Commission for
Public Complaints Against the
Royal Canadian Mounted Police

Commission des
plaintes du public contre la
Gendarmerie royale du Canada

Evolution of Use of Force by Police in the Canadian Context

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Canada

Introduction

When I was originally approached by the Public Complaints Commission for the RCMP to write a proposal on the subject we are examining, I confess to being daunted by the task. There is no scholarly and comprehensive history of policing in Canada or of any other country as far as I know. Yet this paper would presume upon a broad knowledge of an issue which lies at the heart of police operations everywhere. That is, how to ensure compliance of suspects and prisoners who may resist the authority which impels them to surrender their freedom at least temporarily.

However, I have been studying and writing about the history and current operations of police in Canada, mainly the RCMP, for 29 years, so I found the challenge compelling. What in the end I promised the Commission and what I hope that I have achieved here is to deliver an informed overview of the subject which will help concerned parties understand how police, the public and civilian review agencies evolved and grappled with the issue of use of force up to the introduction of conducted energy devices. While this study will concern itself primarily with the Canadian context, it is useful to introduce comparative information on the experience elsewhere and I have used the United States for this purpose.

Ever since John Locke introduced the concept of government being a social contract between the people and those who govern them, police have been an essential agency in ensuring that the contract is exercised in as peaceable a manner as possible. It is important then that police officers be chosen for their integrity, good judgement and capability to fulfill their functions. Further, they must be trained to exercise their unique role in a highly professional manner. But no amount of astute recruitment or comprehensive training will eliminate the element of risk for the officers or to the public in dangerous situations requiring individual discretion. Hence we have a long list of officers who have died in the line of duty. As a result, society continues its efforts to provide

officers with the proper techniques and improved weaponry which will reduce the level of risk to all involved in dangerous situations. It is this process and its efficacy that I will present today.

The ancestry of Canadian policing lies with Britain, where a constabulary was established responsible to the Crown but representative of the communities where they served. These constables were responsible for maintaining order in the community from investigating illegal activities to arresting criminals. In turn, the constables assisted and reported to local Justices of the Peace who were charged with the application of the law and the maintenance of justice.

This incipient system evolved as society, commerce and demography compelled. London was the locus for a struggle for centralization resting authority from the hands of parish constables and paid magistrates. This laid the basis for the London Metropolitan Police under the authority of the Home Secretary, who in the 1820s was Sir Robert Peel. This man regarded as the father of professional policing instituted the Bow Street day patrol in 1822 and in 1829 transformed this small beginning into a uniformed force of 3,000 officers of the London Metropolitan Police.

Peel's reform was far from simply administrative. He elaborated nine policing principles which stand today as the foundation of the concept of civil police services. The central tenant of this code was his dictum that “the police are the public and the public are the police.”

There are two other principles which are directly applicable to subject at hand today:

"To recognize always that the extent to which the cooperation of the public can be secured diminishes, proportionally, the necessity of the use of physical force and compulsion for achieving police objectives."

And

"To use physical force only when the exercise of persuasion, advice and warning is found to be insufficient to obtain public cooperation to an extent necessary to secure observance of law and to restore order; and to use only the minimum degree of physical force which is necessary on any particular occasion for achieving a police objective."

Coincident with and soon after police professionalization in London, came reform to policing in the rural areas and in smaller urban jurisdictions. Chief constables were appointed responsible to magistrates or to groups of citizenry and they in turn hired constables. Freedom from political influence became a hallmark of these policing services.

This British model was adopted and adapted in the British North American colonies. In the immediate post-conquest era in Lower Canada, British troops were the principal bulwark against disorder. But British governors and administrators also relied on an existing system of authority which rested on captains of militia, officials within the seigneuries which had organized the habitants for defence but also promoted order. The seigneurs themselves acted in the capacity of magistrates.

In the rest of the British colonies, Justices of the Peace were appointed, usually merchants and businessmen, who were responsible for settling civil disputes but also for holding court on criminal offences. As there were few detention facilities in the late 18th and early 19th centuries, fines were often used for punishment but corporal punishments were common from the lash to stocks and of course hanging. In the more serious cases

Justices of the Peace acting alone or in pairs were responsible for establishing the facts but judgements would be rendered by juries. As in Britain, the work of the Justices of the Peace came to be assisted by the engagement of constables sometimes paid but often voluntary.

