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**ASPECTS OF POLICE USE OF DEADLY FORCE  
IN NORTH AMERICA:  
THE PHENOMENON OF VICTIM-PRECIPITATED HOMICIDE**

by

Richard Brian Parent

B.A., Simon Fraser University, 1992

M.A., Simon Fraser University, 1996

**Dissertation Submitted in Partial Fulfilment  
of the Requirements for the Degree of  
Doctor of Philosophy**

in the  
School of Criminology

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## APPROVAL

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The Phenomenon of Victim-Precipitated Homicide*  
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## ABSTRACT

The purpose of this dissertation is to study and examine the underlying reasons for police use of deadly force and potential deadly force, in Canada and the United States of America, during the period from 1980 through 2002. Within this context, the phenomenon of victim-precipitated homicide, also known as “suicide-by-cop,” is examined.

The reader is first introduced to the various legal and policy provisions that exist within Canada and, the United States of America that control and regulate police use of deadly force. The reader is then provided with a review of the literature surrounding the explanations and predictors of police use of deadly force. Within this context, the dissertation also explores those theories that serve to explain the changing patterns of extreme violence and suicide within society. The methods utilized to obtain and discern the data for this dissertation are provided. This is followed by a “findings and interpretations” section of the dissertation.

This dissertation analyzes 843 separate documented incidents where police personnel, within Canada (n=409) and the United States of America (n=434), have discharged their firearms typically while facing a lethal threat. In 417 of these incidents, the police have responded by discharging their firearm and killing a total of 419 people. The remaining cases that were examined reflect incidents in which police personnel responded with less-lethal force.

Through the examination of police investigations, Coroner and Medical Examiner records, government data and, interviews with police officers and prison inmates, this

dissertation reveals that, in roughly a third of the cases examined (n=273), police officers reacted to a lethal threat of victim-precipitated homicide. These are incidents in which an individual, who is typically predisposed to suicide or mental illness, has in a calculated and deliberate manner forced a police officer to use potentially deadly force.

In addition, this dissertation reveals the link between the phenomenon of police assisted suicide and the phenomenon of suicide *as a result of police intervention*. The latter one refers to instances in which an individual predisposed to suicide has suddenly taken his or her own life upon the intervention by police.

## DEDICATION

For Cathy, and my two daughters,  
Jennifer and Janeen

In memory of  
Wilhelm Edgar Boggs  
and  
Margaret Ann Elsoff

## **ACKNOWLEDGEMENTS**

This dissertation would not have been possible without the assistance and guidance of a great number of individuals. I first wish to thank the Chief Constables of the Vancouver Police Department – the late Chief Ray Canuel, Chief Bruce Chambers, Chief Terry Blythe and Chief Jamie Graham (former Superintendent of North Vancouver RCMP Detachment), Vancouver Mayor Larry Campbell (former Chief Coroner of B.C.) and the Executive Officers of the Delta Police Department who opened many doors and assisted in facilitating this controversial research project. Additionally I wish to acknowledge and thank Brien Farrell the City Attorney with Santa Rosa, California, Bruce Jackson of the Pierce County Public Prosecutions Office, Tacoma, Washington, Jaap Timmer of The University of Netherlands, Dr. Vivian Lord of the University of North Carolina, Dr. Brian Homant of Detroit Mercy University and, Dr. Peter Collins of the Ontario Provincial Police for providing their direction and support.

I am also grateful for the extra effort taken by Tej Sidhu of the BC Coroners Office, June Frank of the Ontario Coroners office, Christine Babec and the staff of the Justice Institute of B.C. Library, Myra of the Suicide Information and Education Centre, Julie Grimaldi of the O.P.P., Pat McCaffery and Syd Gravel of the Ottawa-Carlton Police, Ron Aalen of Toronto Metro Police, Alexandre Matte of the Service de police Québec, Shelia Sullivan and Valerie Spicer of V.P.D., Stephan Drolet of the RCMP, Louise and Matthew Pyers, Tamie Flennig, Greg Jenion, Brian Thiessen and the Special Investigations Unit of Ontario in providing the necessary assistance, files and documents that have formed part of this dissertation.

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I am also grateful to the individual American police officers within the states of Arizona, California, Colorado, Maine, Mississippi, Missouri, Nebraska, and Texas for sharing their personal experience of a deadly force encounter. These individuals have risked their lives so that others may live in a safer and better community.



### The "Police Officer" in the Arena

It is not the critic who counts: not the man who points out how the strong man stumbles or where the doer of deeds could have done better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood, who strives valiantly, who errs and comes up short again and again, because there is no effort without error or shortcoming, but who knows the great enthusiasms, the great devotions, who spends himself for a worthy cause; who, at the best, knows, in the end, the triumph of high achievement, and who, at the worst, if he fails, at least he fails while daring greatly, so that his place shall never be with those cold and timid souls who knew neither victory nor defeat.

Theodore Roosevelt, *Citizen in a Republic*,  
Speech given at the Sorbonne, Paris, April 23, 1910.

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## INTRODUCTION

A precarious relationship exists between democratic societies and the police agencies that have been created for the purpose of maintaining law and social order. In an attempt to maintain law and order, police officers must routinely use force in their day-to-day contact with the public. Police have at their disposal the capacity to act as judge, jury and executioner, if need be. Force that is legitimately and properly applied serves as an essential ingredient in maintaining an ordered society (McLaughlin, 1992; Ross, 2002).

However, the decision to use deadly force is of such significance that, if at any time a death results, the appropriateness of the action will always be questioned. Police use of lethal force can only occur in those few situations in which no other reasonable option is available. When an officer is issued a firearm, the expectation is that it will only be used in very limited circumstances. The vast majority of police officers within Canada and the United States will complete their entire careers, without having to shoot or utilize potentially deadly force (Griffiths et al., 1999). However, in those rare instances when deadly force is used, the decision-making by the officer is often complex, multifaceted and instantaneous.

When police officers use firearms against individuals, it is assumed that they are using lethal force. Police officers within Canada and the United States are trained to shoot to kill contrary to the common notion that training involves techniques in wounding assailants. Police firearms training emphasizes hitting the target's centre of mass, to eliminate a potentially lethal threat (J.I.B.C., 2004). However, McLaughlin (1992) notes that, in fact, the majority of people shot by police do not die. Generally, officers who

discharge a firearm or utilize other potentially deadly force are attempting to immediately incapacitate a perceived threat. This decision-making process will usually transpire when the individual officer is under stress, allowing for the influence of both physiological and psychological factors (Parent, 1996).

In North America, both law and policy govern the police use of force. The use of deadly force by the police in Canada and the United States must occur only within the parameters of federal and state legislation as well as organizational policies. Within this legal framework, the police are also empowered to utilize discretion. Geller (1992) defines official discretion as an authority conferred by law to act in certain situations in accordance with an official's or an official agency's own considered judgement and conscience. Government legislation and organizational policies within Canada and the United States serve to provide only the outer limits of police discretion in using force.

There is no obligation for the police to use force whenever it would be legally justifiable. The use of force, including deadly force, is dependent upon both the unique circumstances of the incident and the unique decision making of the officer. If two officers are faced with the exact same circumstances, one individual officer may decide to employ deadly force while the other may choose a non-lethal method of dealing with the perceived situation. Thus, both discretion and perception may vary between individuals.

There is little research in Canada concerning the issue of police use of deadly force. The most recent Canadian research conducted on this subject narrowly focused upon the province of British Columbia (Parent, 1996). Chappell and Graham conducted the latest national analysis of the police use of deadly force in Canada in 1985. Chappell and Graham's research was largely based upon a very small number of

coroner's inquest reports, a factor that limited the validity and scope of their findings. A coroner's inquest simply serves as a fact-finding exercise in determining the cause of death; it is not a fault-finding process.

The recommendations and conclusions reached by a coroner's inquest must be viewed with caution. For example, an inquest may determine that a police officer caused the death of an individual. However, in subsequent criminal and civil court proceedings the officer's actions may be found to be justified. In other instances, Crown Counsel or the District Attorney may review the police investigation deciding that criminal charges are not warranted against the police officer(s). Chappell and Graham failed to examine these other issues, basing their research and deductions upon the narrow findings of a small number of coroner inquests. It is also important to note that the database utilized by Chappell and Graham concluded in 1982. In over 20 years there has been minimal Canadian research in this area of significant concern.

In the United States, researchers have attempted to explain the underlying reasons for extreme violence including police use of deadly force (MacDonald et al., 2003; White, 2003). In their attempts, researchers have derived a number of theoretical perspectives, each providing a viewpoint that must be considered within the unique circumstances of individual lethal force incidents (Hannon, 2004). Wolfgang and Ferracuti's (1967) 'subculture of violence' is one of the most cited theories of violence. These authors present the concept that there exist in different communities "subculture(s) with a cluster of values that support and encourage the overt use of force in interpersonal relations and group interactions".

Geller and Scott (1992) state that the structural theory asserts the significance of "broad-scale" societal forces such as lack of opportunity, institutional racism, persistent

poverty, demographic transitions and population density; these combine to determine both homicide rates and to influence the police use of deadly force. It is argued that these factors serve to facilitate violent crime within a community, thereby influencing the propensity for police use of deadly force (MacDonald et. al., 2001).

The interactional theory focuses upon the character of relationships that escalate into homicide. Police use of force is seen as resulting from the interaction process itself. The act of the participant precipitates the acts of the police officer. This may result in an escalation of conflict that culminates in deadly force being utilized. In his 1982 study, Luckenbill states that the most severe form of violence, murder, takes a sequential form. In his analysis of 70 murder cases, it was noted that in every case, the killing was a culmination of an interchange between the offender and the 'target' (victim).

The transaction of violence would occur in a sequential form. The "target" would act in a manner that the offender deemed to be offensive. In response, the offender would typically retaliate with a verbal or physical challenge. These events would establish a "working agreement", favouring the use of violence. A battle would then ensue, typically leaving the target dead or dying (Best and Luckenbill, 1982:161-166).

In applying Luckenbill's theory to police use of deadly force, the police officer would typically take on the role of the target. A police officer unknowingly attending the scene of an in-progress crime or, attempting to intervene in a violent situation, is typically perceived as the "offensive individual" by threatening the goal of the perpetrator.

As this interaction commences, it becomes apparent to both the target (police officer) and the offender (suspect) that each individual favours *opposing outcomes*. The police officer, if allowed to fulfil his/her role, will not only terminate the offender's progress towards his/her goal but will also hold the offender accountable for his or her

actions. In most instances, this accountability will occur in a court of law with consequences that may include punishment and the possibility of imprisonment.

It is within this context that the offender retaliates with the use of violence, or with the threat of violence. The offender sees the option of surrender or compliance as being an unsuitable means of settling the confrontation (Luckenbill, 1977; Hannon, 2004).

The offender's actions, or in-action, will ultimately determine what level of force is required by the police officer. Should the offender choose to display a real, or perceived, potentially lethal threat towards the officer or another individual, then it is likely that police personnel will respond with their firearms or other appropriate levels of force.

Violence by police is also said to be situational in nature. In each particular situation there is a unique set of dynamics that include personality, stress and danger. Parent (1996) significantly emphasizes that, in some instances, the police officer is forced to react within seconds and there is little that the involved officers could have done differently to alter the nature of their encounter.

Individual officers who have been involved in shootings have detailed how the often split-second incident appeared to unfold in "slow motion" with their only focus being upon the actions of the assailant. In most cases, police officers responded to the perceived threat in an "automatic" manner, based upon their repeated training in dealing with life-threatening situations. In the vast majority of cases, a potentially violent encounter will develop into a deadly violent situation in just a matter of seconds.

An essential factor in controlling this iatrogenic situation is the obligation of the individual police officer to check for specific factors as they approach the scene of a potentially violent encounter. The mere presence of a police officer may serve to intensify and escalate the situation into which they are entering. Researchers have

noted that a key factor in increasing the amount of time available to an officer is the training in violence reduction (Parent, 1996; J.I.B.C., 2004). This would include such matters as deciding upon how, and when, to enter a situation, and what precautions to take including developing a habit of checking in-progress crime scenes for the purpose of identifying dangers, options and bystanders (Geller and Scott, 1992; J.I.B.C., 2004). The rapid timing and physiological effects that occur during the violent encounter tend to indicate that there are few, if any, alternatives to deadly force.

It is important to recognize that an officer engaged in a potentially lethal encounter will experience a variety of perceptual alterations. Tunnel vision may occur which, in effect, nullifies the officer's peripheral vision. The officer may require this vision in order to see other dangers, other alternatives to deadly force or to become aware of the presence of innocent bystanders (Klinger, 2001; Sheehan and Warren, 2001).

Researchers have cited "time distortions" and "increased auditory and visual acuity" among other physiological effects of high-stress confrontations. These physiological changes, collectively known as the "general adaptive syndrome" are intrinsic within human beings, acting as a survival mechanism (Murray and Zentner, 1975; Sheehan and Warren, 2001). In conjunction with the general adaptive syndrome, the "alarm stage" is an instantaneous, short-term, life-preserving and total sympathetic nervous-system-response that occurs when a person consciously or unconsciously perceives a danger-inducing stressor. Stress is a physical and emotional state that is always present in a person but is intensified when an environmental change or threat occurs to which the individual must respond. An individual's survival depends upon constant negotiation between environmental demands and the person's own adaptive capacities (Murray and Zentner, 1975; Klinger, 2001).

In a modern society, the police are continually occupied with the threat of violence in their day-to-day activities. Skolnick (1966) stated that in reaction, police officers develop a "perceptual shorthand" to identify certain kinds of people as "symbolic assailants". These symbolic assailants are individuals who use specific gestures, language and attire that the officer has come to recognize as a prelude to violence. This may also apply to symbolic settings, which the officer has come to recognize as having the potential for danger (Griffiths, et al., 1999) (J.I.B.C., 2004).

The physiological and psychological changes that occur to police officers under stress serve as important factors in an officer's decision to deploy deadly force. Physical and social settings, including dark or poorly lit places, high crime and violence areas, angry or upset people and non-supportive social structures, also serve to heighten anxiety. While these factors affect all individuals, police officers are likely to experience even higher levels of anxiety as they often have little choice as to whether to enter a dangerous situation (Klinger, 2001; Sheehan and Warren, 2001).

### **Victimology and "Suicide-by-cop"**

Researchers have also attempted to explain police use of deadly force by examining the role of the victim. Marvin Wolfgang (1958) notes that victim-precipitated homicides are those instances in which the victim is a direct, positive precipitator in his or her own death. It is the victim who is the first in the interaction process to resort to physical violence and not the subsequent slayer (Hannon, 2004).

Wolfgang verified much of this phenomenon through sociological analysis in his hypothesis that an individual may commit an unorthodox form of suicide by provoking another person to slay him or her. In his research, Wolfgang noted that victim-



precipitated homicides represented 26% of a total of 588 homicides studied in Philadelphia (Wolfgang, 1958:345). Within this framework, previous anecdotal research revealed the phenomenon of “suicide-by-cop” (Gerberth, 1993; Van Zandt, 1993).

During victim-precipitated incidents that are specific to ‘suicide-by-cop’, an individual will engage in a suicide mission by threatening the life of a police officer or innocent by-stander. The provoking individual typically *forces* the situation until the police officer has no other option but to use deadly force. In these instances, despite its name, victim-precipitated homicide is in essence a form of suicide (Lord, 1998; Homant, 2000).

Suicide has been defined as “death resulting directly or indirectly from a positive or negative act of the victim himself, which he knows will produce this result” (Durkheim, 1897/1951:44). Thus, by virtue of this definition suicide becomes an intentional act. Noteworthy is that the characteristics associated with an individual predisposed to victim-precipitated homicide are also generally defined within the category of suicidal behaviour.

Schneidman (1981) identifies the main elements of *high lethality suicide* as being the desire to die; a direct and conscious role in bringing about one’s own death; and the fact that death results primarily due to the deceased’s actions. In addition, specific psychological characteristics associated with suicide include a general sense of depression, hopelessness and low self-esteem on the part of the deceased. Often, these characteristics are overtly displayed by actions such as self-inflicted wounds, statements of suicide or the desire to die.

Foote (1995) adds that victim-precipitated homicide is really made up of several dimensions that include risk-taking, aggressiveness and intentionality. It is within this

framework that the concept of “suicide-by-cop” emerges. During victim-precipitated incidents, these factors culminate with a risk-taking person aggressively and intentionally engaging in *perceived life-threatening behaviour*, typically resulting in a police officer or another individual taking their life (Lord, 1998; Homant, 2000).

Geller and Scott’s (1992) analysis of this phenomenon revealed that usually these cases are difficult to discover, as there is little or no documentation of the victim’s intent. Unfortunately, the actions of the victim have led to his/her demise without the benefit of a post-shooting explanation for his/her behaviour. Police investigators have equally confounded this situation by failing to examine, in detail, the *root causes* of the victim’s behaviour. All too often the police shooting has been explained as a “crazy person who came at the officer with a knife or a gun.” It is only within the last decade that police and conflict-management trainers have begun to examine and make reference to the phenomenon of victim-precipitated homicide as a cause of police shootings (Parent, 1996; Lord, 2004).

Researchers (Parent, 1996; Lord, 1998; Homant, 2000) have noted that suicide prevention techniques and alternatives to lethal weapons must be made available to police officers, if these situations are to be minimized. However, persons who are strongly predisposed to taking their own lives may resort to extreme methods in an attempt to carry out their goal. It is well known through television, movies and literature, that police officers are trained and will deploy deadly force, with some degree of certainty, upon being confronted by a life-threatening situation. As a result, an individual predisposed to suicide may confront the police with a knife or other weapon, advancing upon and *forcing* the officer to utilize lethal force. An extreme individual may confront the police with a loaded firearm and even discharge their weapon at the police, in the

hope of being killed. These situations would provide few, if any, options for the attending officers except to respond with deadly force.

### **Why Suicide-by-Cop?**

Durkheim (1897/1951) believed that cohesion (integration of societal forces) reduced suicidal activity within a community, while *anomie* (social disorganization) promoted it. In today's contemporary society, socio-cultural factors facilitating suicide include a general state of societal demoralization or fragmentation, permissive social attitudes towards suicide and even media attention to celebrity suicides. Additional facilitating factors include social isolation from a supportive network, suicide of role models or peers (television and films icons), unemployment, and an environment that facilitates suicide such as the availability of firearms.

In this regard the government and the media share a key role in shaping public attitudes and in facilitating public education. Recent research in regards to police shootings in the province of British Columbia (Parent, 1996) has revealed that a significant portion of suicidal individuals had been under the influence of alcohol or drugs. In some instances these individuals were also suffering from some form of mental illness. These influencing factors frequently intensified their negative interaction with the police, ultimately resulting in their wounding or death (Parent, 1996).

Committing suicide by "traditional methods" that include jumping from a high structure, crashing a speeding vehicle into a stationary object or by a self-inflicted wound requires a decision and commitment on the part of the victim. In victim-precipitated homicides that are born out of suicide, the difficult decision to end one's life is made by someone else.

Van Zandt (1993) and Homant (2000) note that suicidal individuals specifically single out the police as they are the only community agency equipped with firearms and the training to react to potentially life-threatening situations with accurate and deadly force. Van Zandt adds that in most instances the police are only a phone call away.

In addition, the stigma and social taboos associated with suicide can be *absolved* upon being terminated by an *external mechanism* such as the police. As agents of the state, the police officer truly represents a face-less means of ending one's life in a somewhat dignified manner (Van Zandt, 1993; Homant, 2000).

This argument is supported by the psychoanalytical explanation of homicide as it relates to suicide and the drive for self-punishment. Wolfgang and Ferraculti (1967) illustrate that in the past there have been data that have supported the "murder as indirect suicide" thesis. A case in point is the epidemic of indirect suicides that took place in Norway and Denmark in the seventeenth and eighteenth centuries. Depressed individuals committed murder, presumably, so that they would be put to death. These individuals would not commit suicide as their religious beliefs precluded the taking of their own life.

These authors note that the occurrences of murder were so frequent that a special law was passed excluding those individuals from the death penalty. The intent of the legislators was to stop this particular type of homicide (Wolfgang and Ferraculti, 1967:206).

Lord (2000) and Homant (2000) further this position in that the police can symbolically represent the social conscience to certain individuals. Lord notes that, at times, suicidal individuals feel guilty about things that are real or imagined. Police officers traditionally and symbolically represent law and order within society. A guilt-

ridden, suicidal individual may enter into an interaction with the police in an attempt to seek punishment that may include death.

In other instances, the suicidal individual may not have the determination to end his or her own life. In these cases, the suicidal individual cannot “pull the trigger” to end his or her own life and, therefore, must seek assistance in fulfilling this goal. Gerberth (1993) cites instances in which an apparently armed individual has confronted the police and was killed. The subsequent police investigation revealed that the assailant knowingly confronted the police with an unloaded or inoperable weapon. Gerberth cites two cases to illustrate his point.

### **Case A**

The fatal shooting of a 17-year-old male occurred on December 23, 1992 when the police had attempted to stop the youth for series of traffic violations. A vehicle pursuit developed when the youth failed to stop for the police, which eventually ended when the subject’s car drove onto a front yard of a residence. As the police approached the youth he reached for a gun in the back seat of his car. In response, the officers twice order the subject to drop the weapon. Upon hearing the commands the youth stated ‘You’ll have to kill me’ and then turned and pointed the gun at the police.

The police officers responded to the youth’s action by firing four shots. As the youth was being handcuffed he stated ‘Please kill me, please kill me.’ A check of his weapon revealed that his gun had not been loaded. Further investigation into the incident revealed that the youth was upset with his girlfriend and had told his grandmother that he was going to kill himself or someone else. Relatives confirmed that the youth had been ‘acting and talking crazy’ and that he had made statements that he was going to kill himself.

### **Case B**

On October 08, 1990 a 40-year-old male was shot and killed by an off duty police officer, working part-time as a uniformed security officer. The subject had entered a closed restaurant brandishing a handgun. Upon

seeing the uniformed officer he pointed his gun at him. The officer responded by drawing his firearm and subsequently killing the subject. It was later learned that the subject's gun was unloaded.

Further investigation into the incident revealed that the subject had a lengthy criminal history and had recently returned to drug use. He had stated to friends that if he didn't get out of town he felt that he was going to die in a police shooting. He had also told one acquaintance that he was contemplating suicide. Witnesses to the shooting noted that the subject was seen peering into the restaurant ten minutes before entering. The restaurant was well known to the public as always having a uniformed and armed security officer within the premise. It appeared that the subject had calculated the events that had unfolded.

Gerberth adds that suicidal individuals may use hostage-taking incidents to bring about their demise. In these situations, the suicidal person will create a confrontational negotiation posture with the police. They will often announce their intention to die or make biblical references, particularly to the Book of Revelations and the resurrection. In addition, these individuals may set a deadline for their own death or begin talking about people who are dead, as if they are still alive. In following this course of action the individual accomplishes his or her own self-destruction while going out in a "blaze of glory."

Foote (1995) notes that in some instances, the act of suicide is pre-planned with the assailant engaging in a *calculated intentional act* of life threatening behaviour ultimately resulting in a victim-precipitated homicide. In other instances the act of suicide is *impulsive* with suicidal motivation occurring *only after* police involvement in a given situation (Foote, 1995; Homant, 2000). For example, at the conclusion of a police pursuit, an individual may suddenly decide that it is better to die at the hands of the police than to face a public trial with the possibility of a lengthy prison term.

## **Research Regarding Suicide-by-Cop**

In the United States and Canada, recent research surrounding the police use of deadly force has identified the frequency and degree of victim-precipitated acts that have constituted lethal-threats against police officers. The characteristics associated with victim-precipitated homicide, or suicide-by-cop, appear to be a significant factor in police shooting cases that have occurred within North America. Several empirical studies of the phenomenon colloquially known as “suicide-by-cop” have been published in academic journals in recent times (Lord, 2004; Homant and Kennedy, 2000; Hutson et al., 1998; Parent and Verdun-Jones, 1998; Wilson et al., 1998; Parent, 1996). In addition, this phenomenon has been cited during academic papers that have been presented at various academic annual meetings that include the Academy of Criminal Justice Sciences and the American Academy of Psychiatry and the Law (Lord, 1998; Keram et al., 2000).

In some instances, research findings have revealed that the victim caused or contributed to the lethal-threat of a police officer by intentionally provoking the officer to use deadly force or potential deadly force, resulting in the death or wounding of the individual. In these cases, the individual’s statements and actions clearly illustrate their intent to commit suicide (Parent 1996; Lord, 2004).

In other cases, the individual did not make a suicidal statement. In these cases the conclusion is drawn that the individual was suicidal, based upon his or her actions and irrational behaviour. The actions and behaviour documented within these cases is consistent with the behaviour and characteristics associated with suicide (Parent, 1996; Lord, 2004). Also significant is the fact that, in several cases, the perpetrator of a lethal

threat had a documented history of mental illness and or suicidal tendencies. In addition, documentation in several of the cases indicates that the victim had a high blood-alcohol reading at the time of his or her death. Often, alcohol, substance abuse and mental illness were added to the complex picture of suicidal tendencies and, irrational behaviour (Parent, 1996; Lord, 2004).

### **The Police as Victims**

As stated, the research and findings surrounding “suicide-by-cop” incidents suggests that the “so-called victim” must share some of the responsibility in police shootings that are victim-precipitated. The shooting incident may not have occurred except for the precipitated actions of the deceased. In many instances, police officers are “baited” into situations that are escalated by the participant, in an attempt to have the police officer take his or her life (Parent, 1996; Homant, 2000; Lord, 2004).

