forces which perform well in developing and managing multi-racial forces ought to be celebrated and recognized.

Use of force

"Police work has become an intellectual pursuit. The best weapon we have isn't the gun. It's the mind. If you do your homework and have your facts in line, you'll have a much safer arrest situation" states Livi Baccaccio, F.B.I. National Academy, Virginia.

Citizens invest police officers with extensive powers to carry out their work, including the authority to use deadly force in certain circumstances. Those powers are based on trust.

However, when authority to use force against other citizens exists, so does the potential for abuse. Therefore trust must be balanced by accountability, the Task Force Report states. While resorting to force is a very small part of policing, improperly used force may have a disproportionate impact on visible minorities.

Part of the problem, the report goes on, is in the Police Act itself. There is not a discernable distinction between the threat of death and that of "grievous bodily injury" to an officer under pressure. The Task Force says the law must provide direction to officers in highly charged situations which strike an appropriate balance between the state's interest in apprehending suspects and the preservation of individual life. "Police use

of force is a paramount social issue and must be uniformly regulated. Therefore the Task Force recommends amending section 25(4) of the Criminal Code.

Tactical training

The Task Force found that too much emphasis at present is placed on the final stage of conflict, the use of a gun, and says there should also be training on restraint and the alternate levels of force available at earlier stages of a confrontation.

Recommendation #27 calls for more time to be spent on tactical training for recruits which is examinable, and that an officer's on-duty performance in tactical manoeuvres be monitored and be a factor in performance appraisal and promotional opportunities.

Several further recommendations deal with training in marksmanship and decision-making surrounding firing a firearm. Recommendation #32 calls for annual requalification by the Ontario Police College in the use of firearms by amendment to the Ontario Police Act. No recommendation is made with respect to choice of ammunition, but the report calls for random spot checks of ammunition to ensure only authorized ammunition is being carried.

Post shooting investigation

"When a police shooting results in a fatality, an investigation into the incident is critical to ensure that the law and policy on the use of deadly force is not only complied with, but so seen by the public..." reads the Report.

The Task Force believes that police internal investigations no longer satisfy the public demand for impartiality. It reviewed various alternatives, including the suggestion that police shootings be reviewed by a body composed entirely of civilians and a suggestion that a civilian be assigned by the Policing Services Division who would assemble a team drawn from homicide departments of various forces.

The Task Force concluded that a new system should be found incorporating elements from both of these suggestions, and the findings would be conveyed to the public when warranted. The team would decide if charges would need to be laid and, if so, would be required to lay them within 30 days.

NEXT MONTH: Part 2 Race relations training, Community relations, Police and the Community, and Police race and ethnic training.

Unsafe motor vehicles

- Morley Lymburner -

No matter where you go in this country you will find that the charge of "unsafe motor vehicle" is one of judgement. It is nice if we have a hard rule to follow so we don't have to think, but when it comes to this offence we have to use our noodle a bit.

When you stop a motor vehicle that does not have a functioning windshield wiper, for example, it will not be a hazard unless it is raining. For the sake of argument we will say that it is raining. You now have three options to consider. Firstly if you should order it removed from the road, secondly whether a charge is required, and thirdly whether you should remove the plates.

Option number one

You have no control over the first option. You must, for the safety of the public, order the vehicle removed from the road. A driver not being able to see out his windshield is a hazard and a real danger to the public.

Option number two

The second option is whether to lay a charge. You have the right to lay a charge but, under Ontario law, there is no specific charge for failure to have a wiper. (You don't even have to have a windshield or a speedometer unless it's a school bus) What the driver was doing was certainly a hazard to the public. You could lay a charge of operating an unsafe motor vehicle under those circumstances. But remember you have to demonstrate the hazard to the court. You have to explain what your concern was.

Never forget your discretion in such matters. Would a caution be just as effective as the summons? Would it be more prudent to send the vehicle for a mechanical inspection? (Maybe both) You

do not have to lay a charge to order a vehicle off the highway. That discretion is yours.

Option number three

The third action that could be taken (and remember you could take any one or all three) is to remove the plates. This is an act that is rather final for the motorist. You have now introduced him to the sidewalk and the local transit system perhaps for the first time. It could be quite a shock to his system and he may scream.

If one considers, however, the prospect of the rain continuing and the importance of the need for a windshield wiper you now should be able to determine if the plates should be removed. If you are policing the Queen Charlotte Islands in B.C. this could be a hazard. If you are patrolling Medicine Hat in July it might not be.

What to look for

With these thoughts under your belt let's take a look at "Bud-the-Spud" driving his "Goin-down-the-Road" special. You are not a mechanic nor are you expected to be. You are just expected to think of the safety of the public in general. You find a car that has a missing muffler, one headlight out, and no speedometer. Which are hazardous?

The muffler is certainly the main problem. Not only for disturbing and startling the public but also for carbon monoxide in the passenger compartment. Finding the other two defects is certainly an excellent indication that the vehicle is suffering from neglect. Your concern as a police officer is with the public. If you, as a layman, can find three defects, what would a mechanic find? Your immediate action should be to have

the vehicle inspected. Issue notices to the driver to have the minor defects repaired as well as a notice for inspection.

Removing the plates

Taking the action of removing the licence plates should be reserved for the vehicles that should not make it safely to the inspection site, or the junk yard. They are in such a state of disrepair as to cause concern for safety. In other words if this thing gets into an accident and someone gets killed, do I want MY notice for a mechanical inspection in the driver's pocket? Do I want to explain to a coroner's jury why?

Unsafe motor vehicles are not that uncommon. It is a common belief that it is easier to find in cities with large numbers of cars. However officers in more rural areas should be concerned about "old George" driving his "bailing wire Buick" into town. Familiarity can cause some officers problems when dealing with "Old George" but the safety of the public should be considered first. Removing plates is not as traumatic as it may sound. The people driving these junkers knew this day was coming and merely pointing out to the motorist what a danger to the public the vehicle is usually cuts off any argument. The owner will no doubt know about more defects than you found.

During my time in traffic duties I have removed the plates from several hundred vehicles. From cars to tractor trailers. I have never had an argument from the drivers.

Items to inspect

When stopping a motor vehicle check the outside metal for holes and rust perforations. Check the area of the driver's floor. This is a common area for older cars to rust through. The hazards with perforations is to the driver with exhaust fumes and pedestrians being struck by loose metal.

Inspect the windshield for cracks that weaken the integrity of the glass structure. Check tires for condition and tread depth. If half or more of the tires are defective you should seriously consider ordering the vehicle from the road. While checking the wheels make sure all the wheel lugs are in place and that they are tight.

Other things include headlights, tail lights, signal lights and clearance lights if

applicable. Check if the emergency brake holds the car in place when you put the car in "Drive". Depress the brake pedal. Does the travel go almost to the floor on one hard depression? Put the car in drive. Does the brake pedal appear to fall away? Is the gear shift too loose? Check the seats for loose springs or loose floor bolts. Does the car have a horn? Can you smell exhaust fumes?

What to do next

What action you take is dependent upon your local laws and your departmental procedures. Ask a supervisor what procedures you have for the inspection of motor vehicles. If you do not have a procedure perhaps you should consider developing one.

The following questions will need to be answered:

1. Does the Highway Traffic Act provide a notice to give to motorists for the compulsory inspection of motor vehicles?

2. Can an officer order a motorist to go to an inspection site?

3. Where can vehicles be sent for inspection locally?

4. Is there any arrangement for payment of the people performing the inspection or is it compulsory for the motorist to pay?

5. If there is no facility locally for inspections what type of local program can be developed that will serve the same ends?