Another source of order in growing towns and cities of the colonies were the night watches organized to patrol principally to alert the populace to outbreaks of fire but also to report on suspicious doings and characters of suspect repute. Again, at first these watchmen tended to be volunteers but then were paid out of taxes.

As cities were incorporated police forces were formed. In the pre-Confederation period Montreal, Québec City and Toronto founded police forces in the 1830s which grew in size and organization in the 1840s and the 1850s. In the 1860s Montreal's force was the largest in North America with 150 members. Kingston formed a police force in 1841, Ottawa in 1855, and Halifax in 1864. With the formation of these services came the building of station houses and attendant lock-ups or gaols where suspects could be held and the guilty punished.

In British Columbia two community-based police services, one on Vancouver Island and the other at Fort Langley, combined in 1858 to form a police force for the colony laying the basis for a provincial police force which followed Confederation.

With Confederation of the colonies came the *British North America Act of 1867*. This act divided responsibility for the justice between the federal government and the provinces. The former was given the power to enact criminal law with its offences and punishment. That left the provinces with the responsibility for the administration of justice and police forces.

Provincial police forces were established in Quebec and Manitoba in 1870 and in British Columbia in 1871. In Ontario there was resistance to a provincial police from the municipalities which were empowered to enforce federal law, provincial statutes and municipal bylaws. However, under provincial law detectives were hired, some constables and a frontier police. These became members of the Ontario Provincial Police when it was finally organized in 1909.

An important change in law occurred in 1893 when parliament passed the *Criminal Code* of Canada. Up until this time the justice system in Canada as in Britain was based on common law, precedents established by decisions in previous cases and on legislated statutes regarding crime. This code consolidated and systematized common law and previous statutes giving criminal law coherence for the first time.

Section 25 of the *Criminal Code* had great significance for police officers from this time forward. It clearly established that anyone, including police officers, who is required or authorized to enforce the law, was entitled to use such force as necessary for that purpose. There were two important qualifications to that authority. First, a person using force intended or likely to cause death or grievous bodily harm is only justified to use this force if it is necessary to protect him or others from death or grievous bodily harm and that he is responsible for any excess force employed. Second, the police officer has the right to use only as much force as is necessary to prevent the escape of persons fleeing to avoid arrest.

In 1873, Parliament authorized the formation of the North West Mounted Police (NWMP), a force to bring policing to the vast stretches of the Northwest Territories including what were later the provinces of Alberta and Saskatchewan. The principal reason for the creation of the NWMP was to establish sovereignty and law and order in advance of settlement coming from the east. This would protect Canadian territory from the appetite of the United States to expand northwards and would establish good relations with the

Aboriginal people avoiding the warfare which accompanied American and Indian contact.

In 1874, the 275 members of the NWMP marched west en masse complete with weaponry, including artillery, lances, swords, revolvers and rifles. While the Mounted Police was a civil police force it was paramilitary by order and discipline and was armed for military conflict if necessary. Over the next several years the Mounted Police established several headquarters posts at strategic spots in the Northwest Territories and over the next decades built outposts and a vast patrol system to ensure the safety and security of the inhabitants.

Weapons were rarely used by the mounted police. Given its small complement of fewer than one thousand members at maximum, talk and good relations were the best ways to deal with tens of thousands of Aboriginal people. With the significant exception of the North West Rebellion the NWMP achieved success without recourse to violence very often. Although one senior officer of the Mounted Police, Superintendent J.H. McIllree, displayed little sensitivity to use of force issues in 1886 when frustrated by the recurring problem of Aboriginal stock thieves complained that it was a great pity that the police could not discourage this practice by shooting a few of them. When Prime Minister John A. Macdonald was informed of this officer's observation he ordered that McIllree be cautioned that suspected thieves could not be shot on sight.