In other instances, police officers have placed themselves at substantial risk of death or serious injury during a particular incident and did not use their firearms. In the vast majority of these cases, the police officers would have been justified to use potential or deadly force but, for a variety of reasons, did not do so (Parent, 1996).

The complexities of a suicide-by-cop incident emphasize the physiological, psychological, physical and emotional consequences that have occurred to many of the police officers that have taken the life of another during the course of their duties. Traditionally, police use of deadly force has placed the police officer on the defensive, regardless of how justified the officer’s actions may have been. The notion of a “licence to kill” and a “shield to hide behind” have created a social stigma that frequently surfaces with a police shooting. These officers are frequently exonerated in a public forum for



their actions but, unfortunately, many will continue to pay the price for the life that has been taken (Parent, 1996).

During his study of homicides in Philadelphia, Marvin Wolfgang (1958) also noted that within contemporary society, the survivor of a homicide incident is typically viewed in a negative fashion. The victim, regardless of their precipitated role, is typically viewed in a more favourable light. In an attempt to explain the social conscience that is associated with a homicide, Wolfgang writes:

In many cases the victim has most of the major characteristics of an offender; in some cases two potential offenders come together in a homicide situation and it is probably only chance which results in one becoming a victim and the other an offender. At any rate, connotations of a victim as a weak and passive individual, seeking to withdraw from an assaultive situation, and of an offender as a brutal, strong, and overly aggressive person seeking out his victim, are not always correct. Societal attitudes are generally positive towards the victim and negative towards the offender, who is often feared as a violent and dangerous threat to others. (Marvin Wolfgang, 1958:265)

Carolyn Block (1992) examined the phenomenon of victim-precipitation criminal incidents by codifying the empirical observation that violence attracts violence. In her analysis, Block states that the concept of victim precipitation can lead to the trap of blaming the victim (suspect) for the resulting act of violence. In avoiding the blame-the-victim trap, she states that researchers may fall into another trap, that of blaming the “wicked offender” (the police officer) for the violent and sometimes deadly outcome. Block argues that, in order to avoid either of these traps, a more general approach must be taken in explaining the interaction of the victim and the offender during a violent situation.

Block adds that, when examining victim-precipitated incidents, the entire spectrum of epidemiological risk must be taken into account including the risk of a

particular type of individual being killed by a particular type of offender (police officer). In essence, police shootings must recognize that the participation of the suspect and the police officer cannot be understood independently of each other; they both must be seen in light of the total situation.

In applying Block's argument, several factors should be taken into account when explaining the dynamics of a police shooting incident. These factors include the suspect's perspective of the incident, the police officer's perspective of the incident, the interaction of the two dynamic groups, the history of those interactions and, the conditions present in each incident.

## **The Police Use of Deadly Force in Canada and the United States**

This dissertation will explore these various theoretical positions and issues with emphasis upon the examination of victim-precipitated homicide. The purpose of this research is to study why the use of deadly force occurs. In identifying why deadly force occurs in Canada and the United States this dissertation may provide data that may indicate how police officers can be trained to marginalize the effects leading to death by legal intervention.

As stated, in over 20 years, there has been minimal research regarding this issue of concern within Canada. One of the first objectives of this dissertation will be to determine the extent of police use of deadly force within Canada. To what degree have fatal police shootings occurred within this nation during the period from 1980 through to the year 2000? In addition, how many police shootings have occurred in which no individual was killed but, nonetheless, the *potential* for a fatal outcome was possible?

These two categories of resolution will be examined in an attempt to determine what specific factors lead to the escalation of violence. How do these factors serve to influence and direct police use of deadly force within Canada? What are the implications for police training in relation to physiological factors, situational variables, force options and the training process itself? Can physiological factors and situational variables be modified and controlled? Are there viable non-lethal alternatives to the present array of force options and compliance tools?

The findings of this analysis will be compared and contrasted with the police use of deadly force in the United States. A comparable sample of police shootings in the United States will be analysed to determine what specific factors lead to the escalation of violence. How do these factors serve to influence and direct police use of deadly force within the United States? What are the implications for police training? What, if any, differences exist between the police use of deadly force in the United States with that of Canada?

The legislation governing the police use of force in the US state of Washington and, the frequency of the police use of deadly force within this state, will be contrasted and compared with the Canadian province of British Columbia. The purpose for this comparison is that the state of Washington and the province of British Columbia are geographical and demographically similar. Both areas share a common border and the largest cities of the state of Washington, Seattle and, the province of British Columbia, Vancouver, are similar in many aspects.

This dissertation will also focus upon the role of the victim during a lethal and a potentially lethal encounter with the police. What role does the victim play in a police shooting incident? Does the victim's role differ in those documented incidents in which

the police would have been justified in using deadly force but did not? What are the implications for police training in relation to victimology? Can the police use of deadly force within Canada and the United States be linked to a broader social policy?

Finally, this research will attempt to address the above-mentioned micro and macro concerns as well as the specific examination of the phenomenon of “suicide-by-cop”. To what extent, if any, have victim-precipitated incidents influenced police use of deadly force? How have factors that include irrational behaviour, mental illness and, substance abuse impacted upon police shootings.

Prior to examining individual incidents of police use of deadly force, this dissertation will first explore the legal framework and policy structure that presently exists for police agencies within Canada and the United States. Federal, provincial and state laws, precedent-setting court cases, departmental regulations as well as policies and procedures all serve to direct and influence the actions of the police.

This chapter will be followed by a review of the literature surrounding police use of deadly force, including those theoretical perspectives pertaining to violence of which homicide is the most extreme form. This dissertation will then examine those incidents in which a member of a police department within Canada discharged a firearm resulting in the death or wounding of an individual and, those incidents in which a member of selected United States police departments discharged a firearm resulting in the death or wounding of an individual. This examination will focus upon categories of resolution utilized by police to incapacitate a perceived lethal-threat.

It is unknown how many fatal police shooting incidents have occurred within Canada since 1980. In an attempt to carry on where Chappell and Graham left off, the database for this research will focus on the period from January 1980 through to

December 2001. In Canada, the database maintained by the provincial and territorial Coroner's Offices and, the B.C. Police Services / Commission as well as the Ontario Special Investigations Unit will serve as the initial sources of information for this examination. These information sources will be supplemented with the review of actual police files obtained from individual police agencies throughout Canada.

Together, these official government sources provide a baseline of information that will be enhanced by interviews with police officers that were responsible for the shootings and, with interviews of federal and provincial prison inmates that were involved in a potential or actual shooting incident with police personnel.

Survivors of police shootings incidents will be approached and interviewed. Why did these individuals confront the police? What frame of mind did they have at the time of their lethal-threat? Is there anything that the police officer could have done or said that would have caused the individual to comply and relinquish his/her lethal-threat?

In the United States, the database maintained by selected Offices of the District / Prosecuting Attorney and, the review of actual police files obtained from selected individual police agencies will serve as the initial source of information for this examination. These official government sources of information will in some instances be supplemented with media reports and, with interviews of United States police officers who were responsible for the shootings.

The findings and interpretations of this analysis are then presented with extracts of official reports and interviews of the police officers and, the prison inmates that were involved in these violent encounters. Finally, the dissertation concludes with a discussion of the need for further research on specific issues that include the issue of victim-

precipitated homicide, less-lethal force options for police personnel and the documentation of incidents involving the police use of deadly force.

## **CHAPTER 1: LEGAL IMPLICATIONS: CRIMINAL LAW, POLICIES AND PROCEDURES**

### **Legal Implications in Canada**

In Canada, the use of force by police must occur only within the parameters of federal laws, provincial regulations and organizational policies. There is no obligation on the part of the police to use force in every situation, which would be legally justifiable to do so (Sec.25, C.C.C.). The use of force, including deadly force, is dependent upon both the unique circumstances of the incident and the particular decision-making strategies of the individual officer.

Both law and policy govern the police officer's use of deadly force. Each respective department governs the policy rules of the employing police department. The law as it relates to police use of deadly force in Canada is found in the *Criminal Code*, provincial police Acts, police firearms regulations and case law.

### **The Criminal Code of Canada**

The "justification" sections of the *Criminal Code*, sections 25 - 33 inclusive, exempt otherwise criminal actions from attracting criminal liability. The most important of these sections is Section 25:

- 25(1) Every one who is required or authorized by law to do anything in the administration or enforcement of the law
- (a) as a private person
  - (b) as a peace officer or public officer
  - (c) in aid of a peace officer or public officer, or
  - (d) by virtue of his office

is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.

- 25(2) Where a person is required or authorized by law to execute a process or to carry out a sentence, that person or any person who assists him is, if that person acts in good faith, justified in executing the process or in carrying out the sentence notwithstanding that the process or sentence is defective or that it was issued or imposed without jurisdiction or in excess of jurisdiction.
- 25(3) Subject to subsection (4), a person is not justified for the purpose of subsection (1) in using force that is intended or is likely to cause death or grievous bodily harm unless he believes on reasonable grounds that it is necessary for the purpose of preserving himself or anyone under his protection from death or grievous bodily harm.
- 25(4) A peace officer, and every person lawfully assisting the peace officer, is justified in using force that is intended or is likely to cause death or grievous bodily harm to a person to be arrested if,
- (a) the peace officer is proceeding lawfully to arrest, with or without warrant, the person to be arrested;
  - (b) the offence for which the person is to be arrested is one for which that person may be arrested without warrant;
  - (c) the person to be arrested takes flight to avoid arrest;
  - (d) the peace officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer or any other person from imminent or future death or grievous bodily harm; and
  - (e) the flight cannot be prevented by reasonable means in a less violent manner.

It is important to note that the use of force will only be justified if all of the requirements of section 25(4) are met. In this section, the “fleeing felon rule”, justifies the use of force that is intended or likely to cause death or grievous bodily harm by a peace officer during an arrest. The protection of this section will only be afforded if the officer is seeking to arrest a person “for an offence for which that person may be arrested without warrant”.

- 25(5) A peace officer is justified in using force that is intended or is likely to cause death or grievous bodily harm against an inmate who is escaping from a penitentiary within the meaning of subsection 2 (1) of the



Corrections and Conditional Release Act, if  
 (a) the peace officer believes on reasonable grounds that any of the inmates of the penitentiary pose a threat of death or grievous bodily harm to the peace officer or any other person; and  
 (b) the escape cannot be prevented by reasonable means in a less violent manner.

Section 25(5) provides specific power to peace officers in case of escape from a penitentiary. Warrantless arrests are also provided for by sections 494 and 495 of the *Code* (Criminal Code, 2002).

Section 494 authorizes any person (not only peace officers) to arrest without warrant a person:

- (i) "whom he finds committing an indictable offence"
- (ii) "where he has reasonable and probable grounds to believe that the person "has committed a criminal offence *and* is escaping from and freshly pursued by persons who have lawful authority to arrest that person"
- (iii) found "committing a criminal offence on or in relation to" private property, if "authorized" by the owner or lawful occupier of the property.

Section 495 provides police officers powers of arrest without warrant in addition to those allotted by section 494. A police officer may, regardless of any other factors, arrest without warrant, a person whom he/she believes on reasonable and probable grounds has committed an indictable offence not set out in s. 553. Section 553 contains a list of non-violent property offences such as theft, fraud, and mischief. Murder, armed robbery and other violent indictable offences are *not* included in section 553. A police officer may, therefore, proceed to arrest someone for any indictable offence not contained in Section 553 and the deadly force provisions of Section 25(4) will apply.

A police officer may arrest someone without warrant if he/she has reasonable and probable grounds to believe that a warrant of arrest or committal in respect of that person is in force. A police officer may also arrest a person without warrant for an

offence set out in Section 553 or a dual offence only in such "circumstances" where the public interest would not otherwise be served. Circumstances he/she is to consider include the need to establish identity, the need to preserve evidence and the need to prevent the commission of other offences, and appearance in court.

A police officer may arrest someone without warrant for a summary conviction offence *only* if he/she "finds" the person committing the offence *and* the public interest would not otherwise be served, having regard to the "circumstances" set out above.

### ***The "Fleeing Felon" Rule***

The most contentious of all the *Criminal Code* provisions regarding the use of deadly force is contained within section 25(4) and the "fleeing felon" rule. Prior to July 1994, Section 25(4) of the *Criminal Code* of Canada stated:

25(4) A peace officer who is proceeding lawfully to arrest, with or without warrant, any person for an offence for which that person may be arrested without warrant, and everyone lawfully assisting the peace officer, is justified, if the person to be arrested takes flight to avoid arrest, in using as much force as is necessary to prevent the escape by flight, unless the escape can be prevented by reasonable means in a less violent manner.

Subsection 25(4) originated as a codification of the old English common law rule that permitted the killing of a person fleeing from arrest and who had committed a felony offence. When the rule was created in England, over 150 years ago, it was reserved for only the most serious offences (felonies that for example would include theft, robbery or murder). These offences were all punishable by death if the offender was apprehended and tried. Thus this "rule" emerged with the label of "fleeing felon", justifying the homicide of an individual who was escaping from the authorities (Justice, 1992:2). However, in present-day Canadian law, the death penalty has long since been abolished

and escape from lawful custody carries a maximum of two years' imprisonment. Therefore, the rationale used to justify the fleeing felon rule no longer exists (McIntyre, 1989:31).

In recent years, Canadian courts voiced their opposition to this out-of-date *Criminal Code* provision that is wider than necessary and virtually unacceptable within contemporary Canadian society. As the law read, it would appear that deadly force could be used to stop a fleeing suspect from getting away, even though the suspect may not pose a threat of physical harm to the public or peace officer. This situation became unacceptable to the courts in Canada. In an attempt to invoke positive change, the Supreme Court of Canada in *Moore v. the Queen* (1978) stated:

The section does not require that the offence be of such a nature that the arresting officer must satisfy himself that the suspect constitutes a danger to the arresting officer or a member of the public, or that the suspected offence involves violence. One would anticipate then that only serious and violent crime would allow arrest without warrant, but such is not the case. A vast majority of offences contained in the *Criminal Code* allow arrest without warrant including, amongst others, such non-violent offences as forgery, bribery and personation. Indeed, it would appear that a person having committed a summary conviction offence such as careless driving by attempting to escape, commits the offence of obstructing police, which is indictable, thus falling within the apprehension provisions of section 25(4).

The Supreme Court of Canada in the 1983 case of *Roberge v. The Queen* additionally stated:

Section 25(4) is a codification of the old common law applicable to fleeing felons, offenders that would in those days, if found guilty, most certainly be executed. Many suggestions have been made to Parliament as regards this frightful arsenal peace officers enjoy (see, amongst others, the Ouimet Committee Report (1969)), particularly concerning offences that do not indicate dangerousness on the part of the offender, such as shoplifting, fraud, gambling. We have extended to all indictable offences a common law principle that was intended to be applied only to felons. This is a choice parliament has made and which courts cannot defeat.

In response to this precarious situation, the Minister of Justice and Attorney General of Canada introduced Bill C-8 on February 4, 1994 to amend subsection 25(4) of the *Criminal Code*. This long awaited amendment clarified when a peace officer may use force that may cause death or serious bodily harm to stop a suspect who is fleeing arrest, or a prisoner attempting to escape from a prison (C.A.P.B., 1994:1). The rationale used for this sudden parliamentary amendment to the *Criminal Code* is found in the 1993 Ontario Court Decision of *R. v. Lines*. In this decision, the trial judge ruled that the use of the provisions found within subsection 25(4) of the *Criminal Code* violated section 7 of the *Canadian Charter of Rights and Freedoms*. In delivering this decision, the judicial process had finally achieved the necessary ruling to invoke changes by Parliament.

The newly created legislation contained within Section 25(4) was proclaimed law on July 1st, 1994 and now permits the use of deadly force, by a peace officer, or anyone lawfully assisting the peace officer when:

- a suspect poses a threat of serious harm or death;
- the suspect flees in order to escape arrest; and
- no other less violent means exist to prevent escape.

These changes to section 25(4) serve as a more accurate reflection of our contemporary times, permitting the use of deadly force within strict parameters.

### ***Additional Criminal Code Use of Force Related Sections***

Although Section 25 is the main section within the *Code* that pertains to the use of deadly force, Sections 26, 27 and Section 37 contain equally important provisions that pertain to a police officer's use of force:

**Section 26**

Everyone who is authorized by law to use force is criminally responsible for any excess thereof according to the nature and quality of the act that constitutes the excess.

**Section 27**

Everyone is justified in using as much force as is reasonably necessary

- (a) to prevent the commission of an offence
  - (i) for which if it were committed, the person who committed it might be arrested without warrant, and
  - (ii) that would be likely to cause immediate and serious injury to the person or property of anyone; or
- (b) to prevent anything being done that, on reasonable grounds, he believes would if it were done, be an offence mentioned in paragraph (a)

**Section 37(1)**

Everyone is justified in using force to defend himself or anyone under his protection from assault, if he uses no more force than is necessary to prevent the assault or the repetition of it.

**Section 37(2)**

Nothing in this section shall be deemed to justify the wilful infliction of any hurt or mischief that is excessive, having regard to the nature of the assault that the force used was intended to prevent.

## **Canadian Case Law**

As stated, the various provisions within the *Criminal Code* of Canada enable peace officers to use force in the lawful execution of their duties. Court decisions, in both criminal and civil cases, have further shaped the powers and obligations of police officers when utilizing force. The more recent and prominent of these case law decisions are as follows:

### **Sec. 25 C.C.C. Use of Force: Force in Making an Arrest**

One of the leading cases in relation to section 25 of the *Criminal Code* is that of *Robertson v. Joyce* (1948). In this case the court focuses upon section 41 of the *Criminal Code* (the predecessor to section 25) stating at page 440 that:

a police officer is not empowered to employ whatever means in whatever manner he pleases to prevent the escape of an offender who takes flight to avoid arrest. He is not free to use force, of whatever kind or intent, he may think fitting to the circumstances. A statutory defence against liability of a police officer for what he has done is not available to him under s.41 if he has used an excess of force to prevent the escape by flight of a person to be arrested by him or if such escape could have been prevented by reasonable means in a less violent manner. The question whether he used an excess of force and the question whether the escape could have been prevented by reasonable means in a less violent manner are questions of fact for determination upon the evidence and in the circumstances of each particular case under review.

Section 25 of the *Criminal Code* and the issue of protection to police officers was further defined in the cases of *Cluett v. the Queen* (1985) and *R. v. O'Donnell* (1982). Both of these cases stem out of the same incident. In the case of *Cluett v. The Queen* (1985), the Supreme Court of Canada held that a police officer is not justified in using force to restrain a person, short of arrest, merely to carry out an investigation. However, where a police officer finds a person apparently committing a criminal offence, the officer is justified in using the necessary force to arrest such a person, provided the force used is not excessive (*Cluett v. R.*, (1985)).

The details of *Cluett v. the Queen* are as follows:

The accused, a police officer, and his partner (O'Donnell) were charged with second-degree murder as the result of the death of a citizen. The accused and his partner had been called to the scene of the incident as a result of a complaint that the deceased was interfering with traffic. The evidence indicated that a struggle ensued between the deceased and the accused's partner but that the accused did not witness the beginning of the struggle. By the time the accused came to the struggle, the deceased had hold of the accused's partner and the accused testified that he told

the deceased that he was under arrest for assaulting a police officer. The accused testified that he tried to restrain the deceased who only released the accused's partner when the latter struck him several times. The deceased was finally subdued and taken to hospital where he died two weeks later from the injuries received during the encounter with the accused and his partner. At trial, the accused's partner O'Donnell, was convicted of manslaughter and the accused was acquitted.

However the Nova Scotia trial judge stated:

Neither s. 25 of the *Criminal Code* nor the common law permits a peace officer to use as much force as necessary to generally carry out the lawful execution of his duty. While a peace officer undoubtedly has the duty to investigate crimes and to ask questions of citizens for that purpose, and in some circumstances to insist on answers, that does not imply any right to detain a person or to use force for that purpose short of arrest. The police are not entitled to use force unless an arrest is warranted and has been properly made. Further, the obligation under s. 29 of the *Criminal Code* that a person be advised as to the reason for his arrest, as reinforced by the provisions of the *Canadian Bill of Rights* and the *Canadian Charter of Rights and Freedoms*, ensures that police officers will exercise their powers properly and with some degree of discretion. Thus, where police officers have attempted to question a citizen but have neither arrested him nor given him reasons why he was being arrested, any such detention is unlawful and the officers were not acting in execution of their duty. In the result, they would not be justified in using force by virtue of s. 25 of the *Criminal Code* and if they apprehend the citizen, such apprehension constitutes an assault entitling the citizen to resist (*Cluett v. R.*(1985)).

While the accused was acquitted, an appeal by the Crown to the Nova Scotia Supreme Court, Appeal Division, was allowed and a new trial was ordered on a charge of manslaughter. However, on appeal by the accused to the Supreme Court of Canada, it was held that, the appeal should be allowed and the acquittal restored.

The decision rendered by the Supreme Court of Canada emphasized that if a police officer is doing anything in the administration or enforcement of law and is acting on reasonable and probable grounds, then he or she is justified in doing whatever he or she is authorized to do and in using as much force as necessary for that purpose. This case reinforced the principle that police officers within Canada are permitted to use as

much force as is necessary to carry out the lawful execution of their duties. However, the level of force must not be excessive nor should force be used to ascertain the identity of a person, prior to arrest.

These issues were also raised in the case of *Bottrell v. R.* (1981) when the B.C. Court of Appeal held that the trial judge had erred in his instructions to the jury in respect of s. 25 of the *Criminal Code* by failing to instruct as follows:

- (1) a peace officer has a right, if acting on reasonable and probable grounds, to use as much force as, but no more force than, necessary to effect an arrest;
- (2) a peace officer effecting an arrest cannot use force intended or likely to cause death or grievous bodily harm;
- (3) circumstances determine the amount of force necessary;
- (4) "grievous bodily harm" means serious hurt or pain;
- (5) it is important to judge the belief of an arresting officer in the light of all the circumstances;
- (6) a police officer is not to be deemed to be in breach of s. 25(3) merely because "grievous bodily harm" resulted, unless he/she intended that result. (*Bottrell v. R.* (1981))

This decision rendered in *Bottrell v. Regina* both clarifies and emphasizes several of the issues raised during the case of *Cluett v. the Queen*. In addition to these two recent cases, there are several other cases that pertain to the use of force in making an arrest. For example, in the case of *R. v. Letourneau* (1971), the principle of reasonable force was applied in favour of an accused who had fired a shot to prevent a man's flight, after finding the man in the act of breaking and entering the premises of the accused. On preliminary inquiry, the court refused to commit the accused for trial, under either s.216 (a) (discharging a firearm with intent to wound), or s. 231(2) (assault causing bodily harm) (*R. v. Letourneau*, 1971). This decision appears to emphasize that



the use of force is reasonable and proper in particular circumstances. However, the appropriate level of force can only be determined upon examination of all of the circumstances.

In the case of *Beim v. Goyer* (1964), the Supreme Court of Canada additionally addressed the issue of civil responsibility versus criminal responsibility in using force. In this case an unarmed, 14-year-old boy abandoned a stolen car when he was stopped by the police and ran off through a rocky field, with two policemen in pursuit. They fired warning shots, and one of the policemen, who fell twice while in pursuit, fell again while preparing to fire. The boy was struck in the back. In an action against the policeman for negligence, the jury found that he was at fault. An appeal to the Supreme Court of Canada from a reversal of the judgment at trial was allowed. The court stated that the *Criminal Code*, s.25 and the question of justification were not in issue but only the question of negligence (*Beim v. Goyer*, (1964)).

The issue of negligence when using force was also addressed in the case of *Woodward v. Begbie* (1961). In this incident, the police believed, on reasonable and probable grounds, that the accused had been "peeping" contrary to s. 162. The court held that as he took to flight to avoid arrest, the police were justified, under s. 436, in seeking to arrest him without a warrant, but in shooting the accused, the officers used more force than was necessary. They thereby lost the protection of s. 25(4) and were liable for damages in negligence (*Woodward v. Begbie*, 1961).

In the case of *Cretzu v. Lines* (1941), it was held that the protection of these *Criminal Code* sections does not extend to a case in which the arrest is not properly made, under s.41, or where the person arrested has not in fact taken to flight. In this case, the plaintiff recovered damages for the death of his father, who was shot and killed

by the defendant, a police officer who was pursuing him in the belief that he had indecently assaulted two girls. It was pointed out that not only was the suspected offence one for which an arrest could not be made without warrant, but the use of a revolver was not justified, and constituted an excess of force. Moreover, on the evidence, the defendant had used it negligently (*Cretzu v. Lines*, 1941).

One of the more recent and controversial cases involving the use of force by a police officer is that of *Regina v. Gosset* (1993). On the morning of November 11, 1987, two police officers arrested a male suspect for taxi fare evasion as well as suspicion of being in possession of stolen property. The individual was transported to the police station where he bolted and ran upon being let out of the police car. The arresting officer chased after the individual, taking his gun out of his holster as he ran.

The police officer then yelled “Stop or I’ll shoot”, now pointing his gun at the individual as a means of intimidation. As the officer did this, a shot went off fatally striking the individual in the head. The officer indicated that he never intended to shoot the individual and that his gun had gone off accidentally. Nonetheless, the police officer was charged with manslaughter. The charge was based on the unlawful act of careless use of a firearm contrary to s. 86(2) of the *Criminal Code*.

When the case went to trial, the judge directed the jury that the accused could only be convicted if there was proof of a “criminal state of mind”. As a result of the evidence presented the accused was initially acquitted by a jury. However, an appeal by the Crown to the Québec Court of Appeal was allowed and a new trial was ordered. The appeal raised the issues of the proper test for determining carelessness in the context of s. 86 (2) of the *Criminal Code* where it is the predicate offence of unlawful act

manslaughter, and whether, if the trial judge erred on this question, the Court of Appeal was correct in overturning the acquittal.