Here's an example: If you are a member of a small detachment from South Rubber Boot, Ontario, and you do not have a local inspection station, you still have the authority (in Ontario) to remove the plates until the vehicle has been repaired to your satisfaction. I would suggest that I would not be satisfied until a mechanic sticks his neck out and says it is safe. The motorist can produce a mechanical inspection certificate and the officer can then either return the plates to him or have the motorist re-register the vehicle.

There is no requirement to lay a charge at any point in this investigation.

If you are satisfied with just ordering the vehicle off the road then explain to the motorist that it is his lucky day. He may be walking to a garage but he is not walking to court.... this time!

Canadian Charter of Rights and Freedoms

2. Fundamental freedoms

Everyone has the following fundamental freedoms: (a) freedom of conscience and religion; (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communications; (c) freedom of peaceful assembly; and (d) freedom of association

The Charter enshrines certain fundamental freedoms for everyone in Canada. They are freedoms that custom and law over the years have made almost universal in our country. Now these freedoms are protected by the Constitution.

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OPP display now open for viewing

The Ontario Provincial Police is celebrating the 15th anniversary of women on the force this year and invites the public to join in the celebration.

A display has been created at the OPP Museum highlighting some of the accomplishments of female OPP officers. Through photographs and artifacts such as the first purse, riot helmets from the 1978 Fleck strike and old uniforms, the exhibit depicts the variety of roles and contributions of female OPP officers.

A four-minute video which uses historic footage compliments the display.

The OPP Academy is located at the corner of Queen and McLaughlin streets in Brampton. The Museum is open during the school year Mondays and Wednesdays from 11:30 A.M. to 1:30 P.M. and Tuesday evenings from 7 to 9. Appointments can be made for other times. Groups are also asked to prebook their visit by contacting curator Mary Harvey at (416) 965-4818.

Innkeepers in Ontario must keep steady eye on drinking drivers

In a recent Ontario Supreme Court decision a licensed tavern was held to be 50 per cent liable for an accident caused by one of its drinking patrons. The 1983 collision caused the death of a local woman and paralyzed her 14 year old daughter.

Mr. Justice Grainger decided that the "Ship & Shore Hotel" in Lakefield, Ontario must pay half of the \$1.89 million because its staff had breached their duties under the Ontario Liquor License Act by serving alcohol to an apparently intoxicated person.

Other mitigating circumstances were due to the fact that the tavern was a roadside establishment that would require most of its patrons to arrive by car.

In his judgement Mr. Justice Grainger added, "If tavern owners are allowed

to sell intoxicating beverages, they must accept as a price of doing business a duty to attempt to keep the highway free of drunk drivers."

In the same judgement the Oasis Tavern was held not to be liable as they sold the patron only one beer and then cut him off when they noticed his impairment. They also tried to discourage him from driving and encouraged him to give his keys to a sober friend. The man refused, left and went to the Ship & Shore Tavern for better service.

The judge added that the Oasis Tavern should still have notified police when they realized that the man was going to drive away.

Metro Toronto cited as "crack" capital of Canada

Metropolitan Toronto has now been reputed to be the 'crack' capital of Canada by the RCMP. The writing has been on the wall for some time now with the number of cocaine-related deaths increasing at an alarming rate.

The RCMP released their annual national drug report last month and it states: "The widespread inner-city use of crack found in the United States is spread-

ing to Metropolitan Toronto where crack houses are appearing and crime rates linked to crack use are climbing."

"Crack cocaine use is expected to escalate in Toronto and become more visible in other major Canadian centres."

Crack is a highly addictive form of cocaine that is inexpensive and readily available. It received its name from the similarity to cracked plaster pieces found in city tenement houses in the U.S.

The number of cocaine-related deaths in Ontario jumped to 94 in 1987 from 32 in 1985, with most of them occurring in Metro Toronto.

Airliner seized under U.S. drug law

The new "zero tolerance" drug laws have paid off once again for Miami drug enforcement officers. In June an Air Jamaica Airbus was seized after officers found over two tons of marijuana in the cargo hold.

Officials state that under new legislation the jet will be sold at public auction. This does not prohibit Air Jamaica from bidding on the jet.

The seizure of the jet caused the president of the state-owned airline to resign his position and several arrests made by Jamaican authorities.

FLASHES by Tony MacKinnon

"We were in a bit of a scuffle and Mike Tyson here led with his nose!"



Chase ends in \$1.4 million award

A 1981 chase has resulted in a \$1.4 million award for the families of two occupants of a car struck dead at an intersection by a police car. The decision, brought down by the Supreme Court of Ontario last month, is believed to be the largest of its kind and may go as high as \$3 million when calculated in 1989 dollars.

The incident occurred when a young Peel Region police officer observed a car travelling at an extremely high rate of speed in the early morning hours in the city of Brampton. The officer decided to catch up to the vehicle but evidence indicated that he had not activated his roof lights or siren and had failed to notify his dispatcher of the chase. The police vehicle slammed into a car making a left turn at a signalized intersection killing the two occupants instantly.

The force of the impact caused the police vehicle to land on its roof and it is believed the officer was saved by the roll bar and security cage equipped in the police vehicle. Evidence revealed it was the officer's first shift alone since joining the force that year.

Witnesses verified that there was a speeding vehicle ahead of the police car but no vehicle was ever found. Spokesmen for the Peel Regional Municipality indicate they will be appealing the award as it is felt that the court did not place enough responsibility on the deceased's left turning car.

In the judgement the family of the driver received \$572,248 while the family of the passenger received \$826,138.

Ottawa considers "zero tolerance" drug laws

Canada Customs is considering an American style "zero tolerance" law for people bringing even traces of drugs into the country. The new law would include

seizing vehicles immediately if border searches find such traces.

Under similar laws in the United States many people crossing the border have found their cars, trucks, boats and airplanes taken and sold at public auction. In many cases evidence of marijuana butts in ashtrays have been the only evidence found.

Otto Jelinek, the Minister responsible for Revenue and Customs, stated that drug use has reached the epidemic stage in Canada and drastic measures are needed.

"The bottom line is to get tough on drugs and no-tolerance is one of the options we're looking at," he said.

Transit security officer saves stabbing victim

Last May Toronto Transit Commission security officer Glen MacNeill was on duty at the Dundas subway station when he found a man lying on the platform and a large pool of blood spreading out around him.

The officer looked closer and found a round hole in the man's neck where he had been stabbed after a drug rip-off. The quick thinking officer used the only thing he had to stop the blood from pulsing out of the victim's neck. The officer put on a surgical glove that he always carried with him and placed his middle finger into the wound and the bleeding stopped. Throughout the incident the victim was still conscious and was answering questions put to him by the officer.

He had been stabbed with an ice pick when he chased a man who sold him licorice instead of hashish for \$60.00. When the victim confronted the suspect on the subway platform he was stabbed once in the neck.

Ambulance assistance had already been called and the first paramedics on the scene decided the officer should leave his finger in place until the man was safely at the hospital. So both officer and victim were loaded onto the ambulance

and rushed off to St. Michael's Hospital.

The victim survived and the officer was commended for his quick thinking resourcefulness. The officer's policy of always carrying surgical gloves paid off in this incident.

From sports cars to vans to curb cops' accidents

Brussels Police Crime Squad officers are such bad drivers they have been confined to vans for a week instead of their usual sporty Golf GTI Volkswagens.

A spokesman for the Belgian police force explained the Volkswagen fleet had been withdrawn temporarily because of an alarming rise in the squad's accident rate.

"A week behind the wheel of slower vehicles is making its mark," he said.

England loses count of its guns

There appears to be no record of the number of guns lawfully held in England. This revelation, reported in the British police magazine "Police Review" in June, appears to show a serious problem with the methods used to record such statistics.