There was one occasion when the NWMP felt compelled to use extreme measures to apprehend criminals. Almighty Voice was a young Aboriginal man who fell into great trouble. Originally arrested for stealing a cow in 1895, Almighty Voice escaped custody and killed a police officer who tracked him down. He managed to evade police for a year and a half until he was finally discovered in northern Saskatchewan. Cornered by police, Almighty Voice and two armed companions took refuge in a wooded bluff and dug pits to protect themselves. A battle ensued in which the Aboriginals killed four of their pursuers and wounded three others. Finally the police employed a seven-pounder cannon to blast

the bluff. As a result, Almighty Voice and one companion were killed by the artillery and the third was wounded by a round and killed by subsequent rifle fire.

Coincidental with the passage of the *Criminal Code* in 1893 and its clarification of use of force limits, the Mounted Police addressed the issue of use of force against escaping prisoners. That year the commanding officer of the NWMP at Fort Saskatchewan, Superintendent A.H Griesbach, ordered his men to deal with such cases by issuing two verbal warnings to stop and then to shoot at the prisoners' legs. No doubt following closely the passage of the *Criminal Code* in Parliament, Fred White, the Comptroller of the Mounted Police in Ottawa, instructed Commissioner Lawrence Herchmer in Regina to countermand these orders and to warn Griesbach that in case of an accident involving a mortal or serious wound he could be liable for prosecution.

There has been thorough study of restraining instruments including handcuffs and leg irons and weapons from revolvers to artillery and machine guns used by the Mounted Police in the late 19th and early 20th centuries. I have uncovered no such studies for other Canadian police forces in the same time period. However, from historical accounts of the police in this time period it is clear that police officers were issued badges, handcuffs and billy clubs or batons, and that guns were issued or available to certain officers or to all officers in some circumstances.

Likewise, little is available on how these weapons were used by ordinary police officers on beat patrol and other ordinary duties. However, there is an account of Toronto Police officers in the early days being cautioned to use their batons only when necessary when dealing with drunks and arresting criminals. Patience and persuasion were recommended as tools of compliance in such circumstances. Also, there is reference to the excessive use of force employed by a Toronto policeman who kicked a prostitute he encountered on his beat who abused him verbally. A complaint was sent to the Toronto Police Commissioner who warned that force was to be used only when necessary against those

resisting arrest and not against those trying the patience of a beat officer. The policeman in question was suspended from duty.

Where there was more likelihood of force being employed was in the special challenge of crowd control in situations of confrontation. The Toronto Police Force drilled regularly and practiced with firearms to meet such eventualities. Membership in the 19th century Toronto Police Force and fire department was notoriously reserved for members of the Orange Order and batons were sometimes used too readily when crowds of Catholics gathered. However, in one incident in 1875 Catholics organized a religious procession through the streets of Toronto. Predictably, gangs of armed Orangemen attacked the procession. Responding, the police deployed to protect the Catholics and though stones were thrown and shots fired from the Orange side injuring several policemen, the Force maintained order without resorting to use of firearm.

On one occasion the NWMP brought firearms to bear in crowd control situation. In 1885, disgruntled employees of the Canadian Pacific Railroad went on strike at the construction site of a railway bridge over Beaver River in the Northwest Territories because they had not been paid. Inspector Sam Steele and several constables were sent to the area to maintain order. The behaviour demonstrated by the striking workers turned ugly, exacerbated by consumption of alcohol. Members of the Mounted Police were attacked and beaten up while effecting an arrest and an officer shot and wounded one of the attackers. The situation deteriorated to such an extent that Steele assembled all of his men with guns pointed at an armed crowd about to cross the bridge and advance against the Mounted Police camp. The *Riot Act* was read and Steele threatened to shoot anyone who attempted to cross the bridge. The tactic worked and the crowd retreated. The police arrested those who assaulted its officers the next day and the disorder ended.