On appeal by the accused to the Supreme Court of Canada, held, the appeal should be dismissed. The Supreme Court of Canada ruled that the proper test for the careless handling of a firearm is set out in *R. v. Creighton* (1993).

The Supreme Court of Canada added:

It was open to the jury, to find in this case, that the conduct of the accused constituted a marked departure from the standard of care of a reasonably prudent person in the circumstances. This was sufficient to permit a finding of the necessary *actus reus* and *mens rea*, absent evidence of incapacity to appreciate the risk involved in the conduct. There was nothing in the evidence to suggest that the accused lacked this capacity. It was misdirection for the trial judge to instruct the jury that they must find the accused had a criminal state of mind. This error went to the very heart of the elements of the offence that the Crown was required to establish and thus it could not be said that the verdict would necessarily have been the same had the jury been properly instructed (*Regina v. Gosset*, 1993).

Finally, the case of *R. v. Deane* (2000), concerns an appeal by Deane to the Ontario Court of Appeal from a conviction for criminal negligence causing death and cross appeal by the Crown for the sentence of two-years-less-a-day imprisonment. Deane, a police officer was assigned to the occupation of Ipperwash Provincial Park in August 1995. The Park was occupied by a group of First Nation people in connection with a land claim dispute. As a result of certain incidents, a police Crowd Management Unit (CMU) was instructed to secure a sand-covered roadway just outside the Park. The CMU was supported by armed police personnel from the Tactics and Rescue Unit (TRU). The appellant had been a member of the TRU for 10 years and was an Acting Sergeant within the Unit.

On the day of the shooting incident, a school bus followed by a car came out of the Park and drove towards the officers causing them to scatter to either side of the road. The car then veered to the right and struck three of the officers. Several officers opened fire at the car, and the car began to reverse back towards the Park. As the car was backing up, the appellant fired three shots at a man who crouched in front of the sand-covered roadway at the intersection. The man died from his injuries.

The appellant was charged with criminal negligence causing death. The Crown's position at trial was that the appellant had fired a spray of bullets randomly towards the Park following the demonstrators' acts against the police. The appellant testified at his trial and denied that he had shot randomly into the Park area. He stated that, as the car that struck the officers was reversing, he saw muzzle flashes from a sandy berm. The appellant testified that he fired his rifle at the muzzle flashes.

Following the incident, the subject was interviewed by a member of the Ontario Special Investigations Unit and sought to have the statements he made during that interview excluded from evidence. The trial judge ruled that the statements were admissible and that a *voir dire* was unnecessary because the statements were not made to a person in authority with the intent of influencing a judicial proceeding. On April 28, 1997, the appellant was found guilty of criminal negligence causing death. He received a conditional sentence of imprisonment of two-years-less-a-day. However, the subject argued that the trial judge erred by not holding a *voir dire*. Deane also sought to introduce new evidence on appeal.

The Ontario Court of Appeal ruled that the appeal and cross-appeal be dismissed. The court stated that Deane could not have expected a fairer trial than what he received. The evidence concerning the interview played no role in the trial judge's

conclusions. The verdict was based on an overall assessment of the subject's credibility, which would have been diminished by excluding statements made to investigating authorities. Despite the fact that there might have been unfairness in not permitting a *voir dire*, there was overwhelming evidence to support the conviction. The subjects' request to introduce additional evidence was without merit. There was no reason to interfere with the trial judge's discretion regarding the sentence imposed.

### **Sec. 26 C.C.C. Excessive Force**

There are several case law decisions pertaining to excessive force being used by individuals authorized by law to use force. Some of the key issues central to the use of excessive force include:

- Was the individual in the lawful execution of their duties?
- Did they have reasonable grounds to believe force was necessary?
- Was the level of force utilized reasonable in regards to the circumstances?
- If deadly force was used, did the individual have reasonable grounds to believe such force was necessary to protect someone from death or grievous bodily harm? And, was there less violent means available?

Police officers will typically justify the level of force utilized during the course of their duties by virtue of *Criminal Code* provisions contained within section 25(1), 25(3), 25(4), 27 or whichever section of the *Criminal Code* that most accurately fits their circumstances, providing them with legal authority for their actions. In this regard, there has been a noticeable absence of cases that specifically pertain to excessive use of force by police officers.

An exception is the case of *Roberge v. The Queen* (1983). In this case, a Québec police officer had pursued a vehicle being driven dangerously into New

Brunswick. During the ordeal, the officer fired three shots from his firearm at the vehicle's tires in an attempt to arrest the driver. At trial, the Court held that the force used by the officer, in attempting to make the arrest, was not excessive and that there was no careless use of a firearm. In addition, the escalation of force resorted to was not disproportionate to the suspicion created by the operator of the vehicle who had persisted in his flight despite all warnings from the police (*Roberge v. The Queen*, (1983)).

### **Sec. 27 C.C.C. Prevention of Crime**

In addition to the case law decisions regarding section 25 and 26, section 27 outlines the use of force permissible to prevent the commission of an offence. In the case of *R. v. Scopelliti* (1981), the court held that the use of deadly force can only be justified either in self-defence under s. 34 or in preventing the commission of a crime likely to cause immediate and serious injury under s. 27 (*R. v. Scopelliti*, 1981). Within this section, police use of force is justified only as much as is reasonably necessary, for preventative purposes, dependent upon the circumstances of each instance.

In the case of *Regina v. Hebert* (1996), the Supreme Court of Canada notes the general application of section 27 of the *Code* and that it is *not* limited to persons who administer and enforce the law. The Court stated:

Section 27 of the *Criminal Code* justifies the use of force, which is reasonably necessary to prevent the commission of an offence. The section is clearly designed to permit an innocent bystander, who witnesses an offence being or about to be committed, to use force to prevent the offence from occurring. (*Regina v. Hebert*, (1996))

### **Sec. 34 C.C.C. Self-Defence Against Unprovoked Assault**

In section 34, the *Criminal Code* defines the range of lawful self-defence by individuals who have been unlawfully assaulted and have responded by using force. The self-defence provisions within this section are illustrated in the case of *R. v. Melaragni* (1992). In this case, the accused were two police officers who had fired their guns at the deceased while he was driving a stolen vehicle. The accused stated that they were aiming at the tires of the vehicle but their shots had gone into the passenger compartment, thereby killing the deceased. The accused were charged with aggravated assault.

The defence of the accused was self-defence, alleging that the deceased had tried to run down the two accused, and that the deceased had been the driver of another stolen vehicle who, in a previous incident, had run down a police officer attempting to apprehend the driver. Expert evidence proposed by the defence with respect to the effect of stress was used to explain how the accused officers could have missed shooting at the tires of the vehicle at such close range.

The court held the psychological and firearms evidence as admissible, stating that the defence were entitled to dispel the myth of police officers as being able to respond in a cool, calm and deliberate fashion at all times. Thus this decision serves not only as a general ruling in favour of police who use force in self-defence of an unprovoked assault but it additionally recognizes the reality of stress and its effect within policing.

Judge J. Moldaver of the Ontario Court (General Division) added:

As a society, we are generally unfamiliar through our common everyday experience as to just how police officers do react in situations of extreme stress and peril. What knowledge we do have is generally derived from

Hollywood where police officers are for the most part portrayed as super human beings possessed of remarkable marksmanship skills with ice-water flowing through their veins. This perception, which I would describe as a myth, is one, which the defence ought to be entitled to dispel. (*R. v. Melaragni*, (1992))

It is apparent from these decisions that the courts have ruled in favour of the issue of *justification* providing that the accused's defensive actions were reasonable in terminating the unprovoked assault. Importantly, all of the circumstances surrounding the incident must be taken into account. These circumstances include an unlawful assault, or, an honest but reasonably mistaken belief, of an unlawful assault. A reasonable belief that risk of death or grievous bodily harm were about to occur. And finally, a reasonable belief that it was not possible to preserve oneself except by way of deadly force or grievous bodily harm.

In this regard, the courts have a realistic approach to the issue of unprovoked assaults noting the rapid timing that occurs during events of self-defence. The courts have also acknowledged that the accused's perception of the threat will not likely afford a calculated and weighted response. In fact, the action of self-defence will likely require an immediate response which, in hindsight, may very well have occurred differently, had the accused been afforded with more time or resources to deal with the incident.

In summary, the noted case law citations are but some of the more significant decisions that have been rendered within Canada in recent times. There is a notable absence of reported *Criminal Code* case law decisions that specifically pertain to police officers. This is apparent when one considers that there are, on average, 10 incidents of police use of deadly force in Canada per year. There are also numerous incidents of general use of force by police departments within Canada but yet there remains an infrequency of both criminal and civil case decisions. Those cases, which do exist,



serve to supplement the legislated provisions regarding the use of force that exist within the *Criminal Code*.

## **Provincial Police Act's and Police Firearms Regulations**

### ***Ontario Police Services Act***

In the province of Ontario, the provincial police force and local municipal departments are both governed by legislated regulations. The RCMP does not play a significant policing role within this province except in the enforcement of specific federal statutes. Therefore, the Ontario Policing legislation dictates the general usage of force permitted by police officers within the province. The *Police Services Act* serves as paramount legislation; directing and governing each individual police department's policies and procedures. The regulations relevant to police usage of force within the province of Ontario are:

#### ***Regulation 926***

4. Before a firearm is issued to a member of a police force, the Commissioner or chief of police, as the case may be, shall satisfy himself or herself that the member has successfully completed the training required by section 14.2 and is competent in the use of the firearm.
9. A member of a police force shall not draw a handgun or discharge a firearm unless he or she believes, on reasonable grounds, that to do so is necessary to protect against loss of life or serious bodily harm.
  - 9.1 Sections 3 to 9 do not apply to a member of a police force when engaged in a training exercise, target practice or ordinary weapon maintenance in accordance with the rules of the police force.
10. Despite section 9, a member of a police force may discharge a handgun or other firearm,
  - (a) to call for assistance in a critical situation, if there is no reasonable

alternative; or

(b) to destroy an animal that is potentially dangerous or is so badly injured that humanity dictates that its suffering be ended.

- 11.1 (1) Unless otherwise directed by the board, the chief of police or a superior officer, a member of a police force who is accompanying and supervising an auxiliary member of the police force may issue a firearm to the auxiliary member if he or she believes, on reasonable grounds, that they are entering into a situation in which it is necessary that the auxiliary member be armed to protect against loss of life or serious bodily harm.
- (2) Sections 4 to 10, 12 and 13 and 14.2 to 14.5 apply to an auxiliary member to whom a firearm is issued under subsection (1).
12. Where a member of a police force, other than the Commissioner or chief of police, unintentionally or intentionally, except on a target range or in the course of ordinary weapon maintenance, discharges his firearm, the Commissioner or chief of police, as the case may be, shall immediately cause an investigation to be made into the circumstances. (R.R.O. 1990, Reg. 926, s. 12)
13. (1) Where a member of a police force, other than the Commissioner or chief of police, by the discharge of a firearm in the performance of his duty, kills or injures another person, the Commissioner or chief of police, as the case may be, shall immediately cause an investigation to be made into the circumstances.
- (2) A report on the investigation shall be submitted,
- (a) to the Solicitor General, in the case of an investigation by the Commissioner; or
- (b) to the board, in the case of an investigation by the chief of police.
- (3) The Solicitor General or the board shall, as soon as practicable, review the report and make such further inquiries as the Solicitor General or the board considers appropriate.
- (4) The board shall file with the Solicitor General a copy of any report submitted to it under subsection (2), together with a report on any additional inquiries made by the board.
- (5) If the Commissioner discharges a firearm in the performance of his or her duty, the Commissioner shall promptly report the matter to the Solicitor General and the Solicitor General shall cause an investigation to be made into the circumstances.

(6) If a chief of police discharges a firearm in the performance of his or her duty, the chief of police shall promptly report the matter to the board and the board shall cause an investigation to be made into the circumstances and shall file a report on the investigation with the Solicitor General.

The use-of-force provisions within the province of Ontario note that deadly force can only be used to protect against the loss of life or serious bodily harm. Noticeably absent from the Ontario legislation are provisions governing the usage of deadly force when dealing with fleeing felons. The drafters of the legislation appear to have deliberately avoided the topic instead choosing to implement several provisions that relate to a police officer's "responsibilities and accountability". The sections that relate to the usage of force have been drafted in a language advocating control, regulation and reporting.

### ***The Province of British Columbia's Police Act***

In British Columbia, there are eleven municipal police forces, and the Royal Canadian Mounted Police (RCMP) has jurisdiction in those parts of the province not governed by a municipal force. In addition, there exist a small number of "specialized" police agencies that include the railway police and native police (Canadian National, Canadian Pacific and the various aboriginal police agencies).

The *British Columbia Police Act* (the "*Police Act*") sets out the responsibilities of the municipal police forces and empowers the government to enter into an agreement to police with the RCMP. The RCMP, in British Columbia, is deemed to be the provincial police force. As well, several large municipalities within the province "contract" for the services of the RCMP to conduct their policing.

In addition, the *Police Act* governs the specialized policing services of the native police. For example, the Stl'Atl'Imx Nation Tribal Police located in Lillooet, B.C. are granted special constable status by virtue of a memorandum of agreement with the Attorney General of B.C. However, the Canadian National and Canadian Pacific Railway Police are governed under federal legislation, reporting directly to the federal government. The British Columbia Police Services (formerly the BC Police Commission) are empowered, by virtue of Subsection 5(2) of the *Police Act*, to make rules "regulating or prohibiting the use by the provincial force or municipal forces, or by both, of firearms and equipment." The *Use of Force Regulation* (the "*Regulation*") came into effect on June 15, 2000 replacing the former *Police Firearm Regulations* that were enacted pursuant to the *Police Act* (1996).

The *Regulation* contains provisions that regulate the type of firearm to be carried by police officers and other weapons that include pepper spray and batons. The rules in the *Regulation* are secondary to the requirements of the *Criminal Code* but tend to work in harmony in regards to prescribing the circumstances under which a firearm may be drawn and fired by a police officer.

For example, section 5 of the *Regulation* provides that a member of a police force who is authorized to use a firearm under section 3, may discharge that firearm if it is "reasonable and necessary to do so, and in accordance with the protections and authorizations provided by section 25 of the *Criminal Code*."

Section 3 of the *Regulation* provides that a member shall not carry a firearm or ammunition other than the firearm or ammunition issued by the Chief Constable or his designate. Section 10 of the *Regulation* provides that each police officer who is authorized to carry and use a firearm must:

- (1) complete a training course approved by the Chief Constable and qualify on the firearm, and
- (2) thereafter, requalify on the firearm with a period specified by the police force, which must not be less than once each year.

Section 6 (1) further outlines the procedure to follow if a firearm is discharged while the police officer is on duty. Section 6(1) states:

In all cases where a member discharges their firearm on duty:

- (1) The member must notify his or her immediate supervisor of the incident.
- (2) The Supervisor notified must investigate the reason for the discharge and submit a report to the Chief Constable, which may contain recommendations.

Noteworthy is that this section does not apply to the discharge of a firearm in practice or in ordinary maintenance (provided it is done in accordance with the rules of the police force), or to the discharge of a firearm using beanbag ammunition (Sullivan, 2001).

### ***Procedure to Follow if Injury or Death Occurs***

Section 6 (2) of the *Regulation* adds:

If a person is killed or injured as a result of the discharge of a member's firearm

- (1) The member must immediately surrender the firearm for ballistic testing to the member's supervisor or an investigating officer.
- (2) The Chief Constable must promptly initiate an investigation into the incident
- (3) On completion of the investigation the Chief Constable must submit a report to the Police Board and notify the Director of Public Services.
- (4) On reviewing the report, the Police Board may make any further inquiries into the incident, as the chair of the Police Board deems necessary.
- (5) If a person is killed or injured as a result of the discharge of a firearm, or the use of an intermediate weapon by a member of a police force:
- (6) On completion of the investigation the Chief Constable must submit a report to the Police Board and notify the Director of Public Services.

- (7) On reviewing the report, the Police Board may make any further inquiries into the incident, as the chair of the Police Board deems necessary.

### ***The Use of Intermediate Weapons***

Also significant is that the new legislation acknowledges and makes provisions for new technology surrounding less-lethal weaponry that includes the Taser, beanbag shot gun and, the Arwen gun. Section 1 of the *Regulation* defines “intermediate weapon” as any weapon other than:

- (a) a firearm as described or authorized under section 3 of the *Regulation*; or
- (b) a weapon that, when used in its ordinary and intended manner is as likely to cause serious bodily injury or death of a person as a firearm, and includes a firearm used with ammunition designed to be discharged at a muzzle velocity not exceeding 152.4 meters per second whether or not the firearm is described or authorized under section 3 (i.e., Arwen gun, Taser and beanbag gun).

Section 9 and section 10 of the *Regulation* provides that police personnel may carry and use an intermediate weapon if:

- (1) Use of the intermediate weapon has been approved by the Director of Police Services and the Chief Constable, and
- (2) The member has completed a training course approved by the Chief Constable and been qualified or re-qualified on its use as required by the police force.

### ***Public Hearings: Disciplinary Charges via the Police Act***

One of the remedies available within the *Police Act* includes the order for a public hearing. Depending upon the seriousness of the alleged disciplinary default, the Police Complaints Commissioner has been granted the discretion to order a public hearing into the conduct of police personnel. Typically this will only occur in serious matters, following the procedures associated with a provincial court.

In July 2000, a public hearing was held pursuant to the *Police Act* concerning the conduct of several municipal police officers while executing a drug search warrant for in a residence. During the execution of the warrant, the police officers were apparently unaware that a child's birthday party was in progress despite the presence of twelve young children, adults and birthday party paraphernalia.

Nonetheless, the police Emergency Response Team entered the residence by using force and, with their guns drawn. Upon entering the residence one of the officers was bitten by the family dog, a Pit-bull. In response to the dog attack, a second officer shot the dog dead in front of the party-goers causing the animal's blood to splatter on the young children.

The tactics and actions of the police were questioned and a public hearing into the matter was eventually ordered. The adjudicator found that two of the police officers had committed disciplinary defaults under the *Police Act*. The police officer in charge of the drug investigation and, the officer in charge of the tactical entry into the residence were found guilty of discreditable conduct in that he should have known young children were present in the residence, as he failed to ensure continued surveillance while the search warrant was being obtained.

The second police officer was found guilty of improper use of a firearm in that he failed to consider whether a lesser means of force would be effective before discharging his firearms when the Pit-bull attacked his police partner. The penalties for both of the police officers included their removal from the Emergency Response Team of the police agency for a period of one year (PCC File #PH99-01, Vancouver, July 10, 2000 – Millward, Adjudicator).

## **The Issue of Liability and The Police Use of Force**

Section 21 of the British Columbia *Police Act* notes that a police officer is not personally responsible for “anything said or done or omitted to be said or done” in the performance or intended performance of his/her duty. Section 21 of the *Police Act* reads as follows:

### ***Personal Liability***

- (1) No action for damages lies against a police officer any other person appointed under this Act for anything said or done or omitted to be said or done by him in the performance or intended performance of his duty or in the exercise of his power or for any alleged neglect or defaults in the performance intended performance of his duty or exercise of his power.
- (2) In this section “police officer” means a person holding an appointment as a constable under this Act.
- (3) Subsection (1) does not provide a defence where
  - (a) the police officer or other person appointed under this Act has, in relation to the conduct that is the subject matter of action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct, or
  - (b) the cause of action is libel or slander.
- (4) Subsection (1) does not absolve
  - a) a municipality, in the case of a constable, or other person appointed under this Act, who is employed by a board on behalf of the municipality,
  - b) a regional district, in the case of an enforcement officer employed by it, or
  - c) the minister in a case to which Section 11 applies from vicarious liability arising out of a tort committed by the constable or other person appointed under this Act for which the municipality, the regional district or the minister, as the case may be, would have been liable had this section not been in force.

Importantly, sub-section 4 specifies that the *Crown* is responsible for vicarious liability arising out of a tort committed by a constable or other person appointed under the *Police Act*. A negligent police officer will only be personally liable in the following circumstances:



- (1) the act or omission at issue was not done in the course of the officer's performance of his/her duty;
- (2) the police officer has been found guilty of dishonesty;
- (3) the police officer was grossly negligent;
- (4) the police officer has been found guilty of malicious or wilful misconduct.

Section 11 of the *Police Act* further specifies the liability for the torts incurred and reads as follows:

Ministerial liability for torts of provincial police force and municipal constables

- (1) The minister, on behalf of the province, is jointly and severally liable for torts committed by
  - a) provincial constables, auxiliary constables and special provincial constables, in the performance of their duties, and
  - b) municipal constables and special constables in the performance of their duties when acting in other than the municipality where they normally perform their duties.
- (2) Notwithstanding that a constable referred to in subsection (1) (a) or (b) is not found liable for a tort allegedly committed by him in the performance of his duties, the minister may pay the amount he considers necessary to
  - a) settle a claim against a constable for a tort allegedly committed by him in the performance of his duties, or
  - b) reimburse a constable for reasonable costs incurred by him in defending a claim against him for a tort allegedly committed in the performance of his duties.
- (3) The Minister of Finance and Corporate Relations shall pay out of the consolidated revenue fund, on the requisition of the minister, sums required for the purposes of subsection (2).

In summary, these statutory provisions serve to govern the powers, status and liability of police officers within the province of British Columbia. This legislative framework also provides a means for determining as to when and by whom liability for the tortuous acts of police officers will be borne. Liability may flow from the breach of a direct duty of care (primary liability) or vicariously from a legally recognized responsibility

for the actions of another (secondary liability). In either case, negligence will only lie where there is a duty, breach of the standard of care, and resulting losses (J.I.B.C., 1997:117).

### ***Vicarious Liability***

In common law, the test for determining whether a police officer is negligent is based upon whether there existed a reasonable and foreseeable risk of harm. However, this will vary with the power and duties being exercised by the police officer at the time that the alleged act of negligence was committed. The Supreme Court of Canada in *Priestman v. Colangelo* (1959) cited the following statement from the English case, *Fisher v. Ruislip - Northwood Urban Dist. Council* (1944):

The nature of the power must, of course, be examined before it can be said that a duty to take care exists, and, if so, how far the duty extends in any given circumstances. If the legislature authorizes the construction of works which are in their nature likely to be a source of danger and which no precaution can render safe, it cannot be said that the undertakers must either refrain from constructing the works or be struck with liability for accidents which may happen to third persons. So to hold would make nonsense of the statute. (*Fisher v. Ruislip*, (1944))

The Supreme Court of Canada in *Priestman* went on to state:

In deciding whether in any particular case a police officer had used more force than is reasonably necessary to prevent an escape by flight within the meaning of s-s.(4) of s.25 of the Code, general statements as to the duty to take care to avoid injury to others made in negligence cases...cannot be accepted as applicable without reservation unless full weight is given to the fact that the act complained of is one done under statutory powers and in pursuance of a statutory duty. The causes of action asserted in these cases were of a different nature.

The performance of the duty imposed upon police officers to arrest offenders who have committed a crime and are fleeing to avoid arrest may, at times and of necessity, involve risk of injury to other members of the community. Such risk, in the absence of a negligent or unreasonable exercise of such duty, is imposed by the statute and any resulting

damage is, in my opinion, *damnum sine injuria*. (*Priestman v. Colangelo*, (1959))

In the *Priestman* case, the Supreme Court of Canada notes that general statements regarding negligence may not necessarily apply in instances involving authorized use of force. In *McIndoe v. Pasmén* (1991), the B.C. Supreme Court concluded that there was a reasonable and foreseeable risk that an officer running with his finger on the trigger of his gun would stumble and cause it to discharge. The court indicated that the reasonableness of the action was dependent on the duty being executed by the officer at the relevant time. The Court explained:

Therefore, in my opinion, it was negligent for Kirkpatrick to have his finger on the trigger of the potentially dangerous weapon in these circumstances. There were no urgent or dangerous conditions evident to him, which indicated a risk of possible danger to his safety at that time. Nor was the action necessary for the purpose of the execution of his duty, which was to carry out a counter-attack road block and search for liquor. (*McIndoe v. Pasmén*, (1991))

The B.C. Supreme Court then went so far as to suggest that the burden shifts to the defendant to disprove negligence, on a balance of probabilities, in the situation where the plaintiff is injured by force applied directly to him by the defendant (J.I.B.C., 1997:119). The court quotes from a Supreme Court of Canada case, *Cook v. Lewis* (1951):

Where a plaintiff is injured by force applied directly to him by the defendant his case is made by proving this fact and the onus falls upon the defendant to prove "that such trespass was utterly without his fault". In my opinion *Stanley v. Powell* rightly decides that the defendant in such an action is entitled to judgment if he satisfies the onus of establishing the absence of both intention and negligence on his part. (*Cook v. Lewis*, (1951))

In summary, these rulings indicate that vicarious liability will vary with the powers and duties being exercised by the police officer at the time the allegedly negligent act

was committed. Therefore, the acceptable level of force will likely vary with each unique situation based upon the noted principles outlined by the courts (J.I.B.C., 1997:120).

Nonetheless, there are numerous cases where a party has brought an action against the police on the basis that excessive force has been used in the performance of their duties. Generally, the courts have been resistant to finding liability against the police. This is reflected in the following cases, which generally raise Section 25 of the *Criminal Code* as a defence.