The magazine reported that although every gun owner must have a certificate to own a rifle, shotgun, or handgun and each must be listed on the certificate, there is no central data of this number on file. The story reported that there is also no limit, nor requirement to report, the number of shotguns on these certificates. It would appear that this could cause problems in trying to track the movement of these weapons throughout a country that does not have an armed police force.

At the end of 1988 the statistics show a total of 155,000 firearm certificates and 881,600 shotgun certificates on issue in England. The certificates are similar to Canada's in that they are permits to acquire but not a registration of the weapon itself.



No Backseat Driver

For Rob Betz a wheelchair doesn't mean taking a backseat to living. It just means another challenge.

A competitive cyclist before an accident in 1987, Rob saw no reason why the wheels of his chair couldn't perform just as well. And so from one single decision came a discovery that has changed the way Rob Betz thinks and feels about himself. Strong, energetic and confident.

Winner of the "1988 Rookie

of the Year" award at Variety Village, Rob Betz travels as a wheelchair athlete in basketball and track events across Canada.

It started when one very young man decided he could. And he did. Because Rob Betz is fit for a lifetime of living.



Winnipeg Police praised in study report

Officers investigating last year's corruption within the Manitoba Judiciary were praised for a job well done by a report submitted to the Manitoba Attorney General last December.

Once tipped off about the possibility of corruption within the Judiciary the Winnipeg Police "had a duty to investigate," claimed Manitoba Chief Justice Archibald Dewar in his 82 page report. The report continued by saying that the press conference given in January 1988 was "not a publicity stunt to suggest the existence of widespread corruption within the judicial system."

A six-month investigation by the Winnipeg Police Force in 1987 culminated in the arrest of 18 judges, lawyers and court officials in January 1988. The then Attorney General Vic Schroeder and Winnipeg Chief Herb Stephen held a press conference where they revealed the names and positions of those charged. It was revealed in one case at least 120 traffic violations had been corruptly dealt with.

During the investigation the police received authorization for numerous wiretaps on court buildings, residences and judges' offices. The study revealed that all were based on proper considerations and were well founded.

Lawyers involved in the cases complained about the way the police had made arrests and damaged the characters of many. However the study concluded that, "It has been judicially determined that the publication of an accused's name pending trial does not violate his right to be presumed innocent since the presumption does not create a right to remain anonymous until after the trial." He added, "Severe embarrassment does not justify prohibition from publication."

"Winnipeg police had a duty to investigate," Dewar continued. "When early efforts produced confirmation that the integrity of the court system was at risk, the duty was to continue." He continued by praising police actions in "recognizing the need for caution and the risk of incurring the (contempt) of the commu-

nity if they were later seen to have acted rashly, unreasonably or to have pursued an investigation which served no public purpose."

At the time of the release of the report 14 prosecutions had been stayed and two judges had been convicted. Magistrate Bruce Steen received a one-year suspended sentence while Provincial Court Judge Robert Trudel received a two-year suspended sentence.

The same study criticised the Crown Prosecutions office for not obtaining a lawyer from the private sector to prosecute the matter. The report concluded that the Crown's negotiations in plea bargaining left a bad taste in the public's mouth and had to a degree compromised its independence.

The report also criticised the Attorney General for appearing at the press release with the Chief of Police. The report stated that it gives the public image that there is similarity in job function of these two offices. Although both serve the public interest they are distinctly different and independent of each other. "It is of the utmost importance that the distinction be maintained," added the Chief Justice.

Ottawa police latest force to receive vaccination

Ottawa joins the 15 other Canadian communities to have their police forces vaccinated against hepatitis B in the past eight months. Hepatitis B is a serious and sometimes fatal liver disease that emergency personnel are at risk of contracting on the job.

A recent incident in Nova Scotia underscores the risk of hepatitis B to emergency personnel. An outbreak during 1988 of 71 cases of hepatitis B in North Sydney and Sydney Mines area of Cape Breton, Nova Scotia was traced to illicit intravenous drug use. The carriers had recently arrived from central Canada. During the outbreak a two-year old child contracted the disease from household contact with parents who were drug-users.

On September 15, 1988, two North Sydney police officers were called to an area hospital to deal with a young man with hepatitis B and had contact with his

body fluids. The two officers were immediately inoculated and did not contract the virus.

The Police Association of Nova Scotia (PANS) began lobbying for its members to be inoculated after this incident. "Police officers are continually exposed to high risk groups who might carry the virus," Ed Hiscock, PANS staff relations officer told The Halifax Chronicle-Herald. Police personnel in Dartmouth, North Sydney, Sydney and Truro are among the Nova Scotia police forces that have been vaccinated en masse.

The increase in robberies and burglaries in many Canadian cities have been linked to the rise in illicit drug use. A large proportion of intravenous drug-users have been infected with hepatitis B. Police are at risk when arresting drug abusers supporting their habits by prostitution or theft.

In Montmagny, Quebec, two police officers came into contact with the blood of a hepatitis B carrier after they arrested a suspect injured during a pharmacy break-in on September 25, 1988. The suspect was a known drug user who broke into the pharmacy to obtain drugs. Mayor Gilbert Normand, a physician, had the entire Montmagny force vaccinated.

Constable John DeHaas, president of the Vancouver Police Union, told The Globe & Mail the vaccine is more important to a police officer than a bullet-proof vest.

"It's a far greater risk and less preventable situation to come into contact with bodily fluids than being shot. Health hazards are far more likely to kill a police officer than a bullet," he said. The 1,000-member Vancouver Police Force has begun a vaccination program.

Superintendent Donald Lyon, of the Ottawa Police Force, says, "We're concerned with the health and safety of our officers and their families. We've had people claiming to have hepatitis B so we won't apprehend them, there have been spitting incidents in the courts, and biting incidents with our officers. The Police Commission has authorized the spending of funds to protect the officers of the Ottawa Police."

Many police forces presently have a program in effect for compensating officers who elect to take this vaccination. Contact your union/association representative or your Chief of Police for further advice on your force policy.

Holland introduces "Sniff Prints"

It would appear that something smells in Rotterdam. At least as far as the criminals are concerned. Recently this Dutch police force has introduced the first bank of "criminal smells."

The new system requires persons convicted of serious criminal offences to hold a piece of sterilised cloth for five minutes. The cloth is treated with chemicals that retain the person's odour for about three years. The new smell prints will help trained tracking dogs to sniff out offenders who are already known to police.

The International Association of Women Police

Constable Joanne Tawton, of the Barrie Police Force, has shown her concern for bettering the role of women in policing by becoming involved in the International Association of Women Police. She serves as Regional Co-ordinator for Region 11, an area encompassing Quebec, Ontario, Saskatchewan and the North West Territories. (The latter having one registered female officer).

The IAWP aims to further the utilization of women in law enforcement, increase professionalism in police work and provide a forum for sharing developments in police administration. The organization is devoted to training and development for women officers as well as offering a support group and networking on an international sphere.

The biggest part of IAWP, says Tawton, is the emotional support it offers. Women officers of 30 years experience sit down with new recruits and explain how things have changed and improved, what problems they may encounter, and how to overcome the obstacles that women experience.

The context for such sharing is the annual conference, held this year from September 25-30 in San Jose, California. The theme will be "Communicating Beyond Words."

Tawton emphasizes that the conference is not just for women officers. "We have male members as well who derive a lot of benefit not only from the training but also in learning what beefs women have and how they can overcome those problems."

Tawton encourages male and female officers to plan to attend the IAWP Conference in September. For further information Constable Tawton can be reached at (705) 728-5588 or write to her c/o Barrie Police Force, Box 188, 65 Vespra Street, Barrie, Ontario L4M4T2.