Police forces in the 20th century became more mechanized, scientific, information-driven and placed emphasis on education both in recruiting and in service training. The outward

trappings of this process of course are vehicles, planes, forensic science, the Canadian Police information Centre (CPIC), the Canadian Police College and increased standards in hiring. However, it is also true that up to the mid mark of the 20th century, in reality and in symbol, policing in the minds of most citizens in Canada and the United States was the beat cop. This was the officer who patrolled local neighbourhoods by foot and knew the people and the businesses he was protecting. This began to change in the latter part of the century. As urban areas and communities grew, the challenge of policing increased as well. It was no longer efficient or cost effective to have police officers on the street to anticipate disorder. Instead, police officers increasingly retreated to police vehicles and became incident-driven as crime rates grew. Simultaneously, the human and civil rights movements in North America and elsewhere began to view the actions of police officers with a more critical eye. The methods employed by police for social control began to be challenged and the term “police brutality” appeared when actions seemed excessive.

After varying degrees of emotive reaction by officers, police forces took a hard look at their methods, their professionalism and ethical behaviour. The common conclusion was reached that police officers interacted with the public with an expertise garnered from professional training. But many interactions were confrontations devoid of communication and often involving violence to some degree. Increasing media attention vividly displayed police use of force from the Chicago riot of 1968 to the Rodney King beating in 1991.

Professionalism for police officers came to mean a purposeful sense of public service, being called to assist citizens in communities to live peaceably. Police officers were held to higher standards of integrity and ethical behaviour by their own organizations and by other social mechanisms. Women police officers, except for singular instances, were a rarity in Canada before the 1960s and 1970s. Hiring of women significantly cracked if not completely shattered the mould of machismo police officers. This change and recruiting from minority communities altered the face of policing from the domain of white males and reapplied Peel's principle that “the police are the public and the public are the police.”

Police organizations redefined themselves according to their mission, vision and values and often changed their brand from “force” or “department” to “service”.

A new sense of ethical behaviour was also imposed on police by the adoption and subsequent judicial interpretations of the *Canadian Charter of Rights and Freedoms*. Police officers were compelled to operate with the new sense that individual rights were equal in importance to the efficient resolution of criminal cases. And police officers were to respect each individual in society and not bring prejudices or generalizations about groups of citizens to work.

At the same time police organizations adopted the community policing model. This framework embraced three concepts. Community-based policing brought communities into partnership with police services for crime prevention and reduction with initiatives such as Neighbourhood Watch and CrimeStoppers. Problem-oriented policing challenged police officers to be proactive in addressing social problems which afflict society. And finally, community policing meant dealing directly with local governments and communities to identify priorities and methods for addressing crime and disorder.

Important in the contemporary demand by the public for accountability by police services and their individual officers has been the creation of civilian oversight bodies. Some oversight of police operations in Canada had been exercised as far back as 1855 when the Toronto Board of Police Commissioners was formed. Police commissions assist municipal police services in several provinces by providing liaison and information with the mayor and council. This, however, did not satisfy the call for public complaints to be resolved by independent civilian oversight bodies.

Public complaints commissions under various names now exist in every province in Canada. The earliest was created in Ontario for the city of Toronto in 1981 and was extended across the province in 1990. Since then it has been transformed several times,

increasing its powers and re-engineering its structure until the office of the Independent Police Review Director was authorized by the legislature in 2007. Similarly, the public complaints office in British Columbia has been reorganized with growing powers and further changes are under review. This body is responsible for complaints against the 25% of municipalities not policed by the RCMP.

Public complaints bodies across Canada have addressed a multitude of complaints regarding police conduct in the past decades. Some of these were probably a minor concern to the public but of great personal import to the individuals and families involved. Others like the BC Public Complaints review in 2003 of the fatal shooting of a young man by a Port Moody police officer were very important to the credibility of police services. The resolution of complaints may not satisfy all parties but it is vital to establish that an impartial civilian body addresses important issues.

In 1988, the federal parliament created the Commission for Public Complaints (CPC) Against the RCMP. This office is completely independent of the RCMP and receives and investigates public complaints against the Force, can hold public hearings, relates it findings, and makes recommendations for change. In November 2007 the Minister of Public Safety asked the CPC to conduct an investigation into the use of conducted energy devices (CEWs or “tasers”) by the RCMP. This was the first time a request of this nature had been made by a minister, opening up a new avenue of investigation for the CPC and providing funding and authority to investigate more substantive policing matters.