In *Davidson v. City of Vancouver (1986)*, the police removed a child from the custody of the Plaintiff's sister as per an Ontario Court Order. The Plaintiff responded by launching a civil action against the police agency alleging that they were not authorized to do so and had acted excessively. At trial, the Court held that section 25 (2) of the *Criminal Code* applied and provided the police with immunity in these specific circumstances (*Davidson v. City of Vancouver, (1986)*).

In *Goulet v. R. and Gosselin (1987)*, a police officer attended at the residence of the Plaintiff to investigate a reported theft of automobile. During the investigation, the Plaintiff and the police officer became involved in an altercation resulting in the Plaintiff's arrest. While the arrest was taking place a scuffle ensued which resulted in the police officer striking the Plaintiff in the face. The Plaintiff suffered personal injury and subsequently sued the officer. At trial the judge dismissed the action ruling that the force used by the officer was reasonable. (*Goulet v. R. and Gosselin, (1987)*).

In *Allarie v. Victoria City (1993)*, two police officers were dispatched to a house where an intoxicated individual was threatening others with a knife. As the police attempted to arrest the individual, a struggle ensued with one police officer using a baton to strike two quick blows to the suspect's arm. As the police officer was about to strike the suspect a third time, the individual suddenly moved resulting in the baton striking the suspect's head. As a result of the blow, the police were now able to effect the arrest and subsequently transported the suspect to a nearby hospital for treatment. Unfortunately, at the hospital it was learned that the suspect (Plaintiff) had suffered brain injury from the police officer's baton strike and was required to undergo surgery.

At trial, the judge dismissed the action citing that the force used by the police officers was reasonable under the circumstances. The trial

judge also ruled that the police were immune from the action pursuant to Section 25(1) of the *Criminal Code*. (*Allarie v. Victoria City*, (1993))

In *Christopaterson v. Saanich (District)*(1994), the police were summoned to deal with two individuals who were intoxicated, refusing to leave a nearby hotel. When the police arrived the Plaintiff and her friend still refused to leave, kicking one of the four police officers that had responded to the call. As a result, pepper spray was deployed and the Plaintiff was subsequently arrested.

The Plaintiff sued the police on the basis that the force used was excessive. At trial, the learned judge dismissed the action citing that the force used was not excessive and therefore justified under Section 25 (1) of the *Criminal Code*, thereby exempting the police from criminal and civil liability. [*Christopaterson v. Saanich (District)*, (1994)]

In *Nault v. Tromblev* (1995), a police officer stopped a vehicle suspecting that the driver's ability to operate the motor vehicle was impaired. Upon further investigation, the driver of the vehicle was subsequently detained and placed in the rear of the police vehicle. After being placed in the police vehicle, the suspect began to act violently, kicking out the rear window of the vehicle. The suspect (Plaintiff) then stuck his head and shoulders out of the vehicle.

In response, the police officer struck the suspect on the nose with a flashlight. When the suspect attempted to stick his head and shoulders out a second time he was struck once again by the officer. At trial, the judge dismissed the action, ruling that the police officers use of force was not excessive under the circumstances. (*Nault v. Tromblev*, (1995))

In *Anderson v. Port Moody (City) Police Department* (2000) a police officer entered the subject's property in a marked vehicle in order to pursue a suspect. The subject blocked the police officer's exit with his backhoe, as he ordinarily did to prevent persons from accessing his property or from leaving at once. The police officer advised the subject that if he did not move the backhoe he would be arrested. The subject walked away. The police officer radioed for back-up but did not know how long it would take to arrive. He exited his police vehicle and one of several aggressive dogs came charging at him where he used pepper-spray to stop the dog.

The police officer then received instructions from his superior to arrest the subject. The subject resisted, and was pepper-sprayed twice in the course of being handcuffed. The subject was charged with and convicted of resisting a police officer. A public inquiry exonerated the constable. At trial, each side agreed that the subject's behaviour was bizarre and that dogs were a factor in assessing risk. The only difference

in view was whether the officer should have used an empty hands technique or retreated instead of using pepper spray. The officer and the City argued that appropriate necessary force was used to effect a lawful arrest.

At trial the action was dismissed. The court ruled that the police officer was entitled to be on the subject's property in order to investigate a crime. The subject's conduct gave reasonable and probable grounds for an arrest. It was not safe for the officer to retreat to a locked car in unknown territory with an actively resisting subject who was acting in a bizarre manner. Nor was it reasonable for him to attempt an empty hands technique first, given the exigencies of the situation. The officer did not know how soon back-up officers would arrive. Use of pepper spray was within the options in the police force's policy. His conduct was not negligent or grossly negligent. The court stated that even it was, the subject would have been found 80 percent contributory negligent, and his damages would have been limited to \$2,500. (*Anderson v. Port Moody (City) Police Department*, (2000)).

In the case of *Thomson v. Ontario (2001)* the plaintiff police officers boxed in a motor vehicle. However the driver manoeuvred his vehicle in an attempt to escape. As a result the officers had to jump out of the way, discharging their firearms at the vehicle. The driver was hit by two shots but was not seriously injured. At the time of the investigation by the Ontario Special Investigations Unit the plaintiffs declined to give statements. The Director of the SIU then laid charges of unlawful use of a firearm and aggravated assault. The plaintiffs were discharged. The plaintiff's claimed malicious prosecution and breaches of their rights under the *Charter of Rights and Freedoms*. The Charter claims were based on the Crown's failure to disclose certain information during the criminal proceedings.

In court, the motion was allowed in part. The plaintiffs claims based on the breaches of *Charter* rights were dismissed as the plaintiffs could not have obtained a better result than dismissal of the charges. The motion for summary judgment of the claims for malicious prosecution was also dismissed. However, the synopsis relied on by the Director of the Special Investigations Unit should have set out why the SIU investigators concluded that no one at the scene was in danger. (*Thomson v. Ontario*, (2001))

While the courts have been generally resistant to finding liability against the police there have been exceptions. Judgments concerning the issue of liability and police use of force are additionally reflected in the following cases:

In the case of *Odhavji Estate v. Woodhouse (2003)*, Odhavji was fatally shot by police officers. As a result, the Ontario Special Investigations Unit began an investigation. The police officers involved in the incident did not comply with SIU requests that they remain segregated, that they attend interviews on the same day as the shooting, and that they provide shift notes, on-duty clothing, and blood samples in a timely manner. Under s. 113(9) of the Ontario Police Services Act, members of police forces are under a statutory obligation to cooperate with SIU investigations and, under s. 41 (1), a chief of police is required to ensure that members of the force carry out their duties in accordance with the provisions of the Act. The SIU cleared the officers of any wrongdoing.

However, Odhavji's estate and family commenced a variety of actions. The statement of claim alleged that the lack of a thorough investigation into the shooting incident had caused them to suffer mental distress, anger, depression and anxiety. They claimed that the officer's failure to cooperate with the SIU gave rise to actions for misfeasance in a public office against the officers and the Chief of Police, and to actions for negligence against the Chief, the Metropolitan Toronto Police Service Board, and the Province of Ontario. The defendants brought motions under rule 21.01 (1) (b) of the Ontario Rules of Civil Procedure to strike out the claims on the ground that they disclose no reasonable cause of action. The motions judge and the Court of Appeal struck out portions of the statement of claim.

The Supreme Court of Canada ruled that the appeal should be allowed in part and the cross-appeal dismissed. The actions in misfeasance in a public office against the police officers and the Chief and the action in negligence against the Chief should be allowed to proceed. The actions in negligence against the Province should be struck from the statement of claim. (*Odhavji Estate v. Woodhouse, (2003)*)

In *Keeling v. I.C.B.C.(1997)*, two police officers were on patrol when they observed a vehicle stopped at a red light. When the officers ran a computer check of the licence plate they discovered that the vehicle was reported as stolen. In an attempt to ensure that the vehicle could not flee from its position, the police suddenly manoeuvred their police vehicle in front of the stopped vehicle. As this occurred, one of the police officers quickly exited the vehicle and approached the driver with his gun drawn.

During his rapid approach, the officer accidentally discharged his firearm causing a bullet to enter into the neck area of the seated driver. The injuries resulted in the Plaintiff being a quadriplegic for life. In addition, it was later learned that the vehicle in fact was not stolen. The owner of the vehicle, a friend of the Plaintiff, had erroneously reported it as stolen in an attempt to have the vehicle returned earlier than the date that he had agreed to.

At trial, the judge ruled that the police officers were jointly liable for the injuries that resulted to the Plaintiff during their bungled “take-down manoeuvre”. The learned judge added that it was reasonably foreseeable, to both Smitas and Oleskiw, that a gun could accidentally discharge during the manoeuvre and injure Keeling, but neither addressed his mind to the risk of accidental discharge. Therefore, both police officers were jointly liable for the injuries sustained by the Plaintiff. (*Keeling v. Insurance Corporation of British Columbia*, (1997))

In *Berntt v. City of Vancouver* (1997), a police officer shot a teenager in the head with a plastic bullet during a riot that occurred shortly after the 1994 Stanley Cup hockey game. The “Stanley Cup” riot began after a crowd of over 50, 000 individuals gathered in downtown Vancouver. The mood of the crowd was upbeat early in the evening but quickly turned into a drunken brawl. Windows were smashed and stores were being looted. As a result, riot control officers were summoned to quell the unruly crowd.

The Plaintiff, Berntt, was one of the key participants in the riot. Berntt was observed throwing objects at the police as well as trying to obstruct an officer who was attempting an arrest. As a result, Berntt was shot in the back with a plastic bullet fired from an anti-riot weapon known as an Arwen gun. Berntt was treated for his injuries at the scene and released. Upon release, Berntt returned to the front of the unruly crowd and began to once again taunt the police.

As Berntt was walking away from the front of the crowd, he was shot once again with the Arwen gun. Berntt observed the shot being fired by the police and ducked. Unfortunately Berntt’s action caused the plastic projectile to strike the head portion of his body. As a result, Berntt suffered serious head injuries and was in a coma for more than a month.

At trial, Berntt stated that he continues to suffer memory and speech difficulties as a direct result of the injuries that he sustained on the night of the riot. The trial judge ruled that the police officer was justified when he fired the first shot at the Plaintiff. However, the officer committed assault and battery when he fired the second shot at the Plaintiff as he did not now pose a threat. As a result, the police were found to be 25 percent at fault for the injuries that resulted to the Plaintiff. However, the Plaintiff was found to be 75 percent at fault as he returned to the front line of the riot, after being shot by the police. (*Berntt v. City of Vancouver*, (1997))

Interestingly, the initial decision rendered in the case of *Berntt v. City of Vancouver* (1997) was appealed to the Supreme Court of B.C. Upon appeal, the initial decision against the Vancouver Police Department was reversed with the presiding judge noting



that the articulation of the police officer is critical in determining the evidentiary impact of the decision to use force.

In the 1997 ruling, the presiding judge largely based his determination of the police officer's decision to use force on the video footage of the riotous scene. However, upon appeal, the judge in the 2001 ruling based his determination of the police officer's decision to use force upon *what the officer experienced* stating:

...the trial judge must proceed to the third and fourth questions. In so proceeding, he or she should be a doppelganger to the peace officer whose conduct is in issue.

...that the issue is whether a reasonable person standing in the position of the constable, who had the same responsibility as the officer to bring the riot to an end, and who was operating on the same data base as the officer acquired both in previous training and experience and from the dynamics of that evening including the need to rescue other officers, the need to use gas and other anti-riot devices, and who had previously shot a number of rioters without causing serious injury, could reasonably have concluded that it was part of his responsibility to shoot the Plaintiff with an Arwen gun.

...His choice to fire on the plaintiff was neither unnecessary nor lacking in reason. It follows that the constable's actions were justified pursuant to s.32. This is a complete defence, and accordingly, the plaintiff's action must be dismissed. (*Bermtt v. The City of Vancouver et al.*, (2001))

### ***Liability in Regard to Failure to Train***

In addition to vicarious liability, police agencies are also vulnerable to liability for inadequate training of police officers. For example, an injured third party can, in addition to pursuing the appropriate level of government for vicarious liability, pursue a direct cause of action for inadequate training of the police officer in the use of force. It is also interesting to note that the police officer may have a cause of action for personal injury

and losses attributable to inadequate training in the use of force against his or her police agency (J.I.B.C., 1997:121).

### ***Third Party Action in Relation to Inadequate Police Training***

As stated, the government may also be liable for third party injuries that occur as a direct result of the police officer's use of force. The public has a reasonable expectation to believe that police officers authorized to use weapons are adequately trained for the responsibility. Included within this concept is the government's common law duty of care to the injured party. In the case of *Just v. B.C.(1989)*, the Honourable Mr. Justice Cory speaking for the majority ruled:

As a general rule, the traditional tort law duty of care will apply to a government agency in the same way that it will apply to an individual. In determining whether a duty of care exists, the first question to be resolved is whether the parties are in a relationship of sufficient proximity to warrant the imposition of such a duty. In the case of a government agency, exemption from this imposition of duty may occur as a result of an explicit statutory exemption. Alternatively, the exemption may arise as a result of the nature of the decision made by the government agency. That is, a government agency will be exempt from the imposition of a duty of care in situations, which arise from its pure policy decisions. (*Just v. B.C., (1989)*)

In the case of the British Columbia, there is no explicit statutory exemption making the government liable in those instances that indicate a failure to train. This would be in addition to the issue of vicarious liability, which may be imposed under section 11 of the *Police Act (J.I.B.C, 1997:123)*.

### ***The Police Officer's Cause of Action for Inadequate Training***

A police officer injured while in the course of performing his/her duties may allege that the government agency is negligent for failure to adequately train him/her in the use of force. It is important to emphasize that the government agency has a responsibility to

ensure that use of force is effectively authorized by regulating the qualifications of those individuals who are granted this authority.

It is also within the public interest to ensure that police officers receive reasonable training in the use of force. In fact, a lack of policy, procedures or training may serve to expose both the police officer and their government agency to liability as the public stakeholder is placed in an unreasonable risk of accidental harm (J.I.B.C., 1997:124).

As a result of these factors, it is no longer sufficient to simply document that an individual attended a training session. Importantly, police agencies must also be able to demonstrate that:

- the training was necessary as validated by a task analysis;
- the persons conducting the training were, in fact, qualified to conduct such training;
- the training did, in fact, take place and was properly conducted and documented;
- the training was “state-of-the-art” and up-to-date;
- adequate measures of mastery of the subject matter can be documented;
- those who did not satisfactorily “learn” in the training session have received additional training and now have mastery of the subject matter; and
- close supervision exists to monitor and continually evaluate the trainee’s progress.

### ***Liability and General Duty of Care***

In addition to the specific issue of liability regarding police use of force, there may also be allegations of negligence concerning other operations of the police agency. In this regard, there appears to be a growing trend towards the number of litigated matters

concerning the conduct of policing in general. This trend is reflected in the following cases.

### ***Failure to Protect the Public***

In this case, the Plaintiff was an infant who had been shot by his school teacher. As a result of the injury, civil action was launched against the police agency as they had knowledge that the school teacher had made several previous attempts to injure the infant but had not acted. The argument was made that the police were negligent as they had not apprehended the school teacher before he could inflict injury upon the infant. Secondly, the police were also negligent as they had failed to guard the safety of the infant. The case eventually was heard by the Court of Appeal which ruled that there was no duty of care owed by the police on public policy considerations in this specific instance (*Osman v. Ferguson*, (1993)).

During this case, in the early morning hours of August 24, 1986, the plaintiff, who lived in a second-floor apartment in the Church and Wellesley area of Toronto, was raped at knifepoint by PDC, who had broken into her apartment from a balcony. At the time, the plaintiff was the fifth victim of similar crimes by PDC, who would become known as the "balcony rapist".

In this action, the plaintiff sued the Metropolitan Toronto Police Force for damages on the grounds that (1) the police force had conducted a negligent investigation and failed to warn women of the risk of an attack by PDC; and (2) the police force had violated her rights under ss. 7 and 15 of the Canadian Charter of Rights and Freedoms.

The evidence at trial established that, before the rape of the plaintiff, PDC had committed similar crimes on December 31, 1985, January 10, 1986 and July 25, 1986. All the crimes took place in apartment residences in the Church and Wellesley area of the City of Toronto.

The Ontario Court, General Division, ruled that there should be judgment for the plaintiff. The Court stated that the police are statutorily obligated to prevent crime, and, and common law, they owe a duty to protect life and property. The police force failed in their duty to protect the plaintiff and the other victims from a serial rapist known to be in their midst by failing to warn them so that they might have had the opportunity to take steps to protect themselves. A meaningful warning could and should have been given to the women who were at particular risk. This warning would not have compromised the investigation.

The professed reason for the police not providing a warning so that the assailant might flee was not genuine. The real reason was that police officers assigned to the case believed that women living in the area would become hysterical and scare off the offender and this would jeopardize the investigation. In addition, police were not motivated by any sense of urgency because the balcony rapist crimes were regarded as not as serious as other rapist crimes that were distinguished by more violence.

The police aware of the risk but deliberately failed to inform her of it. Because the defendants exercised their discretion in the investigation in a discriminatory and negligent way, their exercise of discretion was contrary to the principle of fundamental justice. The plaintiff was entitled to an award of damage as a remedy under s. 24 of the Charter.

Damages should be assessed in the following amounts: (a) general damages, \$175, 000; (b) special damages to date, \$37,301.58; and (c) future costs, \$8, 062.74. The plaintiff was also entitled to an amount that equalled the present value of the sum required to produce \$2, 000 annually for 15 years for transportation costs and to a declaration that the defendants violated her right under the Canadian Charter of Rights and Freedoms. (*Jane Doe v. Board of Commissioners of Police for the Municipality of Metropolitan Toronto et al.*, (1998))

### ***Duty of Care to Prisoners***

Police officers also have an obligation to protect the individuals that they arrest or incarcerate while awaiting disposition. In the case of *Funk v. Clapp* (1988), supra, a prisoner had been arrested for impaired driving. As per procedure, the arresting officer conducted a physical search of the suspect but had failed to locate a belt that the individual had hidden on his person. Eventually the individual was lodged in a cell, in possession of his hidden belt. While in custody, the individual committed suicide by hanging himself.

When the incident went to trial, it was determined that the arresting officer had not conducted the physical search in accordance with the requirements set out in the police agency's policy. In addition, it was also revealed that the prison custodian did not regularly check on the prisoner as was required within policy. Nonetheless, the Court dismissed the action finding that while these omissions did occur they did not result in a breach of duty to take reasonable care for the safety of the prisoner (*Funk v. Clapp*, (1988)).

In the case of *Gerstel v. Penticton City*(1995), the plaintiff was arrested and placed in custody, awaiting trial on criminal charges. The

plaintiff had a history of mental illness that included being diagnosed as suffering from schizophrenia with symptoms of depression, illusions and paranoia. Nonetheless, he was transferred to a *regular* police holding cell with provisions made for frequent observational checks.

Unfortunately, between two of the scheduled checks, the plaintiff became delusional and climbed to the top of the cell bars. The plaintiff then dove head first onto the concrete floor of the cell block sustaining injuries that rendered him a quadriplegic. A subsequent civil action was launched against the police agency alleging negligence in regards to the duty imposed.

At trial, the judge dismissed the action against the agency stating that although there is a duty of care to all prisoners in custody, that includes the use of reasonable care to protect them from foreseeable risk; in this instance, the police did not depart from the standard of care expected of them (*Grestel v. Penticton City*, (1995)).

In summary, it appears that Canadian courts have generally resisted finding that police agencies have breached the expected standard of care owed to members of the public. The reason for this may in part be due to the rapid and complex sequence of events that police personnel frequently find themselves in. In many of these precarious situations, it would be unreasonable to expect flawless decision-making on the part of the police agency in regards to all of the circumstances at hand.

While the police have an expected duty of care to protect all individuals, their duty is limited to protection from *reasonable and foreseeable* risk. By virtue of their rulings, the courts have indicated that the Plaintiff must demonstrate:

- That the police owed a duty of care to the Plaintiff;
- that the police should have observed a particular standard of care in order to perform or fulfill that duty;
- that the police breached their duty of care by failing to fulfill or observe their standard of care;
- that such breach of duty caused damage or loss to the Plaintiff; and

- that such damage was not too remote a consequence of the breach so as to render the police not liable for its occurrence. (Lindsay and Mussio, 1995:2)

Importantly, there is a noticeable lack of judgments against Canadian police agencies in both criminal and civil domains. In this regard, John Westwood, Director of the Civil Liberties Association of British Columbia writes:

...the police in Canada, by and large, see themselves as public servants, as crime fighters answerable to the citizenry...public prosecutors are not afraid to lay charges against the police when the evidence is there...the courts are willing to find against the police. Of course, it is more difficult to convict a police officer than it is an ordinary citizen, or to get a civil judgment against the police: When we allow the police to use force against us, we must allow them some freedom from being second-guessed about their split-second judgments. (Westwood, 1997)

Nonetheless, the *concern* regarding negligence and liability appear to have intensified professionalism within policing. As a result, Canadian police agencies appear to have become more proactive in meeting the demands and expectations of both the courts, and the public. This has largely occurred in the past ten years by way of training and in the deployment of less-lethal compliance tools that include the Arwen gun and pepper spray. These issues will be discussed at length in the chapter to follow. This approach is a departure from past practices, which were largely reactive, often taking the form of policy changes.

## **United States of America: Law and Policy**

Several fundamental differences exist between Canada and the United States upon examining U.S. empirical studies and U.S. legal policies. The most prominent of these differences can be found in each of the two nation's Constitutional documents.

The American Constitution and accompanying *Bill of Rights* are substantially different from Canada's recently enacted *Charter of Rights and Freedoms*.

Another significant difference exists within the federal legal systems of each nation. In the U.S., the Federal system provides substantial criminal law powers to individual states allowing for varying degrees of criminal legislation, law enforcement and punishment. In Canada, the Federal government has exclusive jurisdiction to enact and regulate criminal matters. Individual provinces have some limited influence into police matters by directing and shaping police related policies and regulations. However these policies and regulations must exist within the parameters of federal legislation.

Another important difference between the two nations is that the police usage of deadly force is far more of a concern in the U.S. than in Canada. In absolute numbers, as well as proportionately, far more people die by legal intervention in the United States than in Canada. Based upon Uniform Crime Reports, on average, law enforcement officers kill one person every day in the United States (UCR, 2001). In Canada, there are roughly ten deaths by legal intervention each year. Upon adjusting for population figures, the number of deaths by legal intervention within the United States continues to be almost *four times greater* than the corresponding number of legal intervention deaths within Canada. Interestingly, this marked difference between the two nations is also apparent in other forms of extreme violence that include the frequency in which police officers are murdered during the performance of their duties, and the national homicide rate. These differences will be discussed further in Chapter Three of this dissertation.



### ***State Law Justifying the Use of Deadly Force by Police***

In the United States, the legal and ethical issues associated with the use of deadly force in self-defence or in the defence of others have been the focus of attention for many years. This appears to be largely due to the wide spread usage of deadly force by police officers and members of the public in self-defence issues (McIntyre, 1989; BJS, 2000; Callahan, 2001). Although considered a serious act with significant overtones, criminal courts within the United States have generally concluded that shootings by police officers are justifiable (Flynn & Homant, 2000). State legislatures and the courts, with citizen input, have adopted a myriad of policy guidelines outlining when the taking of human life is acceptable (Matulia, 1985; Callahan, 2001; Lord 2004).

The legal issues surrounding the use of deadly force by the police in the United States has occurred in the specific area of "effecting an arrest." The issue of fleeing felons and the justification of taking a life came to a turning point in the 1985 case of *Tennessee v. Garner (1985)*. Prior to March 27, 1985, there were basically three standards of conduct controlling police use of deadly force within the United States of America. Modified Common Law, the Model Penal Code (a guideline for legislation among American states) and Common Law served to direct and limit homicide by legal intervention (Matulia, 1985:17).

#### ***Modified Common Law***

Several states adopted a "modified" common law approach to the deadly force issue through statutes. These states permit the use of deadly force to effect the arrest of a person when he/she is:

- attempting to escape from justice by use of a deadly weapon, or

- who otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay; or
- who has committed a "dangerous or atrocious" felony (dangerous or atrocious being generally defined to include murder, arson, mayhem, burglary, aggravated assault, rape, kidnap, extortion, or robbery.) (Matulia, 1985:18)

### ***The Model Penal Code***

In the early 1960's, the American Law Institute proposed a *Model Penal Code* dealing with the use of deadly force. By 1985, only two states had adopted the complete *Model Penal Code*, while an additional twenty states had adopted various forms of it (Matulia, 1985:19).

The *Model Penal Code* allows the use of deadly force to effect an arrest:

for a felony only if the officer, or someone assisting the peace officer, believes the use of force creates no substantial risk of injury to innocent persons, and the officer believes the crime for which the arrest is being made involved conduct including the use or threatened use of deadly force, or the officer believes that there is a substantial risk that the person to be arrested will cause death or serious bodily harm if apprehension is delayed. (Matulia, 1985:19)

The *Model Penal Code* also provides for the use of deadly force by a guard or other peace officer, which s/he believes to be immediately necessary to prevent the escape of a person from a jail, prison or other institution for the detention of persons charged with or convicted of a crime. Deadly force to prevent the commission of a crime is allowed by the *Model Penal Code* only if:

The officer believes that there is a substantial risk that the person whom he seeks to prevent from committing a crime will cause death or serious bodily harm to another unless the commission of the consummation of the crime is prevented and that the use of such force presents no substantial risk or injury to innocent persons; or

the officer believes that the use of such force is necessary to suppress a riot or mutiny after the rioters or mutineers have been ordered to disperse

and warned, in any particular manner that the law may require, that such force will be used if they do not obey. (Matulia, 1985:19)

### **Common Law**

At common law, justifiable homicide is based upon the fleeing felon rule and is defined as:

The necessary killing of anyone in the performance of a legal duty or where the slayer, not being at fault, had a legal right to kill, the taking of human life under circumstances of justification, as a matter of right. It is homicide authorized by law. (Matulia, 1985:17)

Prior to 1985, this definition was codified, existing in several states as:

The arresting officer must have probable cause to believe that a felony has been committed and that the person to be arrested committed it; the arresting officer must give the defendant notice of his intention to arrest, and, the defendant flees or forcibly resists and whatever force the officer uses must be necessary to effect the arrest. (McIntyre, 1989:52-53)

However, in March of 1985, the United States Supreme Court essentially overturned the common-law rule. The landmark decision rendered in *Tennessee v. Garner (1985)* involved the shooting death of a black, 15-year-old male who was suspected of breaking into a residence at night. The youth was observed by a black Memphis police officer as he attempted to escape over a wall at the rear of the residence. The officer was aware that the youth was unarmed and ordered him to halt. Upon failing to do so the police officer shot and killed the youth to prevent his escape.