Man arrested in probe of "police" magazine

Metropolitan Toronto Police Fraud Squad officers arrested a North York man in June for allegedly collecting nearly \$130,000 in advertising for a magazine that was never published.

Theodore Emile Bourree, 36, also known as Mike Curtis, is owner of Thor Publishing Ltd. and "City Police News", which advertisers were told was put out by the police to help find missing children, fight drug abuse, and promote public safety.

Metro Police said as many as six telephone sales clerks have been soliciting money from 787 businesses in Metro and surrounding regions since January in a boiler-room operation that has netted over \$128,177. There was no evidence that the accused had any intention of publishing at the time of arrest.

Metro Toronto Police have had great success at prosecuting such activity since the sudden blossoming of the industry in the past few years. After one such conviction one man explained his scam to CBC television and radio in a revealing program that alerted the public to the tactics used. Many citizens have come forth with information on similar activities in their areas across the country.

Professionally recognized in many cities as "sympathy publications" the telemarketing campaign uses hard sell tactics that prey on small merchants and immigrant businesses. They convince the

merchant that their advertising dollar helps support the police in their fight against child and drug abuse as well as any other trendy campaign that appears to hit the local media. The inference is thereby solidified in the mind of the merchant that the publication is sanctioned or owned by a police force.

Any one wishing further details on such activity can contact Sgt. Mike Holland of the Metropolitan Toronto Police Fraud Squad. Any force requiring technical advice or support in relation to a publishing operation may contact the editor of Blue Line Magazine.

Police Diver Symposium in Hamilton

The Hamilton-Wentworth Police Scuba Club is once again hosting a Police Diver Symposium at the Canada Centre for Inland Waters in Burlington Ontario on September 14th to 15th. This would make a nice conclusion to the Chiefs Conference and the NAPP convention if you have an interest in this area.

The symposium will also have commercial displays from various interested companies at the Hamilton-Wentworth Police Association hall at 555 Upper Wellington Street in Hamilton. There will be draws and prizes given at the display event.

The event is open to all police, military and emergency services personnel. For further information contact Rick Rozoski or Cam Rumpel at (416) 574-6044.



**CASE LAW:
Saskatchewan**

Saskatchewan's roving vehicle stops offend charter

(Regina Vs. Emke)

The Saskatchewan Court of Appeal has ruled that the police in the province cannot stop vehicles in random roving spot checks to determine if the drivers have been drinking.

The problem seems to revolve around a lack of specific legislation in that province that would empower police to stop vehicles at random. What the Saskatchewan court ruling deals with is the police authority under common law to stop at random.

Saskatchewan Justice Nicholas Shers tobitoff stated that the courts should not imply a greater power for the police than was expressly recognized by the Supreme Court ruling in *R Vs. Dedman* in 1985. This ruling stated that the police could stop vehicles randomly incidental to a well publicized program aimed at reduc-

ing drinking and driving, and located at fixed locations where police believe there have been many instances of drinking and driving.

Justice Shers tobitoff stated that this decision was made before the implications of the Charter of Rights and Freedoms. He advised that *Dedman* was still valid if used in relation to fixed spot checks but not roving ones.

The decision further advised that if the legislature had wished to permit the police to stop vehicles at random then they would have created the appropriate legislation to do so. It was pointed out that Ontario, British Columbia, Manitoba, and New Brunswick are the only provinces that currently have such laws.

It was pointed out that the Supreme Court of Canada has not specifically dealt

with the issue of random stops by police at common law. Other decisions have dealt with specific legislation extending police powers within the province.

The court hung its hat heavily upon another Saskatchewan case (*Iron Vs. Regina*) In this case it was ruled that police in that province could stop vehicles at a fixed location or en masse. This matter is being appealed to the Supreme Court of Canada at present. It is now a waiting game to determine who will move first. The Appeal to the Supreme Court or the Saskatchewan Legislature in creating a new law.

This ruling may have implications in Alberta, Quebec, Nova Scotia, P.E.I. and Newfoundland. Until the Supreme Court rules on the "Iron" matter it is not felt that police should alter current procedures.



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For further information about this service you may contact the editor at (416) 293-2631.

CASE LAW: Evidence

"Intoxicant" may not be alcohol

A phrase used quite commonly by members of the London City Police has caused charges laid pursuant to an approved screening device demand to be dismissed.

Many officers had acquired the habit of stating in their evidence that they could "smell the obvious odour of an intoxicant on the breath of the accused." A local lawyer defending his client on one such matter produced an Oxford English Dictionary to define the word "intoxicant." It stated "an intoxicating substance or alcohol."

The judge decided that there are more substances that could be described as an intoxicant than alcohol and that the officer's evidence was not clear enough to convince the court that a proper demand was made.

The Criminal Code advises that the demand can only be made if the officer

has a reasonable suspicion that the motorist has alcohol in his body. Therefore it is important that the court be advised that it was indeed alcohol that the officer suspected was in the person when the demand was made.



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Fifteen years ago on September 23, 1974, 32 women from across Canada met at the Royal Canadian Mounted Police "Depot" Division, Regina, to form Troop 17 where they started their basic recruit training. They were to be the first policewomen of the force. And since that first troop many more have followed in their footsteps. They have taken up police duties in the field doing all the things their male counterparts do in becoming, if you will, Royal Canadian Mounted Police People.

Initial reactions to this 1974 turn of events in a traditionally male-dominated Force were varied and candid.

A male recruit at "Depot": "It was different before the women got here. The instructors swore at us more. They have a gentlemanly way of dealing with women and we feel that we're expected to act the same way."

Featured Writer



Constable Lois Dudgeon was born and raised in Southern Manitoba. Dudgeon received her Bachelor of Physical Education at the University of Manitoba before joining the force in 1975. She was part of the first co-ed troop to train at the RCMP Academy. Following training Constable Dudgeon served in "D" Division (Manitoba) at The Pas, Beausejour, Grand Marais and Winnipeg on general duties, highway patrol, and court detail. Following French language training in Montreal in 1983, Lois also served in Quebec City on the General Investigation Section and Court Detail as well as VIP duties. She was the first member to join the National Recruiting Team in Ottawa in December 1987. In June this year she was transferred to "Depot" in Regina as an instructor.

15 years of dedicated service

The force that always get their man finally got their women

- Lois Dudgeon -

An off-duty constable: "Women in the force? I think it's a great idea. You know, I've always said that there are many things that a woman can do even better than a man. We all know women are more sensitive and intuitive than men. But let's face it, there are some things they just aren't cut out for - and there are some real dangers out there in the field. I'd hate to see a 19-year old female constable go out in a patrol car alone."

Constable Cheryl Joyce, an ex-teacher, originally from Saskatoon and a member of the first Troop: "There were stares at first but we've been accepted. There are a few who say that this is a male role and women don't belong here. Even some of the instructors are very much against us but they realize that there are some things women in the force will be able to handle better than men."

Ex-Supt. Bill MacRae: "I've been in Regina for 15 years and talked to thousands of recruits and these women are deadly serious about their training. I can see only a few differences between them and the men. One of them is that they tend to cry easily and another is that they giggle, but that's just because they're more used to expressing their emotions than the men are. They just need to learn a little control."

Today, 1195 or 7.8 per cent of all uniformed personnel are women; 186 are employed as Special Constables and 1,009 as regular members. The force hopes to increase its female representation to 20 per cent by 2013.

The women in the RCMP occupy various operational and administrative positions throughout the force; from general detachment duties to highway patrol, drug sections and V.I.P. duties to name a few. Fifteen years after their acceptance in the force, we are now seeing women in the following positions as well: - Approximately 28 corporals,

the first woman being promoted in 1981. - Women in the Musical Ride since 1980, as well as the first woman Equitation Instructor in 1986. - The first women in the RCMP Band in December 1984. - The first Constable converted to S/Cst status in Air Division in Edmonton in August 1987. - 10 women instructors at "Depot" since 1988. - Two women on the three year Force-sponsored law program. - Women on tactical troops.