On December 11, 2007, the CPC issued its interim report on the use of the CEW by the RCMP which had been requested by the Minister of Public Safety. There had been growing concern in Canada about the safety of these devices, especially after the deaths of two individuals in British Columbia in incidents just a month apart following the use of the CEW by members of the RCMP. The report related that the RCMP inappropriately classified CEWs as an intermediate weapon and not a potentially lethal weapon and that

RCMP members too often resorted to its use. The RCMP and other law enforcement organizations have discussed this issue with the CPC but have not fully implemented the recommendations of the interim report.

Police forces have long searched for and adopted new non-lethal methods of dealing with suspects and criminals in various states of compliance and resistance to direction or arrest by police officers. The most desirable way of dealing with situations is by soliciting compliance without the use of any force. In 1987, the *Toronto Star* newspaper featured an article on use of force training in the Toronto Police Service. A trainer for the service, Constable Darren Smith, was quoted as saying: "The very first thing [I tell] recruits is not to be in a hurry to use force at all." "Your best weapon is your brain" he states. "Your second best weapon is your mouth. Your third best weapon is your feet—you can get out of there. Only when these things fail do you use anything else." This advice descends directly from Peel's principles and represents the distillation of law and the best practice for all police officers.

After the soft options of talk and retreat, then follows a host of other techniques which are taught to police officers for use in an escalating scale of dangerous situations. Specific techniques for use of force are part of the training of recruits and the retraining of serving officers. Frameworks for judging the appropriate situations are laid down in policy to assist officers to make split-second decisions on use of force. But in the end it is at the discretion of individual police officers to use the force they deem necessary and be vindicated or vilified by those passing judgement after the fact.

Often regarded as the least invasive use of force are those techniques referred to as "empty handed" or "physical control'. Police are trained in self-defence tools to incapacitate low-risk resistors by manipulating their bodies using methods often derived from martial arts. These methods were expected when police officers were chosen partly for size and strength but are more problematic when such standards have been reduced in

importance. The office of the Public Complaint Commissioner for British Columbia reported in 2005 that there exists "the potential for serious injury to both parties in arrest situations even where no weapons are used. […] officers are often called upon to control individuals who may be larger, stronger and younger, and who have received formal or informal training in unarmed combat, either in martial arts school or a prison yard. The implication that an unarmed individual cannot pose a serious risk is a dangerous fallacy." An undesirable side effect of fighting is physical harm to the police officer, which is not only painful but often requires medical treatment and loss of time on the job.

A police officer fighting an unarmed resistor in a deteriorating situation may be tempted to use incapacitation holds to take someone down. One method is the chokehold which involves the officer placing his arm against the windpipe of the subject from behind and pressing to cut off air to the lungs. The chokehold was banned by the RCMP for its members in 1979 and by other police services about the same time, as it was too dangerous. Too often a chokehold inexpertly applied resulted in serious injury or death. Similarly, the carotid control technique involves an officer from behind using his arms to cut back the flow of blood to the brain and inducing unconsciousness. This is permitted to RCMP members only when their lives or the lives of others are at stake. But this eventuality may develop quickly when a fight turns nasty.

As was mentioned earlier, the "billy club" or the baton has long been in the arsenal of police weapons. The original batons tended to be large pieces of wood which could deliver heavy blows, but over the years the design evolved and the size was reduced. Technical analysis demonstrated that smaller clubs could be swung more easily and faster making them more effective weapons. Also, smaller batons were more portable particularly for police officers getting in and out of vehicles. Originally, blows from batons were delivered to any part of the body but in recent decades training emphasizes avoiding the head and aiming at the extremities to reduce injuries.

Side-handled batons were designed and employed with specific mechanical properties, which increased the speed of a takedown. Also, expandable batons have been invented which are lightweight and made of metal to maximize the power of the strike. However, studies in the United States have found that the use of the baton escalates the fight if initial strikes are not immediately effective. In Canada, a police chief reported that his officers were increasingly reverting to batons and pepper spray because of unfounded concern over the use of CEWs and in his opinion the result has been more injuries to both the police and the public.

One weapon not officially in the police arsenal before sophisticated non-lethal weapons were developed was the heavy metal flashlight. However, I have had more than one police officer tell me that the flashlight was their preferred weapon going into a fight which they had doubts about winning.