At trial, the Supreme Court rejected the common law rule that allowed deadly force in the making of an arrest, even for a property crime such as break and enter. The Supreme Court decision set the tone for the use of force throughout the United States by stating:

The use of deadly force to prevent escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable. It is not

better that all felony suspects die than that they escape. When a suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so.

The Supreme Court of the United States of America has decided only two cases on the police use of deadly force, in *Tennessee v. Garner* (1985) and *Graham v. Connor* (1989). The *Garner* decision served to limit the use of deadly force by police and declared constitutional rules allowing the use of deadly force to prevent the escape of any suspect.

In *Graham v. Connor* (1989) the U.S. Supreme Court established the test for liability in the police-use-of-excessive-force cases. The Court ruled that the test for liability must consider if the police officer's conduct was "objectively reasonable." The Court stated:

all force – deadly or not – in the course of an arrest, investigatory stop, or other "seizure"...should be analyzed under the Fourth Amendment and its "reasonableness" standard rather than under a "substantive due process" approach.

It is significant that the Court rejected the "due process" standard that would have required alleged victims to prove malice on the part of the offending officers (Ross, 2002). The Court noted that, in deciding whether an officer's conduct meets the Fourth Amendment reasonableness standard, lower courts should examine issues that include

- the severity of the suspect's crime,
- the immediacy of the threat to the safety of the officer(s) or others, and
- whether the suspect is actively resisting arrest or attempting flight.

The Court additionally stated:

The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.

The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.

With respect to a claim of excessive force, the same standard of reasonableness at the moment applies....

The impact of this landmark decision is that lower courts should examine excessive force claims with caution, and in light of the fact that an individual police officer's decision to utilize deadly force is often made in a split second under extremely dangerous, difficult and evolving circumstances (Ross, 2002). In addition, the courts focus should be "at the moment" when deadly force is used, having regard for the degree of danger that the officer and others are facing.

### ***The Issue of Training***

Another important aspect of the police use of deadly force is in regards to the level of training that police officers receive. The U.S. Courts have determined that an "objectively reasonable police officer" is one who has been trained by his or her police department to the constitutional standards pertaining to the police use of deadly force. This would include the training and proficiency in the use of police department supplied firearms with the responsibility of the training placed upon the police department employing the officer.

### ***U.S. Federal Police: The Use of Deadly Force***

Callahan (2001) notes that, in the fall of 1995, the Attorney General of the United States approved a deadly force policy for all law enforcement agencies within the scope of the Department of Justice that was later adopted by the Department of Treasury. In

effect, all federal law enforcement agencies in the United States for the first time have a uniform policy regarding deadly force. In contrast, Canadian police have traditionally utilized the federal *Criminal Code of Canada* as a benchmark in the drafting of policy surrounding the use of deadly force. This has resulted in police agencies throughout Canada maintaining a relatively consistent approach to policies and procedures pertaining to the use of deadly force.

The new U.S. federal policy surrounding deadly force states:

Law enforcement officers . . . may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or another person.

An accompanying commentary for the policy provides an explanation for the meaning of the word “imminent” as,

Imminent has a broader meaning than immediate or instantaneous. The concept of imminent should be understood to be elastic, that is, involving a period of time dependent on the circumstances, rather than the fixed point of time implicit in the concept of “immediate” or “instantaneous”. Thus, a subject may pose an immediate danger even if he or she is not at the very moment pointing a weapon at the officer if, for example, he or she has a weapon within reach or is running for cover carrying a weapon or running to a place where the officer has reason to believe a weapon is available. (Callahan, 2001:25)

In effect the Department of Justice (DOJ) has made their policy pertaining to the police use of deadly force more restrictive than the constitutional standard articulated by the Supreme Court in *Garner* by the addition of the “imminence” requirement.

### ***Washington State: The Use of Deadly Force***

The specific state of Washington was selected for this dissertation due to the state’s proximity and similarities with the neighbouring Canadian province of British

Columbia. Both Washington State and British Columbia are located in the Pacific Northwest of North America, sharing a common border and having similar geography and population demographics (Savageau, 2000).

In Washington State, the *Official Revised Code of Washington* (1987) contains the *Washington Criminal Code* with the provisions and, limitations pertaining to the police use of deadly force. The *Washington Criminal Code* states:

**9A.16.040.** Justifiable homicide or use of deadly force by public officer, peace officer, person aiding.

- (1) Homicide or the use of deadly force is justifiable in the following cases:
  - (a) When a public officer is acting in obedience to the judgment of a competent court; or
  - (b) When necessarily used by a peace officer to overcome actual resistance to the execution of the legal process, mandate or, order of a court or officer, or in the discharge of a legal duty.
  - (c) When necessarily used by a peace officer or person acting under the officer's command and in the officer's aid:
    - (i) To arrest or apprehend a person who the officer reasonably believes committed, has attempted to commit, is committing, or is attempting to commit a felony;
    - (ii) To prevent the escape of a person from federal or state correctional facility or in retaking a person who escapes from such a facility; or
    - (iii) To prevent the escape of a person from a county or city jail or holding facility if the person has been arrested for, charged with, or convicted of a felony; or
    - (iv) To lawfully suppress a riot if the actor or another participant is armed with a deadly weapon.
- (2) In considering whether to use deadly force under subsection (1) (c) of this section, to arrest or apprehend any person for the commission of any crime, the peace officer must have probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to the officer or a threat of serious physical harm to others. Among the circumstances which may be considered by peace officers as a "threat to serious physical harm" are the following:
  - (a) The suspect threatens a peace officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening; or
  - (b) There is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious bodily harm.

Under these circumstances deadly force may also be used if necessary to prevent escape from the officer, where, if feasible some warning is given.

- (3) A Public officer or peace officer shall not be held criminally liable for using deadly force without malice and with a good faith belief that such act is justifiable pursuant to this section.
- (4) This section shall not be construed as:
  - (a) Affecting the permissible use of force by a person acting under the authority of the RCW 9A.16.020 or 9A.16.050; or
  - (b) Preventing a law enforcement agency from adopting standards pertaining to its use of deadly force that are more restrictive than this section.

**9A.16.050. Homicide – By other person – When justifiable**

Homicide is also justifiable when committed either:

- (1) In the lawful defence of the slayer, or his or her husband, wife parent, child, brother, or sister, or of any other person in his presence or company, when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal injury to the slayer or to any such person, and there is imminent danger of such design being accomplished.

The laws of Washington State pertaining to the use of deadly force contain several distinct differences when contrasted against the Canadian federal law provisions that govern Canada and the province of British Columbia. Among these differences are the legislated provisions that allow a court imposed death penalty, and the use of deadly force to prevent the escape of an individual from a federal or state correctional facility, or from a county or city jail when they have been arrested, charged or convicted of a felony offence.

***The Violation of U.S. Civil Rights – Section 1983 Suits***

In the 1960's, the United States Supreme Court began to employ a section of the *United States Code* for deciding lawsuits brought against the government. Title 42 of the *United States Code*, Section 1983 – “Civil Action for Deprivation of Civil Rights,” requires



the plaintiff to prove that the conduct complained of was committed by an individual acting under colour of state law; that this conduct deprived a person of rights, privileges or immunities secured by the *Constitution* or laws of the United States; and that the violation reached a constitutional level (Kappeler, 2001). As a result of the reliance on this section, many of the lawsuits brought against police officers are called Section 1983 suits.

Ross (2002) notes that police shootings in the U.S. are rare but upon their occurrence the likelihood of a civil lawsuit being filed is high. When a police officer is involved in a shooting, the incident is considered to be a “seizure” or an arrest. If a plaintiff desires to seek redress for an unjustified police shooting, the plaintiff may argue that the shooting constituted excessive force due to factors that include the failure to train and therefore a violation of Fourth Amendment rights occurred (*Tennessee v. Garner*, 1985). The question of whether the force was excessive is analyzed under the “objective reasonableness” standard that was first articulated by the United States Supreme Court in *Graham v. Conner*. Allegations of police abuse of force and misconduct are underscored by atypical incidents such as the Rodney King case (1991), the Amandou Diallo shooting (1999) in New York, police shootings in Cincinnati, Ohio during 1999 and 2000, and police misconduct in the Rampart precinct in Los Angeles (Ross, 2002).

When the objective reasonableness standard is applied to a police shooting, it in effect means that the shooting officer(s) must have a reasonable belief that deadly force is necessary, given the facts known, or reasonably believed, at the instant of the shooting. The necessity for deadly force, in turn, is governed by *Tennessee v. Garner*, which requires that the person shot pose an immediate threat of serious harm to the

officer or others. Flynn and Homant (2000) note that in Section 1983 civil rights suits, most federal courts have taken a fairly restrictive view of the circumstances under which police tactics leading up to a shooting may be a basis for a claim. U.S. courts tend to consider the “totality of the circumstances” that led up to police shooting and subsequent seizure. Nonetheless, Chiabi (1996) observed that the Section 1983 civil rights suit is the most utilized and lucrative form of liability litigation against law enforcement officers in the United States emphasizing the need for continued training and professional behaviour in the police use of deadly force.

Kappeler (2001) adds that based upon recent U.S. court rulings, a seizure must be reasonable, regardless of whether it is the product of direct or indirect force. To be reasonable, governmental interest served by the seizure must outweigh the interests of the seized citizens. Therefore, when deadly force is used, the interests of the government are predicated on the potential of serious physical harm to the police officers or others.

### ***US Court Rulings***

As is the case with the Canadian courts, the U.S. courts have considered issues pertaining to the nature of the danger that the police officer is facing, and the immediacy of the threat. A dangerous suspect is, generally, an armed suspect who can inflict serious physical harm upon the officer or another person. As stated, the relevant facts for determining whether a police shooting is objectively reasonable include only those facts known to the officer at the time of the shooting. This would include the degree of danger that a reasonable officer would perceive him or herself to be in at that moment, and what the shooting officer was aware of at the time.

Flynn and Homant (2000) note that while there is uniformity in federal U.S. courts regarding the requisite focus on the immediate time-frame of the police shooting, the federal circuit courts have differed slightly as to the precise scope of the time-frame analysis. The central issue concerns whether the circumstances confronting the police officer(s) are limited to the moments immediately preceding the shooting, or should the courts also consider the prior actions of the suspects, the officers and other events occurring *over the entire span of the incident*.

These issues were addressed in the case of *Dickerson v. McClellan* (1996). In this case, police officers attended a complaint of shots fired by a drunken individual within his residence. The police allegedly entered the residence with guns drawn and without announcing their presence, contrary to departmental policy. During the confrontation, the plaintiff is shot and killed. At trial, in the Section 1983 lawsuit, the plaintiff's estate argued that the conduct preceding the shooting is relevant to the issue of the objective reasonableness of the force used by police.

The court concluded that the scope of the inquiry was limited to the moments immediately preceding the shooting and relied on the analysis of decisions from other courts including the case of *Plakas v. Drinski* (1994) noting that:

The time-frame is a crucial aspect of excessive force cases. Other than random attacks, all such cases begin with the decision of a police officer to do something, to help, to arrest, to inquire. If the officer had decided to do nothing, then no force would have been used. In this sense, the police officer always causes trouble. But it is trouble, which the police officer is sworn to cause, which society pays him to cause and which, if kept within constitutional limits, society praises the officer for causing. (*Plakas v. Drinski*, (1994)).

Flynn and Homant (2000) also emphasize the importance of the case of *Sherrod v. Berry* (1988) in determining the time-frame issue in excessive force cases noting that unreasonable police behaviour prior to a shooting incident does not necessarily make the shooting unconstitutional. The focus of the courts should be on the seizure itself (the shooting) and not the events leading up to it. For example, the *Sherrod v. Berry* decision viewed the time-frame inquiry very narrowly, holding:

Knowledge of facts and circumstances gained after the fact....has no place in the ...jury's post-hoc analysis of the reasonableness of the actor's judgement. Were the rule otherwise,...the jury would possess more information that the officer possessed when he made the crucial decision. Thus, we are convinced that the objective reasonableness standard.... requires that [the officer's] liability be determined exclusively upon an examination and weighing of the information [the officer] possessed *immediately prior to and at the very moment he fired the fatal shot.* (*Sherrod v. Berry*, 1988).

However, in the case of *Allen v. Muskogee* (1997), the courts adopted a broader scope of analysis and were critical of the police conduct. In this case, police officers attempted to disarm an individual who was seated in his vehicle. While the officers attempted to disarm the individual, he began shooting in the direction of the officers and was subsequently killed by the officers' return fire. The entire incident lasted approximately 90 seconds. At trial, the lower court took issue with the police officers actions, addressing the issue of objective reasonableness stating:

The reasonableness of Defendant's actions depends both on whether the officers were in danger at the precise moment that they used force and on whether Defendants' own reckless or deliberate conduct during the seizure unreasonably created the need to use force....We will thus consider an officer's conduct prior to the suspect's threat of force if the conduct is "immediately connected" to the suspect's threat of force. (*Allen v. Muskogee*, (1997)).

In summary, the majority of the lower courts in the U.S. have interpreted objective reasonable force based upon the manner of the officers' intrusion, the scope of the intrusion, the need to perform official duties, justification of the intrusion, facts and circumstances of the situation, and the degree of resistance the officer encountered, including the threat, and or the use of weapons (Ross, 2002). The lawfulness of the officers' decision will typically be based upon the facts and circumstances known to the officer at the time that the force was used.

In addition, Ross (2002) adds that the police officer's level of force does not have to be the least intrusive amount available. U.S. courts have permitted the police to use somewhat greater amounts of force, than inflicted or threatened, to effect an arrest as a higher level of force may be required to subdue an assailant. It is the plaintiff that has the burden of proof as the police use of force is often justified by the greater interest in protection of the public peace.

## Summary

In conclusion, caution must be used when comparing legal issues of justifiable homicide in Canada and the United States. The complexities of American law that govern the use of deadly force vary from state to state. The noted Modified Common Law and the *Model Penal Code* exist in a variety of forms within the United States of America. The general laws and procedures within the United States governing the use of force can be considered to be loosely similar to Canadian legislation. While these differences do exist, it is also important to emphasize that the fundamental basic application of the use of deadly force by police within Canada and the United States is

very similar. In both nations, police officers are legislated to utilize deadly force only when their lives, or the lives of others, are in immediate danger.

Within Canada and the United States, there has been a recent trend towards the standardization of police training and tactics that surround the issue of the police use of force. Police trainers and practitioners have developed a national (international) Use of Force Model that has served to regulate and direct the use of force by police personnel. This will be discussed further in the chapter to follow.

The various police agencies and government bureaucracies within Canada have not yet been able to establish the legal and administrative structure that is necessary, if incidents of police use of force are to be documented and analysed. Presently there are an array of police agencies within each province, lacking the national co-ordination that is required if this subject is to be fully studied and researched. The legal framework that has been discussed within this chapter and the national Use of Force model that has been recently enacted exist within a vacuum of documentation and Canadian research.

As stated, virtually all of the research surrounding the issue of police use of deadly force is based upon studies conducted within the United States of America. Ross (2002) emphasizes that police officers in the United States are receiving better training, more precise guidance by departmental policy, and appear to be making better decisions in the field regarding the usage of force than in the past. In addition, both Canadian and U.S. police have more equipment options at their disposal than in former years that give them viable ranges of force to utilize when encountering resistance. The chapter to follow introduces the reader to these various issues including the theoretical framework surrounding the police use of deadly force.

## **CHAPTER 2: THEORY, RESEARCH AND PRACTICE: THE POLICE USE OF DEADLY FORCE**

In this chapter, the theories surrounding the police use of deadly force are discussed and reviewed with the body of empirical evidence that has been accumulated. This chapter then considers the practice of the police use of deadly force including less-lethal options available to police personnel in Canada and the U.S.

### **Sociological Theories**

Most empirical research surrounding the police use of deadly force is based upon the premise that police behaviour is influenced by the social dynamics of police-public encounters. This line of inquiry has directed an analytical focus upon the structural characteristics of situations in which the police and public interact. These structural characteristics include age, race, social class, gender, attitude, sobriety, and demeanour of suspects; the seriousness of the offence, the number of police officers present and the character of the community in which the encounter takes place. It is within this theoretical framework that these “situational factors” serve as cues to influence and direct police officers to form judgements on how to react to a given situation (Alpert and Fridell, 1992; Geller and Scott, 1992; Worden, 1996).

Due to the nature of their duties, police officers will typically be reacting to violent encounters, often within moments of their arrival to a situation. As a result, research has often focused upon the related theories of violence and victimology in an attempt to understand the situational factors that police officers confront (Geller and Scott, 1992;

MacDonald et al., 2001; White, 2001). These theories will be discussed in detail in this chapter.

## **Psychological Theories**

A second approach to understanding police behaviour is from a psychological perspective. This perspective focuses upon the individual personality traits of police officers that will presumably produce different responses to similar situations by different officers. Behavioural differences may also be attributed to factors that include the police officer's gender, age, race, length of police service, and level of education. These characteristics will influence and direct an individual's attitude.

Worden (1996) notes that an analysis of police officers' length of service indicates that less experienced officers are more active in that they patrol their assigned areas more aggressively. As a result, these less experienced officers will typically initiate more contacts with the public, are more likely to make arrests, and are more likely to use deadly force (Alpert and Fridell, 1992).

## **Organizational Theories**

Another approach to understanding police behaviour is in relation to the features of the organizations in which police officer work. This theory highlights the organizational properties that influence and direct police behaviour including the police use of deadly force. Organizational policies that set clear boundaries on the use of police firearms, and provide clear operational reviews of the use of deadly force, have been shown to reduce police shootings (White, 2001; Alpert and MacDonald, 2001).



This is especially true in those instances that are considered to be discretionary or “elective” shootings (Worden, 1996). In these instances, the police officer, or a member of the public, is not facing an imminent lethal threat thereby allowing the officer to consider organizational directives. However, White (2001) adds that formal organizational policies surrounding deadly force can be outweighed by the personal philosophies and policies of the Chief and that the impact of the policy is limited to elective encounters.

## **Theories of Violence**

Research literature also depicts three competing theories to explain the changing patterns of extreme violence (such as homicide) among community members, across time and geography. These theories adopt an integrated approach in that it is assumed that a combination of social and psychological factors cause persons to commit violent crimes (Geller and Scott, 1992; MacDonald et al., 2001; White, 2001; White, 2002; Best and Quigley, 2003). In explaining, to some extent, the varying levels of violence against police it may also be possible to explain variations in the nature of police shootings.

One of the most widely cited explanatory theories of violence is the "subculture of violence" concept pioneered by Wolfgang and Ferracuti (1967). The position is taken that, within different communities, there exist “subculture(s) with a cluster of values that support and encourage the overt use of force in interpersonal relations and group interactions”. These authors further argue that this subcultural normative system is localized within the lower social class of society (Wolfgang and Ferracuti, 1967:11). In completing their hypothesis, seven principal propositions of their theory are emphasized:

1. No subculture can be totally different from or totally in conflict with the society of which it is a part.
2. To establish the existence of a subculture of violence does not require that the actors sharing in this basic value element express violence in all situations.
3. The potential resort or willingness to resort to violence in a variety of situations emphasizes the penetrating and diffusive nature of this culture theme.
4. The subcultural ethos of violence may be shared by all ages in a subsociety, but this ethos is most prominent in a limited age group ranging from late adolescence to middle age.
5. The counter-norm is non-violence.
6. The development of favourable attitudes toward, and the use of, violence in this subculture involve learned behaviour and a process of differential learning, association, or identification.
7. The use of violence in a subculture is not necessarily viewed as illicit conduct, and the users therefore do not have to deal with feelings of guilt about their aggression.

(Wolfgang and Ferracuti, 1967:314)

The authors qualify their hypothesis by making a distinction between 'idiopathic' and 'normative prescribed' violent crimes. Individuals who are from the middle or upper social class and, importantly, suffer from some major psychopathology typically commit idiopathic violent crimes. Normatively violent crimes are those crimes that are usually committed by individuals of the lower classes and who are members of a subculture of violence (Hannon, 2004). Wolfgang and Ferracuti estimate that less than 10 percent of the violent crimes committed are idiopathic in nature. The vast majority of the violent crimes committed are by those individuals within the scope of their subculture of violence theory (Wolfgang and Ferricuti, 1967:140-141).

Wolfgang and Ferricuti's hypothesis may offer some explanation for police shooting frequencies and geographic locations. Within the subculture of violence theory, it may be assumed that individuals predisposed to violent criminal activities will engage in contact with the police more frequently. In combination with the greater degree of contact, their disposition towards violence will likely serve to precipitate the actions of a police officer, resulting in greater frequencies of deadly force.

In addition to the subculture of violence theory, Geller and Scott (1992) note that the "structural" theory asserts the influence of "broad-scale social forces such as lack of opportunity, institutional racism, persistent poverty, demographic transitions and population density all combining to determine homicide rates. These forces operate independently of human cognition and do not require individual learning to explain their impact." Within this framework, *MacDonald et al.* (2001) outline the "danger-perception theory", arguing that police officers are more likely to use deadly force during situations in which they encounter greater levels of violence, or when they perceive their situation to be dangerous. In this regard, Fyfe's (1986) examination of criminal homicide for New York City revealed that a high rate of criminal homicide in an area would also experience a high rate of police use of deadly force. Fyfe noted there exists a high correlation between the police use of deadly force and threats to police and general public safety.

### ***Interactional Violence***

The third prominent theory used to explain extreme violence is the interactional theory. The interactional theory focuses upon the "character of relationships" between the players involved. It is the makeup of these relationships that may ultimately result in homicide. Homicide is seen as resulting from the interaction process itself. The actions

of a participant precipitates the acts of another (e.g. police officer) ultimately escalating the conflict until homicide occurs (Wolfgang, 1957; Goffman, 1967; Gelles, 1972; Hepburn, 1973; Luckenbill, 1977, Hannon, 2004).

It is argued that acts of violence are not random occurrences. Violent behaviour is constructed within a situation, involving two or more persons, through a process of interaction. It is within the concept of "victim-precipitated homicide" that this theory materializes. Marvin Wolfgang (1957) states:

The role of the victim is characterized by his/her having been the first in the homicide drama to use physical force directed against his/her slayer. The victim-precipitated cases are those in which the victim was the first to show and use a deadly weapon, to strike a blow in an altercation -- in short, the first to commence the interplay or resort to physical violence. (Wolfgang, 1957:45)

Hepburn (1973) goes on to state that there are at least five interdependent factors that are critical in triggering the initiation of violence. Adopting Wolfgang and Ferracuti's theory, Hepburn argues that the first of these factors is the pervasive norm of violence known as the subculture of violence. The use of violence is assumed to be a legitimate and acceptable solution to the threatening situation. Hepburn (1973) states:

A pervasive norm of violence within segments of the population would condone its use as an available, short-term, and acceptable solution to the threatening situation. This is not to maintain that a violent response will only occur within such a subculture; rather, a violent response as a mechanism of problem-solving and threat-reduction is more likely to occur within such a normative framework. (Hepburn, 1973:424)

The second factor in the initiation of violence is experience. Previous experience by an offender, in similar situations, is an important factor. An individual who has been successful with violence in the past is likely to consider it a viable alternative to the present situation. It is not merely prior success with violence but rather prior success in similar situations.

Thirdly, intoxicants, especially alcohol, are present in over half of the encounters terminating in violence (Wolfgang and Ferracuti, 1967). Hepburn notes that one of the major effects of intoxicants is a reduction in the level of cognitive skills. The individual, who perceives a threat and is under the influence of an intoxicant, will have a diminished capacity for viable threat-reducing tactics. Unable to retaliate with verbalization, the intoxicated person may resort to some other technique of establishing identity and saving face.

The fourth factor found within the initiation of violence is the presence of an audience. The overt and/or covert support of bystanders to the interaction will influence violent behaviour. In deciding how to react to the perceived threat, the individual may feel accountable for the expectations of bystanders or persons who are present. Their presence may influence the alternatives perceived and the degree of commitment to the level of action to be taken. The use of violence is more likely to occur when the individual believes that violence is also perceived by the audience as an acceptable and available alternative.

The final factor noted by Hepburn in the initiation of violence is the cost of failure. Those who perceive the need for successful retaliation, but whose verbal and non-physical methods fall short, will resort to violence.