Over the years, reactions have changed from those of 1974. Corporal Karen Adams, a member of the first women's troop now an instructor at "Depot": "I've never had second thoughts. There is nothing else I could see myself doing. Women have to prove themselves in any field, not just the RCMP. There is no room for sympathy here. Empathy yes, but sympathy, no. These women are being paid to do a job and if they can't do it, they don't belong here. We can't put other lives at risk."

Dr. Rick Linden, a University of Manitoba Criminologist and Sociology Professor, in a 1981 study found that in police work, gender has no effect on competence: "The women may not be exactly equal to men in all aspects of police work, but they perform the job well. They are not always as assertive as men, but when faced with danger or actual violence, they take the same decisive action as men."

Commissioner Inkster had this to say about the women in the RCMP on International Women's Day in March 1989: "During these years, women have proven themselves able and dedicated peace officers. I would be remiss if I did not narrow the focus of my remarks and thank directly those women who have joined the RCMP and who have so ably served. They also share this day and will look back on what has been and then look forward to what can be."

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Young Offenders Law in Canada is a practical guide for practitioners and other professionals working in this area. The book is organized in a chronological format, dealing with issues and practice as they would naturally arise, from investigation and arrest to sentencing.

Contents

- | | |
|--|--|
| 1. Introduction | 11. Medical, Psychiatric and Psychological Assessments |
| 2. The "Declaration of Principle" | 12. Transfer to Ordinary Court |
| 3. The Impact of the Canadian Charter of Rights and Freedoms | 13. Pre-Trial Matters |
| 4. Jurisdiction | 14. The Trial Process |
| 5. Age | 15. Evidentiary Issues Arising at Trial |
| 6. Alternative Measures | 16. Offences |
| 7. Police Procedures | 17. Sentencing |
| 8. The Forum | 18. Review of Dispositions |
| 9. The Information | 19. Appeals |
| 10. Judicial Interim Release | 20. Records |

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Gun calls

Continued from Page 9

A vital part of this assessment involves determining how much help will be needed to deal effectively with the incident. No officer should think that he or she can handle the situation alone. A gun call does not demand heroics. It does demand calm decision making and the use of sound tactics.

Where possible, officers responding to gun calls should use the element of surprise to their advantage. You should spot your adversary before he locates you. This means turning off your emergency lights and siren before reaching the scene. It also requires approaching away from the offender's location. Police cars should be parked out of sight with officers advancing on foot, using cover and concealment to full advantage.

If a building must be entered to reach the armed person, surprise can often be gained by using unexpected entry points such as fire exits, rear windows or roof access.

Responding officers must make a tactically safe approach to the offender's location. This is accomplished by creating a "perimeter" around the involved area. The perimeter helps to prevent the subject's escape while ensuring that potential victims don't enter the danger zone.

The number of officers required to establish a perimeter is determined by the area to be contained. Two officers may be able to cover a small structure by positioning themselves at opposite corners. A shopping centre containing a mobile suspect may require the use of a dozen or more officers. In all cases, perimeter personnel must remain under protective cover.

Inside the perimeter, officers may be confronted with the problem of protecting in place or evacuating citizens who are exposed to gunfire. In some cases the telephone can be used to convey instructions. Other situations may demand a covered approach to innocent persons in order to remove them from danger. This approach must be carried out beyond the armed offender's line of sight if at all possible.

The arrest team

With sufficient manpower, a secure perimeter, and involved persons out of harm's way, it is the arrest team's task to contact the offender. It is now that the details learned during the information-gathering process pay off. The arrest team should not move until EACH member has all the information available on the offender and the occurrence. Moreover, each member of the arrest team must know beforehand what part he or she will play in the arrest process.

Members of the arrest team must know their agency's policy governing the use of force and the law governing the use of deadly force. Officers must protect their own lives but must also be aware of what is permitted in the face of threats to bystanders or hostages.

The makeup of the arrest team may vary from one situation to another and from jurisdiction to jurisdiction. Large forces may be able to utilize special response teams such as the Emergency Task Force or Tactics and Rescue Unit.

A vital part of the assessment involves determining how much help will be needed. No officer should think that he or she can handle the situation alone. A gun call does not call for heroics.



Smaller forces may have to use whatever manpower is on hand at the time. Regardless, NO FEWER than two officers should constitute an arrest team, one officer covering while the other advances. Each member should be equipped with soft body armour and a duty sidearm. If possible, one member should be armed with a shotgun.

Approaching the armed person

The critical moment is at hand when officers approach an armed subject. Police MUST control the situation from the onset of contact. In an armed confrontation it is often the person who issues the first challenge or order who gains ultimate control. From cover, and with weapon trained at the armed person, ONE officer should issue the challenge in a loud, firm voice: "POLICE! DON'T MOVE!"

If compliance is not received, the challenge may be repeated. When compliance is obtained additional instructions can be given, still from cover and at gunpoint. These orders should be directed at restricting hand movement and placing the subject in a position of disadvantage.



If no weapons are observed in the subject's hands, he may be approached or directed to one officer's position to be brought under physical control. If a weapon is seen prior to the challenge, verbal directions and police actions will differ slightly. The subject should be made to know that any hostile movement will be dealt with accordingly: "POLICE! DON'T MOVE THE GUN OR YOU WILL BE SHOT!"

The commands are necessarily harsh. As additional instructions are given, officers should maintain their cover with their weapons targeted on the subject. Orders are terse and to the point: "SLOWLY PLACE THE GUN ON THE GROUND! DO ANYTHING ELSE AND YOU WILL BE SHOT! DO IT NOW!" Again the goal is to gain control of the subject.

The threat of a gun call is not resolved until the suspect is secured, searched, and handcuffed. The suspect should be well covered by a backup officer while his hands are cuffed behind his back. A careful and thorough search of the suspect is the only means of ensuring that he is no longer an armed threat (although other weapons he may have at his disposal such as feet and teeth should not be discounted.) Safety conscious police officers never stop looking for more weapons and they never assume that the suspect was alone. Nothing is taken for granted.

Briefing

When the incident is resolved it is time to review what took place and critique the police performance, in other words to learn from it. What worked well? What didn't? Is additional training or equipment required? Were tactics handled properly? Do tactics need to be changed or new ones developed? Only through this examination will information emerge that will make the next incident easier and safer to handle.

Gun calls are one of the most hazardous assignments a police officer will confront. The safety-conscious officer devotes time to mentally playing out various scenarios and picturing what actions should be taken to counter various threats. This helps to ensure his or her own safety, that of other police officers and the citizens they serve.

You asked for it!

We find the answers to your questions

Entrapment

"Entrapment" - Is it a Canadian or American jurisprudential term? Is there any case law in Canada on "entrapment"? If so please note some in an upcoming issue. We are having a debate at the office and it would be nice to know what the case law is on this matter.

Yes indeed! Entrapment is alive and well in Canada. It is only recently, however, that the Supreme Court of Canada ruled on this subject (Regina Vs. Showman and Mack Vs. the Queen). We reported this in our February issue of Blue Line and at that time we quoted the six rules that police have to consider and the ten rules that a Judge must consider when he/she is confronted with an entrapment defence.

The whole ball of wax boils down to a quote made by Supreme Court Justice Antonio Lamer in his submissions. "It is useful to consider whether the conduct of the police would have induced the average person in the position of the accused into committing the crime."