The development in the use of various incapacitating aerosol sprays in the1980s were embraced sometimes reluctantly and sometimes briefly by law enforcement in Canada in the 1990s. An example of the latter category was mace, which is tear gas, a chemical agent used as an aerosol spray which is quite disabling. In 1989, the *Toronto Star* reported that the Toronto police wanted to carry mace as a weapon but that it was banned by the *Ontario Police Act* except in special circumstances. It was, however, used by federal correctional officers at Kingston Penitentiary with tragic results. A prisoner, Robert Gentles, died of asphyxiation when guards sprayed him with mace and used great force removing him from his cell for disregarding orders to turn down his radio. A survey of police agencies by the Canadian Police Research Centre in 2004 found that only one service was using mace.

The non-lethal weapon of choice by Canadian police services beginning in the 1990s was Oleoresin Capsicum (OC), better known as pepper spray. OC came to the notice of the public in Ontario in 1992 when Solicitor General Allen Pilkey revealed that the province

was considering allowing its use by police to replace the use of guns in dangerous situations when the suspect was unarmed. OC when sprayed into a suspect's face causes serious irritation to the eyes, mucous membranes, mouth and throat, and breathing becomes painful. Toronto's Chief of Police supported testing of the product and was quoted as saying that OC “is a medically harmless incapacitant which reduces the incidence of more physical and injurious force” and that the spray “can serve the public for greater police restraint while also giving the police a valuable tool.”

Shortly thereafter the Ontario Solicitor General approved OC for use by police services in the province and soon the orders for the weapon were placed. No sooner was OC adopted that controversy arose concerning its use. A newspaper report from North Carolina in 1993 that a man had died after being pepper-sprayed by police explained that the victim had chronic lung and heart problems which were determined to be the cause of death. Police in Peel, Ontario stated that this incident was not enough to have them second-guess their decision to use OC. However, deaths occurred thereafter in Ontario too, one in 1995 of a patient at a mental health centre in Whitby who had been in a highly agitated state, and another in Waterloo in 1996 in which again an agitated man had succumbed shortly after being sprayed with OC. But testing and continuing use of the product underlined its safety and these deaths were deemed to be anomalies.

In the 1994 annual report of the Manitoba Office of the Commissioner Law Enforcement Review Agency some concerns were raised about the prevalence of and motivation for the use of OC by police.

“Pepper Spray is a relatively new weapon in the police arsenal. It is non-lethal and is intended to be used against violent and aggressive persons. The use of pepper spray should reduce the need for police to use more injurious weapons, such as batons, or deadly weapons such as guns.

There are some indications that when pepper spray is used during an altercation police

officers suffer fewer and less debilitating injuries. There is, however, some concern as more complainants are alleging that the police are using pepper spray improperly, when there is no need for it, or as a form of punishment when the officers are upset with someone's behavior [*sic*]. This is an emerging issue that my office will continue to monitor and report on."

In Montreal in 1995 the death of man who was pepper-sprayed by police raised concern in the media about the use of the weapon. The American Civil Liberties Union (ACLU) was cited as raising the alarm on the use of pepper spray in the United States because one in 600 persons died after being subjected to the weapon. The ACLU did admit that none of the autopsies performed on these victims identified OC as the cause of death. The Montreal police guide book on the use of OC stated that there were few risks of death or injury but gave the opinion that deaths were due to asphyxia caused by a medical condition, drug use or the physical position of the person sprayed.

Occasional deaths continued to be reported across Canada through the 1990s and into the twenty-first century after persons were sprayed with OC, but in every case it was determined that the weapon was not the cause of death.

In its annual report for 2007 the Ottawa Police Service gave a statistical analysis on use of force options by its officers and the results are somewhat surprising to me at least. There were 597 instances in which use of force was used and of these, 420 involved firearms being drawn, pointed or discharged. It must he emphasized here that all of the 51 cases of firearms being discharged involved animals being destroyed. In only 45 cases were physical control techniques used. The other 132 instances involved the use of OC (54), batons (66) or CEWs (12). That CEWs were used only a few times is probably attributable to the fact that these weapons were not deployed to front line officers until November of that year. Before that, CEWs were used only by the Tactical Unit.