The cost of anything short of victory is greater for those who are attempting to maintain the few positively valued identities they do hold.... The lower socio-economic status individual must preserve his few positive identities at all cost and violent face-saving efforts are supported by subcultural norms. (Hepburn, 1973:426)

Luckenbill (1982) points out that the most severe form of violence, murder, takes a sequential form. In his analysis of seventy murder cases, it was noted that in each and in every case the killing was a culmination of an interchange between the offender and the 'target' (victim). The transaction of violence would occur in a sequential form. The target would act in a manner that the offender deemed to be offensive. In response, the

offender would typically retaliate with a verbal or physical challenge. These events would establish a "working" agreement favouring the use of violence. A battle would then ensue leaving the target dead or dying (Luckenbill, 1982:161-166).

In applying Luckenbill's theory to police use of deadly force, the police officer would typically take on the role of the target. A police officer attending the scene of a crime or attempting to intervene in a violent situation frequently assumes the role of the target or "offensive individual". A person committing a crime or a questionable act immediately identifies the police officer as being a threat to their goal. It becomes apparent to both the target (police officer) and the offender (suspect) that the participants in this interaction process favour opposing outcomes based upon their different interests. The responding police officer, if allowed to fulfil his/her role, will not only terminate the offender's progress towards his/her goal but will also likely hold the offender accountable for their actions. In many instances, this accountability, in a court of law, will equate to consequences that include punishment or imprisonment.

As a result, a situation unfolds that serves to generate hostility resulting in a violent conflict. It is within this framework that the offender retaliates with the use of violence being defined as a suitable means for settling the confrontation (Hannon, 2004). Rather than surrender or comply with requests of the law enforcement officer, it is the offender who dictates the use of violence. The offender's actions, or in- action, will ultimately determine what level of force is required by the police officer. Should the offender choose to use potential lethal force or grievous bodily harm, against the officer or another individual, then the police must respond appropriately to the perceived threat.

It is in these extreme cases that a battle will ensue, typically leaving the target dead or dying and the offender victorious. However, in the vast majority of instances

involving police officers, the outcome of the interaction reverses with the offender being shot dead or dying. The reversal of the outcome can be largely attributed to the capabilities of the police officer who is trained and equipped to deploy deadly force within strict parameters. However, had the offender been challenged by a non-trained and non-equipped individual, with a battle ensuing, it is very likely that the offender would have triumphed during the encounter, leaving the intervening target dead or dying. For example, if an unarmed security guard or a concerned citizen were to intervene during an armed robbery, it is very likely that he/she would be shot and killed by the offender (suspect).

Unfortunately, there are also those instances in which trained and equipped police officers fail to respond appropriately to a violent offender. In these interactions, the offender is victorious, killing or wounding a police officer in the performance of his/her duties. Tragically, the police officer would be alive if he/she had not engaged or interacted with the offender. However, the occupation of a police officer requires the individual to enter into situations from which most people would leave. As a result of this precarious situation, the occupation of a police officer, remains one of the few professions in which an individual can die or be wounded, owing to an act of social aggression.

Luckenbill's theory emphasizes that criminal homicide is typically a situationally bound interaction and that, with the exception of police officers, the "target" is typically the loser during the violent confrontation (Luckenbill, 1977:176-186). Also important is that these situationally bound interactions enter into conflict that is typically unplanned. Thus police use of deadly force can be presented as an unplanned situationally bound interaction that is precipitated, and dictated, by the offender, once he or she is

confronted by the police. In applying Luckenbill's model of violence, there are specific stages that occur in the development of police use of deadly force:

### ***Personal Offence***

The attendance and identification of an individual as a police officer, by uniform or otherwise, initiates the interaction process. The mere presence of the police officer(s) causes the offender to take offence. The offender may find the presence of state authorities offensive as they signal the end to his/her illegal activities and the real consequence of punishment. In the case of a psychotic or deranged individual, the police officer's presence may interact with delusions or suicidal despair causing violence to escalate. Regardless, the offender interprets the target's (police officer's) contact as being personally offensive.

In many cases, the police officer is intentionally offensive, confronting the offender with an explicit intent to affect his/her arrest. However, in many other cases, particularly when dealing with those who are suicidal, the offence is committed unwittingly. Nonetheless, it is the offender who initially interprets the police officer's contact as being offensive.

### ***Assessment***

The offender interprets the police officer's actions as being personally offensive. In the majority of instances, the police officer is intentionally offensive as he/she has a duty to prevent crime and to arrest all offenders. Luckenbill emphasizes that it is this assessment process, conducted by the offender that will have important consequences. During this stage of the interaction process, the offender must reason as to which action to take in resolving the conflict that has arisen.



***Retaliation***

The offender can manage the target's affront in several ways: excuse the target (comply with police demands or requests); leave the scene or avoid additional contact with the target (flee the police without using force or threats of violence); or retaliate by using potentially lethal force or grievous bodily harm. Luckenbill notes that offenders who take on this latter course of action will typically create a transaction culminating in murder (Luckenbill, 1977:163). In retaliating, the offender expresses anger and contempt towards the target. In most cases, the offender retaliates with a verbal or physical challenge. In some cases, the offender immediately kills the target (police officer). Alternatively, the offender may physically attack the target, but without causing death or serious injury. By retaliating in non-lethal ways, the offender reveals, to the target, a definition of the situation as one in which violence is suitable for settling the interaction process.

***Working Agreement***

Except in those cases where the target (police officer) has been killed, the offender's preceding actions have placed the target in a precarious situation. The target must either stand up to the challenge of the offender or flee from the scene. In the case of police officers, they are recruited, trained and paid to deal with adverse situations. Society expects police personnel to enter into situations that most individuals would avoid. Therefore, the option of fleeing is rarely a viable option for police officers. They must stand up to the offender's challenge and, in effect, enter into a "working agreement" dictating that the situation is suited for violence. The target (police officer) may physically retaliate against the offender by using various force options that are short

of deadly force. These actions, by the target, may serve to contribute to the escalation of violence during the interaction process.

Luckenbill notes that the presence of an audience or bystanders may additionally serve to encourage violence during working agreement process. In some instances, members of the audience may actively encourage violence. In other cases, onlookers are neutral, neither encouraging nor discouraging the confrontation (Luckenbill, 1977:164-165). Finally, the presence of bystanders may cause the situation to escalate as they may become, or the police officer may perceive that they may become, potential victims of the offender. This reality or perception may serve as a significant factor in the actions and level of force deployed by the officer.

### **Battle**

By this stage, the opponents have a working agreement. The offender and, in many cases, the target both appear committed to battle. The situation has escalated, requiring immediate resolution with a commitment to a violent course of action. Luckenbill states that, at this stage, the offender locates a weapon capable of overcoming the target (police officer). In some cases, the offender already possesses the weapon; in others, he or she may leave temporarily to obtain a weapon or to transform an existing prop, such as a kitchen knife or baseball bat into a weapon. The battle then commences, ranging from a single fatal blow to a lengthy struggle. The battle's conclusion comes with the target's collapse (Luckenbill, 1977:165). However, during an interaction with a trained and equipped police officer, it is the offender who is frequently dealt with by deadly force or grievous bodily harm.

### ***Termination***

After the target falls, the offender may flee from the setting, voluntarily wait for the police, or be held involuntarily for the police by one or more bystanders. Luckenbill notes that when the offender and the target are acquaintances, enemies, or strangers the offender will typically flee attempting to dispose of incriminating evidence. If the murder occurs in the presence of others, the audience adopts one of three general roles: hostile, neutral or supportive. Hostile bystanders will attempt to apprehend the offenders and assist the target, notifying the police. Neutral bystanders are in a state of shock owing to the witnessing of a killing. The offender escapes and the target dies. Supportive bystanders, who may have encouraged the violent interaction, assist the offender in their escape and delay notifying the police (Luckenbill, 1977:165).

In summarizing the application of Luckenbill's theory, police use of deadly force is not a one-sided transaction with the offender having a limited role in the interplay. In fact, the resulting outcome of death or grievous bodily harm is the result of a dynamic interchange between the offender, target (police officer) and bystanders. The offender and the police officer develop lines of action, each shaped by the other's actions. A working agreement of violence is developed, sometimes implicit, and often explicit. The typical outcome of the agreement, in extreme cases, is the death or wounding of the offender. However, in some instances, it is the police officer that dies at the hand of the offender.

### ***Symbolic Interactionalism***

Another approach to the study of violent criminal behaviour is from the 'symbolic interactionism' perspective. This approach rests on the premise that an individual's

action takes place *always* in a situation that confronts the actor and that the actor acts on the basis of *defining the situation* that confronts him/her (Athens, 1980:15). The foundations of symbolic interactionism, an interpretative approach for the study of human action, are laid out by George Herbert Mead (1964, 1938, 1936) and Herbert Blumer (1975, 1969, 1937). It is within this framework that Athens (1980) embarked upon an extensive case study in relation to the subject of violent criminality. Data were collected and analyzed based upon the interpretations that violent actors make of violent situations, the self-images they hold, as well as their violent careers. Athens conducted private, informal and in-depth interviews with fifty-eight offenders convicted of violent crimes that included criminal homicide, aggravated assault, rape and robbery where the victim was seriously injured (Athens, 1980:17).

Athen's research findings suggested that violent actors *do* form interpretations of the situations in which they commit violent acts. Further, the interpretations that they form of these situations account for their violent actions. In all of the fifty-eight cases studied, Athens noted that the actors did at least two things. First, by taking the roles of their victims they implicitly or explicitly indicated to themselves the character of the victim's gestures. Secondly, by taking the role of an indifferent person, they implicitly or explicitly indicated to themselves that they *ought* to respond violently. Therefore Athens argues that his data indicate that violent actors *self consciously construct* violent plans of action before they commit violent criminal acts (Athens, 1980:19-23). One of the cases used to illustrate this point appears in "Case 10 (criminal homicide)":

I was low on cash and had heard about a good place to make a hit. About an hour later, my friend and I were punching the safe when a real young cop came in with his gun drawn and said, "You're under arrest; put your hands up." The first thing I thought was here is ten years and I don't want to do any more fucking time. I decided then that I wasn't going to

give myself up. The cop walked up closer to us and I thought about getting his gun away from him, but I wondered where his partner was. He looked nervous, scared. I thought in the back of my mind that he would not use the gun, but I didn't care either. Then I figured he didn't have any partner and about hitting him. I had to get out of the situation. When he got right up to us, I hit him with the hammer. (Athens, 1980:24)

In his conclusion, Athens argues that the problem of violent crime centers on persons with *violent indifferent perspectives*. An indifferent self-image provides the individual with a limited moral reluctance for acting violently towards other persons. Individuals with this self-image commit the bulk of violent criminal acts and importantly, they *victim precipitate* those which they do not commit. After forming offensive violent interpretations, they make physically threatening gestures toward other individuals, who as a result form physically defensive interpretations, responding to the perceived threat. In this way, Athens believes, individuals with violent and indifferent perspectives are responsible for the violent acts committed by persons with non-violent ones (Athens, 1980:82-82).

### ***Victimology***

It is within this complex framework of applied policing that researchers have attempted to understand, and explain, the underlying causes of lethal threats against police personnel. In their attempts, researchers have derived a number of theoretical perspectives, each providing a viewpoint that must be considered within the unique circumstances of the individual lethal threat incident. In particular, the field of victimology and its focus upon the role of victim has lead to a series of unresolved questions.

What role does the so-called “victim” play during a lethal or perceived lethal encounter with the police? How does the victim’s behaviour factor into a police shooting incident? Are there implications for police training in relation to victimology? Can the police use of deadly force be linked to a broader social policy?

### ***Victim-Precipitated Homicide: Suicide-by-Cop***

The term victim-precipitated homicide refers to those killings in which the victim is a direct, positive precipitator of the incident. Foote (1995) adds that victim-precipitated homicide is really made up of several dimensions that include risk-taking, aggressiveness and intentionality. It is within this framework that the concept of “suicide-by-cop” emerges. During victim-precipitated incidents, these factors culminate with a risk-taking person aggressively and intentionally engaging in *perceived life-threatening behaviour*, typically resulting in a police officer or another individual taking their life (Kennedy et al., 1998; Lord, 1998; Huston et al., 1998).

It is significant that the characteristics associated with an individual predisposed to victim-precipitated homicide are generally defined within the category of suicidal behaviour. Schneidman (1981) identifies the main elements of *high lethality suicide* as being the desire to die; a direct and conscious role in bringing about one’s own death; and the fact that death results primarily due to the deceased’s actions. In addition, specific psychological characteristics associated with suicide include a general sense of depression, hopelessness and low self-esteem on the part of the deceased. Often, these characteristics are overtly displayed by actions such as self-inflicted wounds, statements of suicide or the desire to die.

In some instances, the individual act of suicide is pre-planned with the individual engaging in a *calculated intentional act* of life threatening behaviour ultimately resulting in a victim-precipitated homicide (Homant, 2000, Lord, 2004). In other instances, the individual act of suicide is *impulsive* with suicidal motivation occurring *only after* police involvement in a given situation (Foote, 1995). For example, at the conclusion of a police pursuit, an individual may suddenly decide that it is better to die at the hands of the police than to face a public trial with the possibility of a lengthy prison term.

Geller and Scott's (1992) analysis of this phenomenon revealed that usually these cases are difficult to discover, as there is little or no documentation of the victim's intent. Unfortunately, the actions of the victim have led to his/her demise without the benefit of a post-shooting explanation for his/her behaviour (Lord, 2004). Police investigators have equally confounded this situation by failing to examine in detail the *root causes* of the victim's behaviour.

Researchers (Parent, 1996; Homant, 2000) have noted that suicide-prevention techniques and alternatives to lethal weapons must be made available to police officers, if these situations are to be minimized. However, persons who are strongly predisposed to taking their own lives may resort to extreme methods in an attempt to carry out their goal. It is well known through television, movies and literature, that police officers are trained and will deploy deadly force, with some degree of certainty upon being confronted by a life-threatening situation. As a result, an individual predisposed to suicide may confront the police with a knife or other weapon, advancing upon and *forcing* the officer to utilize lethal force. An extreme individual may even confront the police with a loaded firearm or discharge their weapon at the police, in the hope of being

killed (Lord, 2004). These situations would provide few, if any, options for the attending officers except to respond with deadly force.

All too often the police shooting has been explained as a “crazy person who came at the officer with a knife or a gun.” It is only within the last ten years that police and conflict-management trainers, within the United States, have begun to examine and make reference to the phenomenon of victim-precipitated homicide as a cause of police shootings (Geller and Scott, 1992; Parent, 1996; Homant, 2000; Lord, 2004).

This phenomenon has also been cited in international studies of police shootings in nations that include England, Wales and Australia (P.S.D.B., 1996) (P.C.A., 2003) (A.I.C., 1998) and during academic papers that have been presented at various academic annual meetings that include the Academy of Criminal Justice Sciences and the American Academy of Psychiatry and the Law (Lord, 1998; Keram et al., 2000). In addition, several empirical studies of the phenomenon colloquially known as “suicide-by-cop” have been published in academic journals in recent times (Homant and Kennedy, 2000; Hutson et al., 1998; Parent and Verdun-Jones, 1998; Wilson et al., 1998).

### ***Understanding Suicidal Behaviour***

Suicidal behaviour can be considered goal-directed behaviour. In some instances, the suicidal behaviour appears as an instrumental goal and in other instances it is more expressive. Instrumental goals of suicidal behaviour may include avoidance of consequences such as reconciliation of a failed love relationship or incarceration. In contrast, expressive goals may include venting hopelessness or rage about an individual's life or, proving an emotional point. These motivations are usually present in any given incident of suicide-by-cop. There are also three common “meta” or ultimate



goals, at least one of which is present in every “suicide-by-cop” situation: suicide, homicide-suicide, or attention or “cry for help” (Mohandie and Meloy, 2000: 384).

### ***Instrumental and Expressive Goals***

Mohandie and Meloy (2000) state that instrumental behaviour typifies individuals who are:

- Attempting to escape or avoid the consequences or criminal or shameful actions,
- Utilizing a forced confrontation with police to reconcile a failed relationship,
- Intending to avoid the exclusion clauses of life insurance policies,
- Rationalization that while it may be morally wrong to commit suicide, being killed resolves the spiritual problem of suicide; or
- Seeking what they believe to be a very effective means of accomplishing death.

In contrast, expressive behaviour typifies individuals that are communicating:

- Hopelessness, depression and desperation,
- Statements pertaining to their perceived identification as a victim,
- Their need to save face by dying or being forcibly overwhelmed rather than surrendering,
- Their intense power needs,
- Rage and revenge; or
- Their need to draw attention to an important personal issue.

(Mohandie and Meloy, 2000: 384-385)

### ***Research Regarding Suicide-by-Cop***

Kennedy et al. (1998) reviewed an electronic library containing the full text from 22 newspapers, representing 18 metropolitan areas in the United States, obtaining a broad sample of reports of police shootings linking potential incidents of suicide-by-cop

cases. The researchers analyzed a total of 240 articles from 1980-1995. In an attempt to eliminate bias, two independent raters documented the shooting incidents into one of following categories:

1. Probable suicide: the subjects show clear suicidal motivation, either by word or gesture or they confront the police with a dangerous weapon despite having no way to escape, forcing the officers to shoot.
2. Possible suicide: subjects appear disturbed or otherwise act as if they do not care whether the officers kill them; they may make a futile or hopeless escape attempt.
3. Uncertain: either too little or contradictory information is given.
4. Suicide improbable: subjects' behavior can be easily accounted for without assuming such motivation.
5. No suicidal evidence: subjects clearly attempt to avoid being shot.

(Kennedy et. al, 1998: 24)

These researchers found that a probable or possible suicidal motivation was apparent in 16% of the 240 incidents. In addition, the researchers noted that demonstrative behaviour on the part of the suspect was present in 89% of the cases. These behaviours included pointing or firing a gun at an officer and reaching for a weapon.

Armed robbery was the most frequent call for officer intervention. However, they noted a slight trend for suicidal incidents involving the triad of general disturbance, domestic disturbance, and person with a weapon calls. The majority of the individuals confronted were male (97%).

Lord (1998) examined 67 cases from 32 law enforcement agencies that met suicide-by-cop criteria. Lord noted that 18 subjects were killed, five committed suicide and 44 individuals were classified as "attempt suicide" since they were not fatally wounded by police. Three groups of victims emerged in this study, individuals associated with domestic disputes, individuals suffering from mental illness, and individuals with criminal histories

facing jail time. Lord noted that the most common stressor that may trigger a suicide-by-cop incident is the end of a relationship. In addition, 62% of the subjects used alcohol and/or drugs prior to or during the suicide-by-cop incident.

The first Canadian study concerning this phenomenon appeared in 1996 (Parent) and examined the frequency and degree of victim-precipitated acts that have constituted lethal threats to police officers in British Columbia municipal departments and the Royal Canadian Mounted Police from 1980 through to 1995. This research revealed that characteristics associated with victim-precipitated homicide appear to be a significant factor in 48% of the 58 cases analyzed.

In these cases, the individual's statements and actions clearly reflected their intent to commit suicide. In several cases, the perpetrator of the lethal threat had a documented history of mental illness and/or suicidal behaviour, and several had a high blood-alcohol level at the time of death. In some instances, alcohol, substance abuse, and mental illness were added to complex picture of suicidal tendencies and irrational behaviour.

Finally, another recent study (Huston et al., 1998) reviewed all of the police shooting cases involving the Los Angeles County Sheriffs Department between 1987 and 1997 (n=437), it was determined that 13% of all fatal officer-involved shootings and 11% of all officer-involved shootings, fatal and nonfatal, were suicide-by-cop situations. In addition, data for 1997 indicated that these cases accounted for 25% of all officers involved shooting, and 27% of all officer-involved justifiable homicides, a significant increase over previous years.

In addition, the researchers noted that 98% of the suspects were male, 70% had a criminal record, 65% had drug or alcohol problems, 63% had a known psychiatric

history, 39% had history of domestic violence, and 65% had verbally communicated their suicidal intents. Also significant was that 48% of the individuals who were confronted were in possession of firearms and an additional 17% were in possession of replica firearms.

### ***Mental Disorders, Substance Abuse and Violence***

As these studies have illustrated, suicidal individuals are typically influenced by *multiple factors* that include mental illness, substance abuse and cognitive impairment. In this regard, researchers have noted that there is a greater risk for violence among persons with certain mental disorders that include schizophrenia and psychopathy. However, the link between mental disorders and violence is complex and is mediated by the presence of substance abuse (Nestor, 2002, P.C.A., 2003; M.H.S., 1998).

Nestor (2002) states that substance abuse disorders represent the strongest correlates of violence in regards to all mental disorders. For example, Nestor notes that among the most extreme acts of violence, various sub-types of murder-suicide incidents have been linked to the clinical configuration of depression, antisocial personality disorder, and substance abuse. In one sub-type of murder-suicide, a depressed, often substance abusing offender with antisocial personality disorder, murders a significant other and immediately or soon after commits or attempts suicide. In another sub-type, anxiety and depression are linked to substance-abuse directly, and when combined with suicidal intention, lead to acts of lethal violence, even in the absence of antisocial personality. It is within this framework that suicidal, depressed and substance-abusing individuals may engage in life-threatening behavior to provoke a police officer in order to be shot (Nestor, 2002: 1974).

Nestor also notes that longitudinal studies have provided strong evidence of personality disorders being linked to violent behavior. Johnson et al. (2000) cite an elevated base rate for violence of 14.4% among subjects with a DSM-IV personality disorder diagnosis. Nestor adds that paranoid, narcissistic, and passive-aggressive personality disorder symptoms correlated significantly with violence.

Finally, Wilson et al. (1998) analysed 15 deaths of suicidal persons who, by their behaviour, sufficiently provoked law enforcement officers into killing them. Wilson notes that seven of the 15 individuals had previous suicide attempts, 40% had medically documented psychiatric diagnoses and 60% had reasonable historical evidence of psychiatric diagnosis, most commonly depression and substance abuse.

## **Research and Practice**

Research on the police use of deadly force first appeared in the early 1960's with the publication of studies that focused upon situational characteristics such as the time of day, shooting distance, type of initial contact and other technical considerations (Schade, Bruns, Morrison, 1989). The vast majority of the research that exists to this day has been conducted in the United States of America. Since the 1970's, the majority of deadly force research has centred on limiting the use of deadly force (Matulia, 1985; Geller and Scott, 1992; Alpert and MacDonald, 2001; White, 2001; J.I.B.C., 2004).

Methods of limiting the use of deadly force that have been suggested include:

- changes in policy governing its application,
- control strategies through the establishment of review boards,
- appropriate recruit selection,
- compliance tools that offer alternatives to deadly force, and

- intensive training at both the recruit and in-service levels.

Researchers have also attempted to explain the underlying reasons for police use of deadly force. In their attempts they have generated a number of theoretical perspectives, each providing a viewpoint that must be considered within the unique circumstances of the lethal force incident. These perspectives have been categorized as:

- Predictors of Deadly Force,
- Physiological Changes,
- Stressors Impacting Decision-Making,
- Individual Characteristics of The Participants,
- Influential Variable Relationships,
- Police Training and Force Options, and
- Victimology.

### ***Predictors of Deadly Force***

In an attempt to assemble much of the salient information known to researchers regarding this topic, Geller and Scott (1992) have compiled a book of some 600 pages entitled, "Deadly Force: What We Know: A Practitioner's Desk Reference on Police-Involved Shootings". In their book, the authors note four categories of predictors that often combine to influence the use of deadly force by police officers:

1. *The attributes of the participants are key factors in determining the use of deadly force.* In relation to the suspect, this includes the age, gender, demeanour and racial origin of the individual. In regards to the police officer this includes whether a partner was present, if the partner was a female police officer and if the partner was a rookie.
2. *The attributes of the setting are additional key factors involved in police shootings.* This includes the lighting at the time and whether it was daylight or at night, the location of the incident, public verses private domain, the weather at the time including the specific issue of rain; the physical distance of the officer to the suspect and whether

the police officer had the availability of cover, and finally, whether the officer had an unobstructed and apparently safe shot at the suspect.

3. *The actions, intentions and resources of the suspect serve as yet another important factor in the use of deadly force.* This includes the question of whether the suspect is uncooperative, unresponsive, rude or perceived as being mentally deranged by the police officer. Further salient factors include, whether the suspect is in possession of a weapon, whether it is a weapon of superior firepower, whether the weapon is pointed at the police officer; whether the suspect fires the weapon at the officer. Additional factors include, the issue of whether the suspect is committing a serious crime, whether there are more suspects than police officers at the scene; whether the suspect demonstrated an intention to harm an individual, and whether the suspect has been seen exiting a building. These situational factors are more likely to cause a police officer to utilize deadly force.
4. *Deadly force may be deployed when there are "other" predictors.* These predictors occur when the suspect utilizes alternatives to a gun. This includes whether the officer perceives their life or that of another individual to be threatened by the suspect.

### ***Physiological Changes***

Geller and Scott (1992) note that in some instances the police officer is forced to react within seconds and there is little that the involved officers could have done differently to alter their encounter. However, an officer engaged in a life-and-death fight will experience a variety of perceptual alterations. Tunnel vision may occur which in effect nullifies the officer's peripheral vision. The officer may require this vision in order to see other dangers, other alternatives to deadly force or to appreciate the presence of innocent bystanders (Parent, 1996; Klinger, 2001).

Researchers have cited "time distortions" and "increased auditory and visual acuity" among other physiological effects of high-stress confrontations. The physiological changes (more commonly known as the "fight or flight syndrome") are intrinsic within human beings, acting as a survival mechanism (Klinger, 2001; Sheehan and Warren,

2001). Murray and Zentner (1975) note that the "alarm stage" is an instantaneous, short-term, life-preserving and total-sympathetic-nervous-system response that occurs when a person consciously or unconsciously perceives a danger-inducing stressor.