These are the six rules for police to consider:

1. The rationale for recognizing the defence of entrapment is to preserve the administration of justice from improper police practices or abuses of the state;

2. The issues of entrapment are to be considered by a judge alone and not a judge and jury. This is due to the fact that entrapment must be explained carefully to provide guidance in the future;

3. The Crown does not have to establish beyond a reasonable doubt that there was no entrapment. It is up to the defence to prove that it was a factor in the commission of the offence;

4. A stay should only be considered in the "clearest of cases" where the accused has shown that the conduct of the police goes beyond the acceptable limits of the community;

5. Before a judge can determine that entrapment is an issue he must be satisfied that all the elements of the initial charge have been proven beyond a reasonable doubt;

6. The conduct of the police must be assessed on an objective basis. That is to say on the basis of the action taken by the police rather than on the way in which this action affected the state of mind of the accused in particular.

These rules came as a result of a B.C. case in which drug squad officers engaged a man to approach an "ex-drug-gle" by the name of Norman Mack to score some dope. Mack insisted that he had given up that lifestyle but the informant continued to press Mack and after considerable pressure, which included a lot of money and threats, Mack gave in and obtained some drugs for the informant. He was charged with trafficking and convicted. He appealed to the Supreme Court of Canada and won.

In summation Mr. Justice Lamer stated, "Obviously the accused knew much earlier that he could make a profit by getting involved in the drug enterprise and still he refused. I have come to the conclusion that the average person in this position might also have committed the offence, if only to finally satisfy the threatening informer and end all further contact."

In other words the judge said that the police have no business testing the virtues of the citizens of this country.

Kids sometimes ask the darndest things. Just the other day, my six-year-old niece piped up and asked me, "What's racism?" That's simple, I thought to myself. It's when blacks and whites don't get along with each other. I was horrified to find myself in the same old trap which is used to define racism. I began to search for an answer which would suit the inquisitive mind of a six-year-old.

I attempted to explain to my little brown-eyed inquisitioner in terms that she could relate to. I needed to paint a tangible picture in her mind and yet deal with the severe connotations her question had aroused.

The story starts off like this... "Racism was an ugly and hideous monster that once dwelled in God's garden. This monster has such a disliking for the roses in the garden that he began eating them one by one, until there were none left. Finally, the Angels caught up with the monster and locked him up and labelled him a "racist". However the monster managed to escape and he now dwells in some people's fears and misunderstandings."

From the reaction on her face, I knew for the time being that she had visualized everything in her mind and had faced the awfulness of the word and its meaning. As she walked away, I felt that I had marred the innocence of her youth. In my remorsefulness I began to pose some rhetorical questions and took upon myself this task of outlining where and how racist attitudes originate.

We have traditionally perceived and associated racism as a conflict between blacks and whites. For the most part it has been accepted as a white man's problem. It would be foolish on my part to accept this as the truth without any base or facts considering that it is often taken for granted as the truth. The idea that only whites can be racist is easier to accept, given the society that we live in, where the majority of the population is white. However, the differentiation of racial hostilities is not the focus of this article.

To fully understand how racist attitudes are formulated and developed we must first associate ourselves with the

various stages of the disease.

Stage one: Stereotyping

Stereotyping is a term which refers to comments of any racial nature, against any group, without any basis or facts. It is a rumour or idea resulting from fear, due to ignorance or misunderstanding. For example: all blacks listen to loud music; all whites can't dance; and all Asians are smart. Stereotyping is indicative of situations where individuals begin to generalize and categorize certain groups based upon one assumption. That's just like saying all cops eat donuts and drink coffee.

Stage Two: Prejudice

The second stage of the disease involves prejudice. At this point the individual begins to blame others of different racial origin for his own misfortunes. This goes beyond the name-calling point and the individual takes it upon himself to discriminate against a particular race or group of people. At this stage the individual attempts to gain the support of others for his beliefs and ideas.

Stage Three: Racism

The final stage of the disease is racism. The individual has achieved his goal of disillusioning others with his beliefs and ideas. The dictionary defines it as a theory based on one race's assumed superiority over another. It is my understanding that racism occurs when a group of individuals, upon having graduated from the initial stages of stereotyping and prejudice, come together to systematically discriminate and inhibit a race of people on the sole basis of their origin

I am not a racist ...but

- Mohammed Dawood -

and/or colour.

It would be naive and foolish on my part to say that racism does not exist and that there are no racists in the world. One only has to look at organizations such as the KKK, Nazis etc. to realize the impact these organizations have upon our society.

Unfortunately, well meaning but often misguided emotions dictate human logic. The effects of allegations from these emotions are far reaching and destructive.

As police officers are a rather large visible minority, I feel that education of the police and the community would go a long way to bridge the gap of misunderstanding. We should concentrate upon our similarities rather than bicker over our trivial differences.

Racism is no longer an issue of minority groups nor is it allegations of police misconduct. It is simply the erosion of the natural harmony and understanding of society. Attitudes cannot always be changed. Many of us are already entrenched in our own beliefs and fears. However, these beliefs and fears can be developed to create a base for an atmosphere of trust, understanding, acknowledgement and acceptance.

It is the duty of each Canadian, regardless of cultural or racial origin, to bring about this understanding. When our grandchildren ask, "What is racism?", we can proudly answer that "racism was an ugly monster that died in God's garden while attempting to eat some roses."

Letters

Continued from Page 5

mal" tour of duty. A photograph is simply a graphic display of a moment in time.

The photograph typified today's woman in policing. That is in an abstract way not in a specific way. Male officers can relate to getting sopping wet, or freezing cold, fatigued, angered, or surprised while doing their work every day. There was a day when female officers could not relate to this in their day to day work. Those days are gone.

I am sure the image of the OPP was enhanced greatly by having Lori on a dunking machine for charity. Our preference was to leave her specific duty unspoken. Much the same as the majority of work officers perform every day.

I am concerned about individuals who are concerned with appearances. People who start their shift certain of how they are going to look at the end of the day are not working the streets the way they should be. The officer I am proud of would start the day clean and sharp and end the day with dirty hands and scuffed boots. Maybe that's not proper image but it is reality.

Ed.

•••

Looks like a good magazine. Saw several of my P.C. friends from my Toronto days... (A history of Women in Policing - May '89). Sent my subscription in under separate envelope.

Prov. Const. Vernon D. Fleming
Tillsonburg Ontario

•••

Our attention is drawn to an article in the May 1989 issue of the "Blue Line" magazine. On page 9 an article appears under the title "Charter of Rights update Section 10(b) - Reading of Rights." In this article the writer makes the statement, "While a person who is required to supply a sample of breath into an approved screening device is detained he need not be advised of his right to counsel nor does the motorist have the right to speak to counsel. This is deemed a minimal and acceptable limitation on a motorist's rights."

In our opinion this statement is misleading. It is in direct contradiction to the decision handed down by the Supreme Court of Canada in case of R. v Thomsen on April 28th 1988.

In this case the court ruled that a person who is investigated by the Police pursuant to Section 234.1 of the Crimi-

nal Code of Canada is in fact "detained". He has therefore the right to retain and instruct counsel without delay and to be informed of that right, in accordance with Section 10(b) of the Canadian Charter of Rights and Freedoms.

Although the author of the article, Morley Lymburner, does qualify his remarks in his final paragraph by saying that "Case law is being made every day and any officer attempting to perform his duties without an understanding of Section 10(b) case law is walking in a legal mine field." We feel that this article is not up to date with current Supreme Court decisions and therefore very misleading.

A correction should be placed in the next issue.

(Names withheld by Editor)

Here is the case law:

Page 253 - Martin's Criminal Code (1989) First Paragraph; "While a motorist required to supply a breath sample under this subsection is detained within the meaning of s. 10(b) of the Charter of Rights and Freedoms, it is a reasonable limitation on the right to retain and instruct counsel..."