Use of force models have assisted police officers in Canada since the 1980s to assess situations involving confrontations in the course of their duties. In 1993 Ontario adopted a use of force model which was vividly visual and graphically portrayed situations, assessments and appropriate responses within a circle. This visual device helped train officers to apply learned responses to the situations they would encounter. Then, in the year 2000, the Canadian Association of Chiefs of Police adopted a similar model which had been developed by experienced police officers from across Canada. The RCMP built on this model to adopt its own Incident Management Intervention Model (IM/IM).

Using the IM/IM as a tool for explanation, the RCMP officers responsible for coordinating use of force options made a presentation to the Parliamentary Standing Committee on Public Safety and National Security on March 31, 2008. This presentation articulated the RCMP's position on the various use of force options, their strengths and weaknesses, and explained how front line officers process information based on the IM/IM model.

Policing in the United States as in Canada traces its roots back to the British model of the 18th and 19th centuries and evolved much like it did in Canada. The watch system gave way to sheriffs and justices of the police and as urban areas grew municipal police forces were organized. The greatest failure of early policing in America was in the frontier West. There was no centralized system of law enforcement which became the responsibility of local marshals appointed by town officials or elected sheriffs. The quality of men chosen for such roles was not high.

There were also federal marshals but they investigated mainly civil cases and became involved in criminal matters only when federal laws were broken such as in mail robberies. The lack of consistent law enforcement led on occasion to vigilance committees or vigilantes who enforced a rough justice on suspected criminals. The closest thing to a centralized force was the Texas Rangers dating back to 1835. On the frontier, justice was meted out from the barrel of a gun as opposed to the lack of violence which mostly

characterized the Canadian early western experience where the North West Mounted Police held sway.

At present, the biggest difference between Canadian and American police services lie in the numbers of agencies. In Canada the number of police services is usually put at about 260 while in the United States there are estimated 40,000 police agencies most of which have a complement of ten or less officers. Many of these are federal agencies doing separately the job that the RCMP does in Canada.

The growth of weaponry in the United States was similar to the Canadian experience. Early municipal police forces in the east issued their officers with batons but many officers supplemented this weapon with firearm for personal protection. In 1884 the Boston police issued its officers with revolvers and the New York force followed in the 1890s.

One pronounced difference between police services in the two countries was the issue of a less lethal weapon known most commonly as the blackjack or sap in the early 20th century. These variously shaped leather-covered tools containing lead shot or some other weight were carried in pockets and used to give advantage to police in unarmed struggles. They gained a notorious image in the mind of the public as a secret and unfair weapon.

Given their reputation most police services phased blackjacks out in the 1950s and 1960s when the human rights movement occasioned closer scrutiny of police practices. However, in 1998, Philadelphia police officers still carried them although it was reported that the chief was looking at replacing them with pepper spray. And in Washington in 1998, the *Post* newspaper reported on use of force training by the D.C. police. In an interview with a reporter, the Executive Assistant Police Chief, Terrance W. Gainer, said that the service was looking at phasing out blackjacks rather than withdrawing them immediately. He stated that “We’re trying to balance our changes with the officers' sense of safety. Until we train officers with an appropriate tool, we don't want to send them into shock. Change has to be done conscientiously, gently. People can't handle too much

change at once."

From the 1980s to today American police services went through the same debates over, and examinations of, non-lethal weapons as took place in Canada. Added to the belts of police officers were mace replaced often by OC, new versions of batons most often the expandable model, and the CEW. The deaths which occurred following use of OC or CEW brought concerns over whether these weapons can be classified as non-lethal. Amnesty International in 1999 estimated that over 3,000 deaths had occurred due to use of OC by police in the United States over the past decade. But autopsies regularly supported the position that the deaths were caused not by the weapon but by some underlying condition or drug use.

Examination of frameworks for the use of force continuum by police forces also occurred in the United States. Again, given the multitude of American police services, there is a variety of such models in use. These frameworks tend to be less sophisticated than those which have recently been developed in Canada. In 2004, the International Association of Chiefs of Police, a largely American organization, copied a lengthy description of the Canadian Association of Chiefs of Police framework onto its website.