Upon stimulating the sympathetic nervous system, epinephrine is released from the adrenal medulla and, at the adrenergic nerve endings, is transported to target areas. The cardiovascular rate and output are increased, making more blood available. At the same time, the blood supply is shunted to the brain, heart and skeletal muscles. The respiratory rate and depth are increased to ensure adequate oxygenation. The individual's metabolism is increased up to 150 percent, providing immediate energy and producing more body heat. Muscle tone is increased so that activities may be better coordinated. Pupils dilate so that maximum light can be used in viewing the situation. Vision is initially sharp. Finally, less essential functions such as digestion and excretion are diminished and sphincters tighten (Murray and Zentner, 1975).

These physiological changes enable the individual to act appropriately upon being faced with a perceived danger. However, there are times when, with the intensification of stress, opposite physiological changes can occur. Cardiovascular output may diminish and respiration may become difficult with hyperventilation and dizziness occurring. The person may feel nauseated and hungry, muscle tone may relax to the extent that incoordination results. Pupil dilation may become fixed causing blurred vision. Finally, an individual's sphincter tone may diminish to the extent that involuntary defecation or urination occurs (Murray and Zentner, 1975; Klinger, 2001).

Individual officers who have been involved in shootings have detailed how the often split-second incident appeared to unfold in "slow motion" with their only focus being upon the actions of the assailant. In most cases, the police officers have



responded to the perceived threat in an "automatic" manner, based upon their repeated training in dealing with life-threatening situations. In the vast majority of cases, a potentially violent encounter will develop into a lethally violent situation in just a matter of seconds (Klinger, 2001; Sheehan and Warren, 2001).

The perceptual alterations that occurred within the officer (usually within seconds) are frequently met in an equal amount of time by the deployment of deadly force. This situation has typically caused police investigators and external reviewers such as the courts to take the view that it would be unrealistic and unfair to expect that a police officer, facing a perceived threat to their life or another individual, must take the "time" to explore all the options and variables present. Owing to the dynamics of a typical shooting situation both the police and courts have tended to view any controversial hindsight as being unrealistic (Parent, 1996; Klinger, 2001).

However, this is not to say that police officers should be relieved of their obligation to check for specific factors as they approach the scene of a potentially violent encounter. Researchers have noted that a key factor in increasing the amount of time available to an officer is by training in the area of violence reduction (J.I.B.C., 1992; Parent, 1996; J.I.B.C., 2004). Police officers should not only be trained but practice on a regular basis the sizing up of a scene upon their arrival. This would include an analysis of such issues as deciding upon how, and when, to enter a situation, what precautions to take including developing a habit for checking in-progress crime scenes with a view to identifying dangers, options and bystanders (Geller and Scott, 1992; J.I.B.C., 2004). The police officer must invoke information-gathering and tactical decision making prior to the onset of a violent encounter. The rapid timing and physiological effects that occur

during the violent encounter tend to indicate that there are few, if any, alternatives to deadly force.

### ***Stressors Influencing Decision-Making***

Stress is a physical and emotional state that is always present in a person but is intensified when environmental change or threat occurs to which the individual must respond. An individual's survival depends upon constant negotiation between environmental demands and the person's own adaptive capacities (Klinger, 2001). Human performance under adverse conditions has been the focus of research for a number of years. Schade, Bruns and Morrison (1989) state that experimentation and observational examination of threat, stress, and anxiety suggest that elevated stress levels negatively affect any performance. These authors note that physical and social settings serve to heighten anxiety including dark or poorly lit places; high crime and violence areas; angry or upset people and non-supportive social structures. While these factors affect all individuals, police officers are likely to experience even higher levels of anxiety as they often have little choice in entering a dangerous situation.

In contemporary society, a perception exists that police agencies within North America are tasked with policing a violent society, an ineffective criminal justice system and offenders who typically are armed with superior weaponry. Added to this situation, technology has created cheap and effective monitoring devices available to all members of the public. Police officers are not only expected to uphold the law but their very behaviour in doing so is frequently monitored and criticized (Skolnick and Fyfe, 1993; Griffiths, et al., 1999; J.I.B.C., 2004).

These are but some of the factors that have created a level of occupational stress that in many instances has resulted in the police perceiving themselves as being "trapped" (Skolnick and Fyfe, 1993). Modern day police agencies are faced with having to deal with both contemporary crime problems and a general public who often expect immediate solutions to problems that are deeply rooted within society. These solutions must be achieved within the parameters of legislation, constitutional guarantees and the complexities of our criminal justice system. The police are additionally expected to maintain a level of service that is considered to be both professional and accountable to all individuals within society.

Further stressors include the recent deinstitutionalization of the mentally ill and the increased usage of hallucinogenic drugs that include PCP (Phencyclidine) and cocaine. These two factors alone have forced the police to deal with more disturbed and violent individuals. The recent widespread manufacture and distribution of metamphetamines has also added to this situation, frequently causing the user to be aggressive and violent. Police officers, more than ever before, are likely to encounter violent or deranged individuals on a frequent basis. In the past fifteen years, large numbers of distressed individuals suffering from diseases such as schizophrenia have been released from institutions. Many of these individuals are now living on the streets and are frequently encountered by the police (Griffiths, et al., 1999).

The behaviour exhibited by a mentally ill individual can easily be misinterpreted as an aggressive act, indicating the requirement for the use of force. In many instances, police officers must be able to assess and interpret the cues of an individual (often within seconds) in order to ascertain the correct procedure in dealing with him or her. For example, a mentally distressed individual waving a knife in the air, while shouting and

raging, may be "talked down" by a police officer using verbal communication techniques. However, this same mentally distressed individual may cause another officer to perceive that his or her life is in danger thereby requiring the use of deadly force. Police officers are now increasingly placed in the precarious situation of being required to assess correctly and instantaneously the people they confront on the street.

Finally, these events have been exacerbated by the perception that the corrections system releases untreated dangerous offenders prematurely into the community. The prognosis for many of these individuals is that they will offend once again. Nevertheless, legislation requires that offenders be released into society upon the completion of their sentence. This situation further serves to intensify both the fear and stress level(s) of individual police officers. The police may unknowingly have to deal with a released dangerous offender, one whom has demonstrated the potential for violence (Griffiths, et al., 1999).

In summation, these realistic "street" conditions within the United States, and to some extent in Canada, have caused the police to be preoccupied continually with potential violence. Skolnick (1966) stated that in reaction to the pressures they face, police officers develop a "perceptual shorthand" to identify certain kinds of people as "symbolic assailants". These symbolic assailants are individuals who use specific gestures, language and attire that the officer has come to recognize as a prelude to violence. This may also apply to symbolic settings, which the officer has come to recognize as having the potential for danger.

The responding police officer's arousal level will be heightened upon confronting a perceived symbolic situation. This recognition and arousal pattern may serve to "trigger" the use of deadly force, whether it is actually required or not. An officer's

preconceived expectation may serve to alter facts, thereby creating an improper situational assessment and response. Symbolic situations may additionally provoke fear within an individual officer. This fear may include the fear of serious injury, fear of disability or fear of death (Klinger, 2001; Sheehan and Warren, 2001). The International Association of Chiefs of Police (1990) state that the dynamics of fear only become destructive when an officer becomes fixed on a perceived threat to the point of powerlessness, rather than upon the means for countering the threat. The authors suggest that individual officers must face their fears by utilizing training as a means of constructively addressing their fears.

In conclusion, the noted levels of stress and fear faced by police officers may serve as explanatory variables in police use of deadly force. An officer who perceives a threat will act on that perception. The physiological and psychological changes that occur to police officers under stress may also serve as important factors in an officer's decision to deploy deadly force.

### ***Individual Characteristics***

Further explanations for police use of deadly force may be found within a police officer's level of service as well as their specific gender and race. A recent study examined the correlation between these variables and the timely and untimely unholstering and firing of an officer's weapon. Doerner (1991) utilized a Reaction Time Stimulator (a computerized movie projector with a standard weapon retrofitted with a laser-emitting device) to measure the reaction of officers in drawing their weapons during specific scenarios.

The study involved 56 police officers who were exposed to eight different scenarios by way of the simulator. The research findings revealed that the police officers drew their weapon before a threat materialized in 28 percent of the incidents. However, in only 5 percent of the incidents did a premature shooting take place. Also significant was the fact that inexperienced rookie officers were more likely to display a weapon prematurely than were experienced officers. Female officers displayed a tendency to keep their weapon holstered longer than their male counterparts although gender differences were not statistically significant. An officer's race did not affect the degree of unholstering that took place.

Another interesting aspect of this study is that shooting accuracy declined with the length of time it took to unholster a weapon. Those individuals who were slow in unholstering their weapon were more likely to miss the simulated assailant or were unable to return fire once an attack had commenced. The results from this study can be interpreted to reveal that, while experienced officers may be less likely to use deadly force, they are more likely to be killed or wounded by an assailant.

The findings of this study also emphasize the importance of the recruiting process for police applicants and the training of in-service police personnel. Inexperienced officers were more likely to display their weapon than seasoned officers. This is a significant finding as experienced officers have generally received less formal training than contemporary recruits. Also significant is that these officers have not been trained for several years. The characteristics of the recruited applicant, as well as the intensity and specifics of recruit training, may prove to be variables related to the use of deadly force.

In another study, Croft (1985) examined the police use-of-force from 1973 through 1979 in Rochester, New York. An analysis of over 2,000 reported use of force incidents depicted police use of force as being infrequent, occurring in less than two percent of all arrests. The results also indicated that police are not selective in using force in relation to the suspect's age, gender or race. However, this study indicated that a high proportion of the persons encountered by the police were emotionally disturbed, deranged or intoxicated. The data also indicated that police officers require alternatives to using force. In many cases there was a need for further police training in areas such as crisis intervention and interpersonal communication and sensitivity skills.

This study also indicated that, in measuring the officer's performance and personal characteristics, the most significant factors that emerged to influence the level of force used were the officer's age and length of service. Those individuals who utilized high levels of force tended to be significantly younger in age and had fewer years of police experience. This would tend to indicate that individuals should be recruited into policing at a later age and that recruit training should last longer. This would also suggest that those individuals recruited at a younger age should not be placed in situations where they may encounter a perceived threat. A practical means of solving this situation would be to place those young officers in a partnership with seasoned veteran officers. A competent and experienced partner would likely circumvent the negative attributes of youth and inexperience.

The principal advantage of recruiting mature individuals is that they are more likely to have acquired significant life skills prior to joining the police. An individual with a greater experience of life skills would arguably be more capable of coping with the various stressors of police work. Based upon this study, life skills also appear to be an

important factor in allowing the officer to empathize with many of the troubled individuals encountered by the police. In summary, length of service, maturity and general life experience may additionally serve as important factors in explaining police use of deadly force.

### ***Variable Relationships***

In his 1985 paper, "A Balance of Forces", Kenneth Matulia specifically explores the different variable relationships of justifiable homicide by police. Matulia eventually concludes that the frequency of justifiable homicide by police officers is related to the level of crime and violence within a community. In presenting this thesis, Matulia discusses several other possible explanations for police use of deadly force within the United States of America. Noteworthy among these explanations are:

- *Societal Factors*: Societal factors include the community emphasis on gun ownership in the United States, combined with equal public sentiments against ownership registration. These factors may contribute to police being more likely to resort to deadly force.
- *Cultural Determination*: Police use of violence can also be argued to be a culturally determined characteristic. This point is argued in that the variation among states, in the rates of police use of deadly force, significantly correlates with public rates of violence. For example, southern states within the U.S.A. typically have a higher level of both public violence and police use of deadly force. In addition, the United States in general have a greater use of the death penalty for offences committed against the state, than other western nations.
- *Situational In Nature*: Research has indicated that violence by police is situational in nature. There is a set of dynamics of personality, stress and danger that is unique to each situation (Parent, 1996).
- *Levels of Stress*: There is a significant relationship between police use of force and the amount of stress encountered by a police officer in a given situation. It has been argued that police officers tend to overreact and overcompensate with excessive force under extremely stressful situations in order to suppress personal feelings of insecurity and fear. The physical beating of Rodney King by the Los Angeles Police department serves as an example of how this could occur (Skolnick and



Fyfe, 1993). A high-speed chase involving a vehicle with several occupants suddenly comes to a stop. The driver is a large male under the influence of drugs. Police overreact and overcompensate with excessive force due to the series of events that have occurred. The stress and fear levels of an individual may trigger physiological as well as psychological factors that eventually facilitate the use of excessive force.

- *Police To Population Ratio*: The population density, stability and ratio of police officers to the public, are considered significant to the level of police use of deadly force. Matulia findings revealed a positive correlation of the police: population ratio to the rate of justifiable homicide. The higher the police population ratio, the higher the rate of justifiable homicide.
- *Levels of Employment*: Psychologists and sociologists have suggested that crime and unemployment are directly related. Matulia also argues that the relationship of violent crime to the rate of justifiable homicide is positively correlated.
- *Effectiveness of Criminal Rehabilitation*: Matulia presents the position that the entire concept of criminal apprehension, adjudication and rehabilitation, appear to be a failure. As a result, police officers must repeatedly confront individuals who have previously demonstrated their disregard for law and order. Police are, therefore, increasingly placed in situations that require them to deal with hardened violent offenders. These individuals are well aware of the consequences of being confronted by the police and will resort to extreme methods to avoid apprehension.
- *Firearms Abuse*: The Federal Bureau of Investigation (FBI) Uniform Crime reports published in 2000 indicate that over 60 percent of all murders and 40 percent of all robberies within the United States were committed with firearms. Additionally, 94% of the law enforcement officers killed were slain with a firearm. If these instruments of violence were more difficult to obtain then it is likely that both crime and deadly force encounters by the police would be reduced.
- *Levels of Crime*: Reported crime statistics for 1998 indicate that in the United States over 24,500 murders, 104,800 rapes and 659,000 robberies occurred (Sourcebook, 2000). The rate and extremity of crime serves as an indicator of the deadly force encounters to be expected by the police. Fyfe (1986) supported this position in his cross-sectional microanalysis of police shootings within New York City. Fyfe noted a strong correlation between the rates of police shootings and the incidence of criminal homicide.
- *Community Culture*: Matulia states that there is every indication that community attitudes towards crime and violence are closely related to the rates of justifiable homicide by the police. To illustrate this point, Matulia notes that the highest rate of violent crime in the United States

has traditionally been in the southern states. He also notes that guns are most common in this area, as well as the fact that southern states account for the highest percentage of officers killed and the highest percentage of justifiable homicide by the police.

This issue of “community culture” can also be used to illustrate the difference in crime rates between Canada and the United States. Canadians are typically more conservative and have traditionally had a lower rate of violent crime than our neighbours to the south (Statistics Canada, 2001). The social, cultural and historical forces of a geographic area influence and direct the associated levels of violence. The issue of community culture and police use of deadly force is further emphasized by police officers that must cope with the constant threat of a violent society (MacDonald, 2001; White, 2003). Statistics compiled by the U.S. Department of Justice (2001) illustrate that, between 1976 and 1998, an average of 79 police officers have been murdered each year in the line of duty. In addition, approximately 60 police officers will accidentally be killed each year in the United States due to mishaps such as automobile and aircraft accidents (Bureau of Justice Statistics, 2001).

The F.B.I. also noted, that nation-wide, in 1998, an average of 16 out of every 100 law enforcement officers had been assaulted resulting in over 65,000 assaults (Sourcebook, 2000). Many of the cases in which police are confronted with uncooperative suspects who either verbally or physically resist the officer are never reported. These situations have the potential to escalate into more serious situations that may result in the use of force, including lethal force.

- *The Issue of Racism:* A review of United States literature suggests that racial discrimination may be a major cause of justifiable homicide by the police in America. However, Matulia's findings revealed that, while there may be racial prejudice within some members of the police system,

prejudice alone does not explain the disproportionate level of black homicide victims.

Matulia argues that police use of deadly force has a direct relationship to the conditions that are prevalent in communities that police officers encounter. Specifically, he notes that blacks are over-represented as persons arrested for homicide, robbery, violent crimes and weapons offences (Geller and Scott, 1992; Worden, 1996).

As Matulia points out, the black population within the United States is statistically over-represented in criminal activity. The greater likelihood of their being in conflict with the law may be rooted in their socio-economic background. Poverty and long-term unemployment are seen as significant factors within the black population, forcing many individuals into a life of crime. This situation serves to greatly increase their interaction with the police and specifically use of force incidents (Jacobs and O'Brien, 1998). Interestingly, police shooting victims were generally young with a greater proportion of the black population being young (Fyfe, 1981; Alpert and Fridell, 1992; Geller and Scott, 1992).

Geberth (1994) adds a further perspective of racism and police shootings in his paper entitled "*The Racial Component In Suicide-by-Cop Incidents: Public Perception Confused*". Geberth documents incidents where allegations were made by activist members of the black community that the police shooting was racist and unjustified. In many instances, local news media reported the shootings from the perspective of friends and family of the individual killed. An impression was created that the police use of deadly force was unnecessary. This resulted in suggestions by community leaders that the deaths were racially motivated.

However, after a thorough investigation, Geberth notes that in some instances a police shooting incident may be later classified as apparent act of “suicide-by-cop”. In such cases, Geberth emphasizes that police agencies must explain and articulate how and why the police shooting incident took place. This is especially important in victim-precipitated shootings where a member of a visible minority is killed. A lack of timely communication and disclosure can create community unrest, and in some instances, major disturbances.

Importantly, during the past fifteen years, many police agencies within North America have made in-roads into police race relations including:

- The significant recruiting and promotion of visible minorities within police agencies, often “reflecting diversity levels within the community that they serve”.
- The firm entrenchment of race-relations training within recruit and in-service training.
- The establishment of citizen complaint and police review mechanisms to ensure openness and accountability to the public.
- The philosophical shift to community-based policing principles with individual police officers being sensitized to community issues and concerns.
- The promotion of shared equality by the police and the community in problem solving and decision-making.

While many of these noteworthy changes have occurred, police race-relations in the 21st century are far from perfect. Although infrequent, media reports and allegations still occur voicing concern over police conduct and the perception of racism. As Geller and Scott (1992) note:

In any event, no research findings, however demonstrative they might be of police professionalism in the exercise of arrest discretion or the use of force, will ever eliminate all allegations (some sincere, some malicious, some bogus, some meritorious) of police racism and other abuses. By the same token, a box of statistical evidence on virtually any aspect of

police-involved shootings will be little match for the weight of personal experiences by police and civilians with the use of lethal force. (Geller and Scott, 1992:394)

### ***Decision Making and Force Options***

Prior to reacting to any situation with the application of force, a police officer is required to evaluate the incident. Through analysis of all of the information known, a police officer will attempt to select the most appropriate use of force response. By law, and by profession, the response must be the *least violent option available* that will safely gain control of the situation (J.I.B.C., 1992; J.I.B.C., 2004).

When police officers find themselves facing a violent individual or superior numbers, the level of potential danger is increased significantly. As a result, the police officer must quickly disable the attacker(s) and improve the likelihood of control. In these instances, compliance tools such as pepper spray and impact weapons may provide the necessary means for the police officer to control the situation.

When a police officer determines that physical force is necessary to establish control, the officer must compare his or her own physical abilities with those that are exhibited by the subject. Since there is no *field test* by which an officer can "measure" their subject, a visual evaluation occurs. Factors that will contribute to the police officer's assessment of the subject include the individual's size, gender, demonstrated skills, muscular development and age. In conducting this rapid field assessment, the officer will compare their potential for achieving control vs. the subject's potential to resist. A police officer who reasonably believes that he or she possess a physical advantage will generally be able to gain control of the subject with a minimal level of force (J.I.B.C., 1992; Griffiths et al, 1999; J.I.B.C., 2004).

### ***Demonstrated Threat***

Individuals whom police confront can demonstrate various levels of potential danger. These dangers are typically in the form of weapons or levels of resistance. When dealing with weapons, both the type of weapon and the manner in which it is carried or held can influence an officer's perception of potential danger.

The dangers associated with levels of resistance can quickly change within the context of any particular incident, and as such, police must be alert to all possibilities.

Levels of resistance can be broken down into six distinct categories:

1. *Non-verbal intimidation* - Gestures and facial expressions that present an aggressive position.
2. *Verbal non-compliance* - Threats, arguments, or refusal to obey a lawful request.
3. *Passive resistance* - Dead weight, linked arms, sit-ins, etc.
4. *Defensive resistance* - Physical actions that impede the police officer.
5. *Active aggression* - Actual assault upon the officer(s) by way of punching or kicking.
6. *Deadly force assault* - Active aggression that places the officer(s) at risk of death or grievous bodily harm. Includes, but not limited to, assaults with various types of weapons.

### ***Levels of Response***

Individuals often have no control over the situation(s) they might face. However, some control can occur by exercising an appropriate level of response. These responses include five distinct force options that are available to all individuals; not only police personnel.

- *Presence*: The mere presence of an individual may alter the behaviour of the participants at an altercation, thereby facilitating control.

- *Dialogue*: Verbal and non-verbal communication skills may resolve the conflict and result in voluntary compliance.
- *Empty Hands*: Physical force issued to gain control.
- *Compliance Tools*: Empty hands are insufficient to gain control, and as a result equipment or weapons must be used.
- *Deadly Force*: The situation requires complete incapacitation of the subject in order to gain control. As a result, deadly force is the only option available to reduce the lethal-threat.

Owing to the unique selection, training and equipment that are associated with the police profession, officers are often placed in a position of advantage when dealing with a confrontation (J.I.B.C., 2004). In addition, police are authorized to intervene and use force in the first instance. As a result, included within the five basic force options there are eight *progressive* use of force response levels that are available to police in North America.

1. Presence
2. Dialogue
3. Empty Hand Compliance
4. Aerosol Irritants
5. Empty Hand Impact
6. Impact Weapon
7. Lateral Neck Restraint
8. Deadly Force

### ***Presence***

When the participants to any event recognize the presence of a police officer, their behaviour will likely be modified to some extent. If this is the expectation, then police should take preparatory steps to ensure that their presence influences behaviour in a desirable direction. At the very least, the individual officer should be aware of the

individual factors that may influence a subject's action, simply by the mere presence of the police. These influences include:

*Manner of Arrival*

The manner of arrival such as the police vehicle used to attend the call. For example, should the police arrive in a prisoner transportation wagon, then a disturbance may be quelled simply by the timely arrival of the wagon. Potential lawbreakers receive visible reinforcement that arrest and detention may be the result of their behaviour.

*Number of Officers*

An individual may form an expectation of potential police actions based on the number of officers responding to that situation. For many individuals this will indicate the severity with which the police view the matter. In addition, multiple officers will discourage any subject who may be considering hostile action towards the police.

*Physical Appearance*

An individual who is evaluating a potential adversary will look for visual indicators of their opponent's abilities. This is true for both police and subjects and may be more complex than the obvious factors of height, weight and age.

*Uniform*

In addition to physical appearance are the uniforms worn by police officers, and, the manner in which the officers wear them. A subject may make assumptions through visual cues drawn from the individual's uniform.

*Equipment*

The type of equipment an officer wears, and the manner in which it is worn, may send a message to the observer. For example, a sidearm, baton, or can of aerosol



irritant may provide the reasonable expectation that the police officer is competent in their use.

#### *Perceptions of Individual or Department*

An individual may develop preconceptions about future treatment based on past experience with the individual police officer or their particular police agency.

#### ***Tactical Communication (Dialogue)***

Once police officers have made contact with an incident, their presence will immediately begin to alter the course of events. Dialogue becomes the next level of response and the first level at which police can interact with the subject(s). The purpose of tactical communication is to verbally defuse and de-escalate the emotions, and actions, of those individuals involved in the conflict.

#### ***Empty Hand Compliance***

As stated, when physical force must be utilized to gain subject control, police officers are obliged to use the least violent reasonable means. The first group of techniques to be applied is often characterized by using clothing and/or body grasps to facilitate force applications. Thus the term "empty-hand-compliance" serves to describe a number of trained techniques. When an empty-hand-compliance technique is used, control may be established through a variety of means that include lever and joint manipulation, throws and takedowns, handcuffs and restraints.

#### ***Aerosol Irritants***

Upon initiation of subject contact, a police officer may reasonably believe that empty-hand compliance will prove insufficient to safely establish control. When

compliance techniques are judged inadequate, then aerosol irritants provide the next level of response. The two most widely used police aerosols are oleoresin capsicum (OC) and CS: orthochlorolunzalmalono-nitrile (MACE).

OC is a resin extract of the cayenne pepper plant. Upon application to human and animal subjects OC causes extreme irritation to mucous membranes. The symptoms of irritation include involuntary tearing, eyelid closure, coughing, gagging, and gasping for breath. Test subjects describe an intense burning of the skin and the mucous membranes inside the nose and mouth. Frequently, the symptoms will, in combination, prove so severe that the subject abandons active aggression in favour of submissive compliance (J.I.B.C., 1992; J.I.B.C., 2004).

Importantly, the physiological effects of OC will normally subside within an hour with no lasting effects to the individual. The recovery of contaminated subjects may be assisted by removal to uncontaminated air and rinsing the affected areas with cool water. MACE is less widely used as the decontamination process is longer and more complex.

### ***Empty Hand Impact***

Empty-hand impacts can be described as any dynamic striking technique where the officer uses their own body to deliver a traumatic blow to the subject. This would include techniques delivered by the feet, knees, elbows, fists and open hands.

Importantly, when a blow is struck, both the subject target location and the officer's delivery system receive an equal amount of force. Thus, the police officer must ensure that their selected striking "weapon" can withstand the shock. In addition, they must be satisfied that the target area being struck will cause sufficient distraction,

stunning, or dysfunction to the subject so that it is possible to initiate control (J.I.B.C., 1992; J.I.B.C., 2004).