Page 27-11 - Snow's Criminal Code (1988) Seventh Paragraph; "The requirement in s.238(2) on accused to produce a breath sample forthwith, while in contravention of s.10(b) of the Charter, nonetheless is a reasonable limit prescribed by law under s.1 of the Charter..."

We stand by the original article. This letter was written by two instructors from one of Canada's larger police academies. It is a good example of how easy a mistake can happen when reading case law. A random check with other members of their force in the field revealed that they were aware that a person did not have to be read their rights before a roadside test is administered. Somehow the correct information is being filtered down.

It would appear that they had read the case law as far as the first comma and drew a conclusion from there. Subsequently we learned they also relied upon an article from a law book publishing company's newsletter that was also in error.

We appreciate the concern of these officers and can only assure our readers that the information we give out is usually adequately researched. It is possible we may make mistakes when we attempt to simplify the wordings of the court decisions. We recommend that officers refer to original texts or consult a Crown Attorney for more details on specific items of interest.

Ed.

•••

Your April issue is the first issue that I have read - from cover to cover. Keep up the information flow. I find the "CASE LAW" section informative and helpful... as well as the "Flash Cards". Overall good format, language is understandable in an operational sense. Maybe you could do a section on police equipment testing, ie.: soft body armour, flashlights, etc. You could also include colleges or universities that offer correspondence courses in police sciences- management and related courses.

Looking forward to many more helpful issues.

R.W. (Bob) Bangs
Constable, RCMP
Whitemouth, Manitoba

•••

Please be advised that we have been receiving the introductory copies of your magazine, "Blue Line" and our members are quite pleased with it. Therefore, we would like to subscribe (IN BULK) for a period of one year. We look forward to receiving this publication.

Donald S. Webster
Chief of Police
Charlottetown Police Force
Prince Edward Island

•••

Enclosed is payment for a subscription. I just read the May issue which recently arrived at our office and enjoyed it. I believe your magazine has the potential to be a "NATIONAL" magazine. I'm not concerned about it being "Toronto" oriented being an ex-Metro man. I was with 14 and 55 Division from December '71 to July '79.

Cpl. Hugh Muir
Stellarton Police Force
Nova Scotia

•••

Regarding your editorial of May 1989, "What criminal did this damage?", I have to say I couldn't agree more with your position on damaging police property. Such immature behaviour should never be condoned or tolerated as it is inexcusable.

We certainly have come a long way since the old six and four cylinder scout cars, as you pointed out. And our uniforms have changed after it was finally realized that police officers need clothing that is comfortable and SAFE. These changes were long overdue, and we still

have a long way to go.

All the changes you pointed out for the newer cruisers were indeed necessary, not just nice gifts to keep the troops happy. Things such as air conditioning, video terminals, split bench seats, and cages are safety items. Try working a ten hour shift in July heat wearing a bullet proof vest with no air conditioning. Police officers deserve to work under these improved conditions due to the demanding nature of the job.

Your editorial was right on with exception to the last line, "In most cases it isn't written anywhere that they have to give it to us."

"They" and "us" are supposed to be on the same team, working towards a common goal. It shouldn't have to be written anywhere that "they" must give "us" anything. Safety equipment for officers should not be the subject of contract negotiations. It should be the best equipment available to best protect the fine men and women who police this province and this country.

Second rate uniforms and equipment are simply not good enough for the finest.

Robert Haisman
Toronto, Ontario

I stand corrected. Thanks!
Ed.

• • •

Thank you for your excellent article about the National Association of Police Planners (NAPP), which appeared in your May 1989 issue. We have long enjoyed a good relationship with our Canadian police planning counterparts and look forward to our annual conference, to be held in Toronto, September 10-15, 1989.

Should any of your readers wish to join NAPP prior to the conference or are unable to attend the conference, but still wish to join the association, the applications are available from:

Ms. Pat Eldridge, NAPP Treasurer
c/o Corpus Christie Police Department
Planning and Research Bureau
PO Box 9016, Corpus Christi TX, 78469
or Phone (512) 886-2696

Thank you.
Bill Ford
President, National Association of Police Planners

• • •

"GREAT" magazine. I look forward to reading future issues.

Cst. Lesli Roseberry
Teulon R.C.M.P.
Manitoba

• • •

Your starting issues are excellent. Keep up the quality and best wishes for success. We are long overdue for a "Trade" publication that is more than an "in house" chronicle. Really appreciate legal cases and recent decisions. Good Luck!

Sgt. G.J. Jared
Athabasca R.C.M.P.
Alberta

• • •

I find your magazine very interesting and it is nice to see a magazine that is informative and relates experiences from other members of police forces across Canada.

I am a member of the Edmonton Police Dept. and have been so for the past 12 1/2 years. I am presently assigned to our Neighbourhood Foot Patrol/Community Policing Project. I have my own store front office manned by myself and ten volunteers who work in the office when I am out of the office or on days off. I work an area approximately 60 square city blocks in size. I have been in this assignment for 15 months.

I would appreciate any other information you receive from fellow officers who are also involved in this type of assignment.

I agree with Cst. Nestman of New Westminster Police Dept. A little more on us "Westerners" would be nice.

Keep up the good work.
Cst. Rocky Maze
Edmonton Police Dept.
Alberta

• • •

Included in this letter you will find a cheque for \$20.00 for the next 10 issues of Blue Line Magazine. I saw a copy in our station for the first time this week. I had no prior knowledge of the magazine. Congratulations and best of luck for future success.

Rick Rozoski
Hamilton-Wentworth Police
Ontario

We have found that many officers do not know about us yet. In the past we have sent this force 100 courtesy copies each month to introduce them to us. It would appear they are not being circulated. We would en-

courage our readers to advise your colleagues about us. We understand the reluctance of some forces to recognize us or encourage their members to read. Other forces have accepted us without reservation. Ignore us, love us, or hate us. The choice is yours.

Ed.

• • •

I would like to take this opportunity to congratulate you on the fine quality publication you are turning out. Most Canadian Police Associations have their own "in-house" newsletters and/or magazines which undoubtedly do a good job of keeping the members informed. But there is a definite void so far as communication between police officers across the continent is concerned. Your magazine provides an excellent means by which this void is filled. Keep up the good work!

D.J. (Dave) Boutillier
Calgary City Police
Alberta

Blue Line Magazine Flash Cards

The Judge's Rules

Number 4

"If a prisoner wishes to volunteer any statement, the usual caution should be administered. It is desirable that the caution end with the words, "be given in evidence".

If a person were to approach you and state that he had just murdered someone you would be required to caution him immediately before he went on. If he had been previously interviewed by another officer you would have to give the secondary caution.

Number 5

The caution to be given should be in the following form:

"Do you wish to say anything in answer to the charge? You are not obliged to say anything unless you wish to do so, but whatever you say may be given in evidence."

Book reviews

"COPS: A matter of life & death"

By Andrew F. Maksymchuk
Eden Press, 1989 \$11.95.

"The pain felt like a bee sting in his upper left leg telling the officer he had been shot. The suspect turned and fired again. Drawing his revolver on the run, the constable pointed it at the suspect and pulled the trigger. The expected thunderous explosion was replaced by a sickening "click." The oversight slammed home in his memory. "Oh my God!" he remembered, "I forgot to load my gun!"

This is one of the stories in Andrew Maksymchuk's new book, unimaginatively called, COPS - A matter of life and death. Outside of the title, this book is must reading for anyone in the law enforcement field or even interested in being involved. It is a book that you can pick up anywhere but won't put down. If you are like me you will be reading about yourself on every page and with every mistake.

"But, like old habits, old attitudes are hard to change, and young police officers still find themselves learning their jobs by crisis at the street level."