However, there are a growing number of civil liability actions against police officers over use of force choices. In 2001, there was an estimated 30,000 such suits underway in the United States. And in a scholarly review of use of force options published in 2008 in the Law Enforcement Executive Forum the authors stated: "Use of force continuums, once relied upon as the best way to train officers on the correct application of force, are slowly being removed from agency policies across the country as a result of fear of ligation when an officer works outside of the printed standards but still within reasonable guidelines."

There are indications that despite opposition from many police authorities, civilian review has grown in the United States in recent years. But given the multiplicity of agencies and the varying models of what constitutes civilian review, hard evidence is lacking. A recent

study of selected police services with varying kinds of review methods found them largely ineffectual and not contributing to citizen satisfaction with the handling of complaints. The Washington D.C. Civilian Complaint Review Board had such a huge backlog of unresolved complaints that it was disbanded in 1995.

There are particular and extraordinary situations in which police are called upon to use to control violent or violence-prone protestors from causing harm to persons or property. It is not within the scope of this speech to deal with this subject in a thorough manner but the high profile nature of the issue demands at least comment. In the early days of the civil rights movement in the United States, police were not attuned to dealing with crowds asserting rights to assemble and express grievances and often were strongly opposed to such actions. At times violence was used and incited by police to disturb the peace.

Learning from the experience, more radical elements strategically planned disruptions and prepared to meet the police in violent confrontations. An example of this was the riot in Chicago at the Democratic Party convention in 1968. Organizers brought volunteers to the site of the Democratic convention with the express purpose of disrupting the proceeding in protest over the conduct of the Vietnam War. Police responded in the manner of a military operation and crowd control was achieved by swinging batons resulting in many injuries.

In Canada there have been many situations where protestors have gathered to express discontent with government policy or actions. In recent years the anti-globalization movement has confronted police on many occasions. Learning from earlier experiences police have opted for communication to establish understanding of rights and consequences of certain actions and have concentrated on non-violent means of crowd control. However, there are at least two instances when police use of non-lethal weapons engendered considerable controversy.

One occurred in 1997 at the Atlantic Pacific Economic Co-operation (APEC) summit in Vancouver. Protestors who broke down barriers and intended to disrupt a motorcade of delegates were pepper-sprayed by RCMP officers. The Commission for Public Complaints investigated allegations of overreaction by police and after a lengthy and even tortured process found insufficient evidence to support the complaints. However, the police actions have remained a blemish in the minds of those involved in the anti-globalization movement and of many Canadians generally

The second such confrontation was on a much larger scale and occurred in Québec City in 2001 where 34 countries from North and South America gathered to discuss economic issues. Police intelligence rightly warned that hundreds if not thousands of protestors would gather to disrupt the summit. Police were well-prepared, sealing off the meeting sites with sturdy fences and mobilizing a force of about 6,500 officers to deal with the eventuality of confrontation. Over two days of violence took place with protestors storming and breaking down the fences and police repelling them with tear gas, plastic bullets, sock rounds and pepper spray balls fired from projectile weapons. Many were injured on both sides of the line.

Conclusion

Robert Peel's statement that the police are the public and the public are the police is as true now as ever. So too are his principles that persuasion is the preferred means of ensuring peace with the cooperation of the public and that force be used only when strictly necessary. On this base are built the police institutions in Canada and elsewhere. For the most part police services have consciously adhered to the concept of controlled and minimal use of force.

In recent years the adoption of various means of non-lethal weapons have given police more options in applying force in confrontations involving violence. The aim is to ensure that this will minimize injury to police officers and to those in conflict with the law resulting

in less grave consequences. Some weapons still have controversy attached to their use because of a small percentage of outcomes which are negative.

As a bulwark to this process civilian review agencies hear public complaints on many police issues, including use of force, and have varying degrees of authority to seek resolution to the issues involved. An informed dialogue between these review agencies and the police with input from interested parties like Amnesty International and civil rights organizations has been launched and will succeed with the good will of all concerned.

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