Although I am not a firm believer in this quote I can certainly remember a day and a location when it was still true. In this book Maksymchuk paints a gloomy picture of police work. It could not be any other way because his intent is to point out a series of mistakes that will help us learn. He has picked a series of stories, all true of course, that point out typical tactical mistakes that have, in most cases, cost an officer his life.

Maksymchuk's book may not have any happy endings but it may permit a few officers out there to have a few of their own. Must reading. A great book that needed to be written. A story that needed to be told. **ML**

"The Law of Traffic Offences"

Scott C. Hutchison
& John G. Marko
Carswell Company, 1989,
\$49.50

This is an excellent publication for those who have for years been frustrated in trying to find out more about provincial offences case law and the procedures in traffic offences courts.

The writers appear to have excellent credentials to write such a book. Scott Hutchison has a law degree and is associated with the Crown Law Office in Toronto. John Marko has a law degree and is a Toronto area Barrister and Solicitor. Both these persons worked diligently in researching this book and their efforts can be seen in the product, a 326 page hard bound text.

The authors appear to have gone to great lengths to produce an authoritative text. Subjects addressed run from proper decorum before a Justice of the peace to the technical operations of radar. It also includes some of the most common defences to the most common offences heard in these courts.

This reference book would be invaluable for paralegals, lawyers and police officers engaged in accident investigation, traffic enforcement and training. Although the book uses Ontario's Provincial Offences Act as its base the book draws from case law from across the country.

This is the kind of publication for which this company has been noted for many years. It is written in laymans terms and bound in a hard cover that would enhance anyone's library. Due to the subject matter included in this book the material should not be out of date very quickly. A highly recommended investment. **ML**

"Proceeds of Crime: A manual with commentary on Bill C-61"
Author: Alan D. Gold - 144 pages
The Carswell Company Limited

Bill C-61 came into force in January of this year. It is designed to amend the Criminal Code, Narcotic Control Act and the Food and Drugs Act with regard to the "laundering" of the profits of certain crimes. The act is essentially designed to make life more uncomfortable for those who would directly or indirectly live off the proceeds of a criminal life style. "Proceeds of Crime," by Alan D. Gold, is the first book on the subject and is must reading for officers involved in the trendy and popular anti-drug campaign. This is a significant piece of legislation that demands considerable time to fully grasp. It would appear that the author has done just that. The book comes in a classy binding that is typical of the Carswell Company and should look good gracing any book shelf.

Now that I have said that I would quickly add a word of caution to anyone using this text. It may look like an impressive volume and its looks may make you feel that it is THE authority on the subject. It is not. Mr. Gold has made many negative comments in this book and has made some rather large leaps of rationale that do not quite hold water.

Although the author has researched the book well I am not nearly as pleased about some of his commentary. It would appear the author has not much respect for the way the legislation was drafted nor faith in those who are going to be using it. To his credit Mr. Gold is up front on his opinions right from the start. In his introduction he states; "I do wish to expressly state, so that the reader is in no doubt, that in my view what we have here is a poorly-drafted, intentionally overbroad and vaguely-worded piece of legislation which rather cynically seeks to have effect beyond the legitimate goal of removing true proceeds of crime from those proved to be guilty and to have derived specific property from specific criminal conduct." Wow! A 67 word sentence. I could add poorly-drafted, intentionally overboard and vaguely-worded. However you certainly get the feel for the passion this man has on the subject.

When one reads the next paragraph Mr. Gold leaves no doubt as to where the battle lines have been drawn: "Canada is not alone in legislating recent, draconian responses to alleged criminal wealth."

It would appear that some of his commentary has taken on the appearance of sniping. A good deal of the author's prejudice is found in little nooks and crannies as you read. For example on page 29 the author comments on a section of the act that he feels has too much power for authorities "...the section could potentially be used to accuse untold number of business and professional persons, and it is small consolation to be acquitted after a criminal trial. Nor has experience shown police or prosecutorial restraint to be a satisfactory antidote for overbroad statutes."

A good example of the author's ability

to act like "Chicken Little" can be found on page 37. The author describes the authority given police when acting on a search warrant issued by a Judge of the Supreme Court, County or District Court to seize property. He takes exception to the wording "any other property in respect of which that person or peace officer believes, on reasonable grounds, that an order of forfeiture may be made under that subsection." To this quote Mr Gold states: "The draftsman was trying to disguise what is essentially a power to seize without warrant and shelter it under the apparent authority of the warrant. But then the warrant becomes, at least, a general warrant akin to the now-deceased writs of assistance."

This is nothing but bilge water. It does not even come close. Most search warrants already have the same author-

ity. If an officer is searching a residence on a warrant that spells out a controlled drug but the officer found instead a restricted drug the author would suggest the officer would be doing something evil by seizing it. The author further suggests that this part is akin to a fishing expedition.

In any event the book has its good side. The editors have organized this 144 page book in a good format. The Contents page is clear and the book has a good index at the back that is similar to a Criminal Code. Officers should feel at home reading this part any way. The book appears to be written for the legal profession in general if not the defence in particular. I wonder if there is a Crown Attorney out there somewhere who could write another version of the same book. Maybe in this magazine. **ML**

Charter is challenged in minor traffic courts

- Morley Lyburner -

Many paralegals and lawyers have had some success recently in Southern Ontario in using the Charter to challenge the delay taken to hear traffic tickets. Many charges have been "stayed" or quashed before this most recent argument. One case, however, was successfully won by the prosecution.

Argument for the defence

The defence raised is usually introduced before the plea. It takes the form of delivering to the court a copy of a speech made by The Chief Justice of Ontario, Judge Howland, at the opening of the Ontario court sessions earlier in the year. The Judge mentioned in his speech that no one should have to wait longer than 120 days to have his trial or day in court. On the strength of this speech and with previous successes in other courts, the defender pleads that a breach of Section 11(b) of the Charter of Rights has been made by the Court system when his client has had to wait 13 months for a trial date.

Section 11(b) states "Any person charged with an offence has the right to be tried within a reasonable time;"

The defender then suggests to the court that the delay was caused by the court system and through no fault of the

Crown or the Defence and the charge should therefore be "stayed".

Argument for the Crown

Under the Ontario Provincial Offences Act there is no provision for a Justice or Judge to "Stay" a proceeding. The court could quash the charge or proceed with the case and after hearing all the evidence, and if a case is made out, the Justice could hold the case over for judgement. It could be given over to a higher court to determine the validity of the Charter challenge. Then brought back for judgement on the facts if necessary.

A second argument against the defence is that the document tendered in court is not legal jurisprudence. It is a speech designed to instigate or encourage government action. As such it should not hold any real weight with the court.

On a third point it was successfully argued that the Charter Section 1 states that the rights set out in it are "subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." At this point it is up to the Crown to demonstrate the necessity to over ride the right to a speedy trial.

In this case the Crown stated that the

necessity for the safety of the public using the highways is more important than the individual's right to a speedy trial. The court system can be changed by many means but it should not be by compromising the public's right to safety on the highway. One of the few tools available to ensure this safety is the enforcement of the Highway Traffic Act. The proof of this need can be seen in the continual rise in traffic accidents and deaths.

Other points could be made regarding the delay. Firstly the delay could not be demonstrated to compromise the accused's defence to the charge. The delay could only work in favour of the accused in that any possible fine has been delayed as well as any previous accumulation of demerit points would have time to be purged from the records.

Time can work against the prosecution in diminishing the witnesses memory of the incident as well as that of the officer investigating.

This is another example of a paralegal system that keeps the Crown and police on their toes. This group of people has done much to clean up sloppy court room practices. They also tend to liven up the proceedings considerably.

David H. Tsubouchi

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