Unfortunately, this force option requires a relatively high degree of skill to accomplish both of these goals. Officers frequently receive injuries when using an empty-hand striking technique, and in addition, the subject is usually not immediately controlled.

### ***Impact Weapons***

When a police officer must use a striking technique to facilitate control then their impact weapon may be the appropriate response of choice. There are a variety of impact weapons available to Canadian police officers (J.I.B.C., 2004). However, most police officers are issued with the straight baton (standard or expandable) which is available in a variety of sizes. The most common baton used in general duty patrol is the 21" - 26" version.

Several alternative impact weapons are also available to the police. These include the side-handle baton, "scepter" batons, and nunchakus. Each particular weapon design has unique advantages and disadvantages. Importantly, the impact weapon must be able to assist the officer in delivering a *dynamic striking blow* to the subject.

### ***Lateral Neck Restraint***

The lateral neck restraint, also known as the vascular neck restraint, is not to be confused with chokeholds, which are an entirely separate technique. Respiratory chokeholds involve constriction of the airway that is commonly achieved through direct pressure to the front of the subject's throat. Control is established through pain

compliance and / or unconsciousness induced through strangulation. The dangers associated with chokeholds discourage their use.

Many of the techniques utilized to accomplish a lateral neck restraint have been adapted from the art of judo. Since the inception of judo in 1882, there has never been a death caused through use of neck hold techniques (J.I.B.C., 1992; J.I.B.C., 2004). Unfortunately, police use of neck holds has been associated with some isolated subject deaths. As a result, there have been attempts to classify lateral neck restraint as a method of deadly force.

It is important to emphasize that police officers must always consider alternatives, given the requisite time and distance to do so. Both aerosol irritants and impact weapons provide a distance advantage to the officer, while lateral neck restraint requires grappling at close quarters (J.I.B.C., 1992; J.I.B.C., 2004). This is seldom desirable but in some instances is unavoidable. In addition, many situational factors can render aerosol irritants and impact weapons either unavailable or impractical. In these situations, lateral neck restraint may be the only police technique sufficient to gain control.

Lateral neck restraint should not be used as a come-along, or to subdue a subject who is merely uncooperative. The following guidelines are recommended for its use:

- A violent subject must be immediately controlled
- No lower level of force would be appropriate in the given situation
- There is no reason to believe the person being controlled will suffer injury
- The police member has been competently trained in an approved technique.

Importantly, emergency care and medical examination are a necessity in the event of an abnormal recovery process.

### ***Deadly Force***

Although deadly force is a last-resort measure, it is still an unavoidable necessity in certain circumstances. Police use of deadly force is most commonly associated with firearms. However, certain applications of empty-hand compliance, empty hand impact, and impact weapons may also result in death or grievous bodily harm occurring.

Police firearms training generally states that the firearm is used to incapacitate the immediate threat when lesser means are inadequate or unavailable. Although a firearm discharge to the central mass of an individual may result in their death, it is important to emphasize that this is not the specific intent of the action.

In summary, the *Force Options* approach to police use of force is the foundation of most police training within Canada and the United States of America (J.I.B.C., 1992; Johnston and McKay, 1996; J.I.B.C., 2004). It serves as a Use of Force Model, providing a positive and professional approach in explaining how and why police use force in their day-to-day activities. It also provides police administrators and judicial review personnel with an objective framework in which to analyze use of force situations.

Importantly, this Force Options approach provides a practical guideline for veteran and recruit police personnel, regardless of their experience. All police personnel are provided with a working model that clearly outlines the course of action to take in use of force situations. It also allows police officers to explain, within an accepted format, how and why force was applied at the time of the altercation (J.I.B.C., 1992; Johnston and McKay, 1996; J.I.B.C., 2004).

### ***The Police Use of Less-lethal Force Options***

Police agencies have also attempted to seek alternate methods in dealing with situations that have the potential for the police use of deadly force. A key component of limiting the police use of deadly force includes the usage of less-lethal weaponry. In this regard, section 117.07 (1) of the *Criminal Code of Canada* makes provision for the possession of prohibited or restricted weapons by police officers engaged in their duties.

Typically, police personnel will utilize less-lethal prohibited weapons that include chemical irritants such as pepper spray, kinetic munitions such as the Arwen gun and, electric stun guns such as the Taser. A less-lethal force option can be described as a force option that is *highly unlikely* to cause death or serious injury to an individual when properly applied by the police officer. However, it remains possible that serious injury or death may occur, hence the term “less-lethal” as opposed to “less-than-lethal” (BC Police Commission, 1990; J.I.B.C., 2004).

It is important to emphasize that in most instances, less-lethal force options should not be used by a police officer who is facing an assailant who causes the police officer or a member of the public to be in *grave or immediate danger*. The reasoning for this is based upon the real possibility that the less-lethal option *may fail during its application*. If the less-lethal force application should fail, then the police officer, or the individual(s) whom the officer is attempting to protect, may die or suffer grievous bodily harm by the assailant.

*Unfortunately, less-lethal force options are generally less effective than a police service handgun.* Handguns tend to be more reliable and effective in the *immediate incapacitation* of the perceived threat that the police officer is facing or, attempting to eliminate. In addition, the police service handgun is typically more accurate during its

application and, it can also be readily drawn and brought into action with minimal time delay. These factors are significant, as most police personnel will be exercising deadly force decision-making under rapid and stressful conditions.

Even with these *caveats* it is important to emphasize that less-lethal compliance tools provide police personnel with additional force options. These options may facilitate the subduing of violent individuals in a safe manner, thereby reducing the likelihood of injuries to police, innocent members of the public and, the suspects themselves.

### ***The Decision-Making Process in Deploying Less-Lethal Options***

The deployment of less-lethal weaponry requires “reasoned discretion” by the individual officer, depending upon the unique circumstances of the incident that they are facing. In this regard, operational street level police personnel are often the first to encounter individuals who are intoxicated, mentally ill, suicidal or prone to assaultive behaviour (Parent, 1996; Lord, 2004).

It is no uncommon for these assaultive individuals to possess, or have immediate access to, edged weapons, striking instruments or firearms. Equipped with these assaultive weapons, the individual may attempt to injure themselves, innocent members of the public or, the intervening police officer(s). It is, therefore, up to each individual officer to determine if it is appropriate to utilize the less-lethal weaponry at his or her immediate disposal or, to utilize the standard issued firearm in resolving the assaultive situation.

In some instances, specially-trained emergency response police personnel will be summoned to provide support or, to take over street level policing situations involving barricaded or armed individuals (J.I.B.C., 2004). In these “non-routine” situations, the

specialized training, tactics and weaponry of the police emergency response units will be deployed with the intent of resolving the conflict.

The decision-making process of police personnel in utilizing less-lethal weaponry will typically involve a number of variables that will include the situational and observed behavioural characteristics of the individual whom they are dealing with. As previously stated, police personnel attending any given situation will typically encounter observed profiled behaviours that include:

### ***Compliance***

- Cooperative and willing. Responding and acting upon the request or direction of a police officer.

### ***Passive Resistance***

- Non-compliance to a lawful request or direction from a police officer.

This may occur by:

1. Verbal defiance,
2. Refusal to leave the scene, or
3. Taunting the police officer and attempting to escalate the situation.

### ***Active Resistance***

- Increased scope and intensity of resistance,
- Pulling away or crowding of space towards the police officer(s),
- Verbal challenges with supportive non-verbal cues (e.g. clenched fists)  
or
- Angry verbal resistance.

### ***Assaultive***

- Active hostile resistance exhibited. This includes an assault upon the police officer or, the threat of an assault, e.g. kicking, punching, spitting or head butting,



- Threatening with a weapon, or
- Throwing of objects towards the police.

### ***Serious Bodily Harm or Death***

- Behaviour likely to cause serious bodily harm or death by way of:
  1. Attacking with a knife or other deadly weapon,
  2. Threatening with a firearm, or
  3. Choking or assaulting to a level of unconsciousness (J.I.B.C., 2004).

In order to achieve control during these situations; the police use of force may dictate the deployment of specialized, less-lethal force options that include chemical agents, baton strikes, kinetic ammunition or the electronic Taser. Typically, the deployment of specialized, less-lethal force will occur only by those trained and qualified patrol personnel who have arrived at the scene of an incident and have been assigned as a “cover” or back-up officer to the initial officer at a scene.

In some instances, the lone initial officer at a scene may decide to deploy a less-lethal force option such as pepper spray, a baton strike or, a Taser, in order to resolve a situation where active resistance or assaultive behaviour is occurring. However, police training in the United States and Canada emphasizes that lone operational patrol personnel should wait for “back up” from secondary police officers before relying on a less-lethal application of force to resolve the conflict (J.I.B.C., 2004).

In other instances, Emergency Response Teams or Tactical Crowd Control Units will be summoned to a location to deal with an individual who is armed and barricaded or, during situations where an unruly crowd or riot has developed. These highly trained and specialized units are composed of police personnel who have been selected owing to factors that include their level of physical fitness; emotional stability; psychological

wellness; ability to function in a specialized team environment and, importantly, their ability to reason and perform under adverse and dangerous conditions (J.I.B.C., 2004)

### ***Tactical Crowd Control Units and Tactical Response Units***

Disturbances, or large numbers of individuals in public areas, often require a police presence. The role of the police is to provide for the safety of the individuals in attendance and to ensure that laws and civil order are maintained. If a group of individuals should become unruly or riotous, it is the responsibility of the police to take control and maintain order. Although difficult and dangerous, the police have both a legal and professional obligation to intervene and control situations that are disturbing the general public.

In the context of a disturbance or crowd control, the police use of force may consist of a variety of less-lethal force options that are deployed for the *specific purpose* of dispersing the crowd or in removing core agitators. In riotous situations, the role of the police is to suppress the riot, establish order and, to apprehend core rioters and law-breakers, if possible.

However, owing to the sheer number of individuals participating in a disturbance as well as their intensity of violent behaviour, both individually and collectively, it may not be possible for the police to safely apprehend specific individuals. Nonetheless, the police must intervene, typically using appropriate less-lethal force options that are appropriate to the perceived demonstrated threats and behaviour (Ijames, 1997).

Specialized riot-control weapons provide police personnel with the necessary tactical-compliance tools for the successful handling of mass violence and unlawful

gatherings. Without such weapons, police would have very few options in dealing with core riotous individuals and others, engaged in severe violence.

### ***The Deployment of Specialized Weapons and Tactics***

The specialized weapons and tactics utilized by police personnel often involve the deployment of chemical agents. These chemical agents include CN or CS gas as well as oleoresin capsicum, also known as “pepper spray”. The irritating fumes resulting from the deployment of chemical agents will typically influence a resisting lawbreaker to comply with police commands or direction (Ijames, 1997).

The tactical dispersement of these fumes into a barricaded or riotous situation is with the specific intent that a physical and psychological *disabling effect* will occur. In a barricaded situation, the irritating fumes may serve as a catalyst in causing an individual to quickly surrender to the police. During a riot, this disabling effect may serve to prevent individuals from joining in with the riot or to prevent other individuals from continuing in the illegal behaviour.

Police personnel may also deploy kinetic ammunition such as beanbag or baton rounds during situations involving individuals who are displaying assaultive behaviour, are barricaded, or are involved in a riot. In these instances, the police use of force is for the purpose of *disabling or stunning specific individuals by physical impact*. Combined with this physical element is the psychological effect of being shot with a police firearm.

As an impact weapon, kinetic ammunition is generally safe and is considered to be a lower force option than the use of a lateral neck restraint or deadly force. Once impacted by a beanbag or baton round, an assaultive individual will typically be subdued allowing police personnel to safely approach the individual and place them into custody.

During a riot or crowd situation, the psychological impact of being shot by a police firearm extends beyond the specific individual who has been shot to include those individuals who are witnesses to the deployment of kinetic ammunition by police personnel.

As such, aerosol irritants and kinetic ammunition serve as both specific and general use of force applications during those situations where police personnel attempt to gain control of groups of individuals. In these instances, the main purpose of the use of force application is to encourage key agitators, as well as the crowd in general, to cease in their actions and to disperse.

### ***The Arwen 37 Rifle***

For both operational patrol personnel and specialized tactical units, the less-lethal weapon system of choice in the United States and Canada tends to be the shoulder-fired, single-shot gun that is reloaded each time a round is fired. This weapon is inexpensive and readily deployed, utilizing large calibre ammunition such as beanbags rounds. An important feature of this system is its simplicity, allowing wide-spread usage by street level operational police personnel needing only minimal training (Ijames, 1997).

A second weapon, system known as “multi-shot guns”, are those weapons equipped with a multi-round, rotary chamber or fed by a magazine. Multi-shot guns allow for mass engagements at a high rate of fire and as a result are typically utilized by special trained emergency response teams or crowd control units. Multi-shot guns additionally allow for the deployment of diverse ammunition such as irritant agents or baton rounds.

It is within this less-lethal weapon grouping that the British-made “Arwen 37” serves as the multi-shot gun of choice for many specialized police emergency response teams (Hogg, 1996). One of the favoured characteristics of this weapon is its ability to be deployed from a safe distance. For example, if an individual is armed with a knife, axe or other similar weapon, the Arwen gun can be deployed from approximately thirty meters away. This affords the emergency response team members and other individuals at the scene with a necessary safe distance.

The Arwen 37 rifle can be described as a 37 mm barrelled-and-rifled weapon with a 5-shot rotary magazine. It is capable of accurately delivering less-lethal projectiles that include rubber cylindrical batons, tear gas canisters and stun grenades. The diverse application of Arwen 37 ammunition that may be deployed by police personnel include:

- AR-1 Kinetic Energy Baton Round: A less-lethal, long-range baton that can travel at 250 feet per second with an effective range of 20 to 100 meters.
- AR-2 Multisource Irritant Smoke: A four smoke, CS gas, canister. Upon being launched, the round stays intact for one second in flight (50 - 60 meters) and then explodes, spreading the contents of the canisters.
- AR-3 Crush Nose Irritant Baton: Like the AR-1 Kinetic Energy Baton, delivers a less-lethal body blow but in addition, disburses two grams of micronized CS powder irritant or, a dye (for target identification).
- AR-4 Multisource Screening Smoke: Like the AR-2, four canisters of smoke can be deployed in various colours rather than the chemical agent irritant - CS.

The Arwen 37 gun is very accurate compared to other similar weapons. In addition, the rotary magazine of the Arwen provides the capability of second shots if the first misses or is ineffective. Finally, the Arwen baton round is of relatively low lethality and generally causes only bruising with occasional fractures (Hogg, 1996).

### ***The Taser***

The Taser is essentially a hand-held, electronic, immobilizing less-lethal weapon that works by discharging two electrical probes from a replaceable cartridge into the clothing or skin of the individual. These probes are connected to the Taser by high-voltage insulated wire. Once contact is made between the probes and the target, the Taser then transmits powerful electrical impulses along the wires, penetrating up to 2” of clothing on the target (Taser, 2000).

The pulsating electrical current of 50,000 volts and 5 watts is directed through the subject’s body causing involuntary muscle spasms and a severe loss of fine motor control. As a result, the recipient will typically collapse and fall to the ground or freeze in place. This effect will last for roughly 5 seconds allowing safe police intervention for the removal of weapons and handcuffing control (Taser, 2000).

Unlike pepper spray and other chemical irritants that must be applied at a close proximity to the suspect, the Taser is typically deployed at a distance of 15 feet to a maximum of 21 feet (Taser, 2000). The Victoria Police Department in British Columbia was one of the first police agencies in Canada to adopt the new technology of the EMD – M26 Taser during the fall of 1998.

Importantly, Taser technology can be extremely effective when properly applied, as it does not rely upon pain compliance like many other forms of less-lethal weaponry. In addition, the “threat” of deployment of the Taser will typically have a psychological compliance effect upon the intended receiver, as most individuals do not relish the thought of being hit with 50,000 volts of electricity!

The activation and mere sight of the laser dot appearing on the suspect’s chest area at times will convince the individual to surrender or comply with the police officers

commands. Unique to the Taser is the fact that many individuals will comply with police commands rather than face a Taser application. Research studies have shown that there are no long-term effects from Taser waves. The Taser does not stop respiratory muscles from working nor does it cause a cardiac arrest (Taser, 2000).

Finally, one of the other positive features of the Taser is in its ability to be discreetly carried by the officer within the cargo pant pocket of the typical police issued uniform. Similar to pepper spray and the collapsible baton, these less-lethal force options permit operational street police officer's to carry the weapon with them when they attend any call for service without raising the alarm or suspicion of the individuals with whom they are dealing (J.I.B.C, 2004). As the call for service or situation develops, the officer may then decide whether it is appropriate or not to utilize the less-lethal weapon that they have in their immediate possession.

Importantly, many less-lethal weapons are large and cumbersome, often requiring a "team" approach by police officers who are fully prepared in advance to use the technology. In addition, police personnel typically require specialized training in utilizing less-lethal weapons such as the Arwen, and therefore, tend to be part of a specialized tactical team.

This situation often limits the deployment of the less-lethal weaponry as the "specialized team" must be called out or re-directed to the situation that the operational patrol officer is facing. This typically results in a significant delay before actual deployment can occur.

### ***The Risks Associated with Utilizing Less-Lethal Weapons***

As with any "weapon", there is always the risk of causing death. Beanbags and other impact less-lethal weapons are believed to be responsible for killing at least 12

individuals in Canada and the United States during the past 10 years (Blue Line, 2002). Many more individuals have suffered serious injuries that include broken bones, brain injuries, damaged spleens and injured eyeballs.

In some instances, the less-lethal weapon will never penetrate the skin but death still results. One such case is exemplified in 1994 where an individual was killed in Texas after being struck in the throat by a beanbag (Ottawa Citizen, 1997). In another instance, an individual was killed by a beanbag round after being struck in the chest. The non-penetrating round impacted upon the recipient's sternum resulting in a fatal cardiac arrhythmia. In two other cases, individuals died after being hit in the chest with a projectile fired from an Arwen. The impact in both cases fractured ribs, resulting in internal haemorrhage and death (James, 1997:12).

Ideally, the less-lethal weapon will incapacitate the perceived threat to the officer while inflicting only minor bruising. In this regard, the manufacturers of less-lethal weaponry state that their products are accurate, safe and effective, if used properly. This would include discharging the weapon at an appropriate and safe distance as well as having the less-lethal projectile strike the appropriate part of the human body. However, unlike "laboratory testing", police personnel often deploy less-lethal weaponry under less-than-ideal circumstances, facing a variety of issues that include stress, weather, and human fatigue.

For example, the traditional "square" beanbag round consisted of a sack that was the size of a tea bag that was filled with lead shot. The difficulty in deploying the round is that there is no guarantee that the beanbag round will hit its intended target at the correct speed and with correct positioning. In some instances, the square beanbag will



not unfurl in the correct manner upon discharge. This has resulted in the beanbag round striking individuals in a manner that can cause serious bodily harm or even death.

### ***Case # 1 – Death by Beanbag***

In a case from eastern Canada, police were summoned to an apartment complex in early 1997 to deal with a disturbance. Upon police arrival, they located a 34-year-old naked individual in his one-bedroom apartment, screaming wildly and waving a bloodied knife. The individual had slashed his wrists and severed his penis with a kitchen knife in a bizarre suicide attempt. The male was behaving irrational and ignoring police commands, refusing to drop his knife as he bled profusely.

A highly trained tactical unit arrived on the scene and attempted to negotiate with the individual but to no avail. When the individual attempted to harm himself further, police personnel decided to shoot the male with a beanbag shotgun. As a result, one beanbag round was discharged, striking the male in the chest just above his heart. The impact of the beanbag round caused the male to collapsed to the ground where medical personnel rushed the individual to the hospital.

Unfortunately, shortly after arriving at the hospital, the individual died. Owing to the self-inflicted injuries and the resulting severe bleeding, medical staff listed the cause of death as suicide. The next day an autopsy was conducted to verify the cause of death. Surprisingly, the autopsy revealed that the individual died when the 42-gram lead sac beanbag penetrated the skin and embedded itself in the male's chest. A "fist-sized" cavity was discovered where the beanbag round had impacted above the heart area.

A subsequent investigation into why the death occurred speculated that the beanbag never unfolded after it was fired from the police officer's shotgun. As a result,

the beanbag may have struck the individual like an “arrow head”, ultimately causing his death. It is unknown why this occurred. However, it is believed that the police acted appropriately under the circumstances. They had discharged the beanbag at a safe distance and, in accordance with the manufacture’s specifications, had impacted the chest area with maximum effect.

***Case # 2 – Serious Injury by Arwen Gun***

In June 1994, a riot broke out in the downtown area of a large western Canadian city. As a result, a crowd control unit was dispatched to the scene equipped with a variety of less-lethal weaponry. The purpose of the crowd control unit was to identify key agitators and instigators in the riot, confronting them so that they would disperse by way of tactics that included the deployment of gas and Arwen projectiles.

As the crowd control unit began to confront members of the riot, one specific individual came to the immediate attention of the unit. This individual would not leave the riot and instead confronted and taunted the police. The subject stood in front of the riotous crowd acting as a ringleader, throwing a stick at the police and then a bottle of liquid. He then adopted a fighting stance and brandished a large screwdriver at the police.

As a result of the aggressive behaviour displayed, a decision was made to fire an Arwen projectile at the subject so that he would cease his aggression and disperse from the scene. Upon being struck in the back by the projectile, the subject left his position and went to the sidelines of the riot.

Rather than leave the location, the subject returned to frontlines of the riot, some 20 minutes after the police Arwen projectile had struck him. Once again, this same

individual confronted the police crowd control unit in an aggressive manner with his screwdriver. He began swear and taunt the police by lifting up his shirt and showing his bruised back, telling the police to shoot him again. The subject then began to dance on the street, bobbing and weaving in an apparent attempt to avoid the crowd control unit's Arwen marksman.

Once again, a decision was made to fire an Arwen projectile at the individual so that he would leave the area. Once again, the officer aimed for the center body mass area of the subject, discharged his Arwen gun at the agitator. However, during this occurrence the individual suddenly crouched when he saw the officer fire his Arwen round. As a result, the Arwen projectile struck the individual in the head causing serious injuries.

The rioter subsequently sued the police by using legal aid funding, while he was serving his sentence in jail. Initially, the courts ruled that the police department was negligent in the application of the less-lethal weapon, granting the plaintiff \$25,000.00 for the injuries that he received as a result of the weapon. However, subsequent judicial appeals rejected the award stating that the police acted appropriately in the deployment of the less-lethal weapon, under the circumstances. (*Berntt v. City of Vancouver*, 1997; *Berntt v. The City of Vancouver et al.*, 2001).

### **Case # 3 – The Police Firearm as Less-Lethal Force**

Finally, in another incident police utilized their firearm as a means of less-lethal force during a botched robbery that evolves into an apparent suicide incident. In this case from western Canada, police were alerted to a bank robbery that had just occurred. A 22-year-old, male bank employee had staged a bizarre act of robbery at his place of

work. The individual, who was employed as a teller, lit a small fire in the storage room of the bank at closing time as a distraction to staff workers. When fellow employees gathered in the storage room area to put out the fire, the culprit pushed his fellow tellers out of the way while grabbing a large parcel of money. He then placed the money in a duffle bag and ran out the door of the bank, fleeing on foot.

Another employee observed the actions of his co-worker and gave pursuit on the street. Eventually, the employee located and cornered the fleeing co-worker on the street. As the employee went to approach the culprit, the individual reached into his pocket and fumbled open a hunting knife stating, "I'm going to kill myself". Upon seeing the knife and hearing the statement, the pursuing bank employee backed off, following the culprit from a safe distance as he ran down the street into a shopping mall area. At one point during the pursuit, the culprit stopped, dropped to knees and took off his shirt. He then began to inflict wounds into his chest and neck area with his knife.

As this was occurring, police units were responding to the scene. The initial attending officer arrived at the scene and exited his patrol vehicle. Upon seeing the patrol vehicle, the suspect got up off his knees and removed his bloodied shirt while clutching his knife in his right hand. In response, the officer commanded, the suspect to "Put the knife down". Instead of obeying the police officer's commands, the suspect began to once again stab himself in the neck and chest area with his knife say "Come on, Come on" to the officer. As the officer watched, blood sprayed and then readily flowed from the individual's neck area down to his waist.

The police officer, fearing that the individual would eventually kill himself, fired one round from his service pistol striking the individual in the right upper arm area. Upon being struck by the bullet the individual collapsed to the ground. The police officer then

removed the individual's knife and applied first aid to his wounds until medical emergency services arrived. While lying on the ground the wounded individual turned to the officer and stated, "Let me die."

The individual was then transported to a hospital where it was learned that he had suffered six stab wounds to his chest as well as three stab wounds to his neck. One wound was deep and had penetrated his lung. In addition, the individual was treated for a single gunshot wound to his upper arm. Later, his condition was stabilized and a psychiatric assessment was ordered.

In explaining his actions the officer later stated, "I had to shoot him. He was slashing his body and throat, blood was gushing out, and I had to stop him. He was going to kill himself. I aimed for his shoulder."

### ***Summary***

In summary, while beanbags and other less-lethal weaponry are not without controversy, it is important to emphasize that these weapons have saved dozens of lives since their inception into street policing in the 1960's. Police personnel have been afforded with technology that has allowed them to intervene in potentially dangerous situations without placing their lives in immediate danger, thereby reducing police injuries and deaths. In addition, suspects have been subdued and apprehended without being shot by the standard police issued firearm, thereby avoiding serious injuries and death.

## The Future of Less-Lethal Technology

As a result of the problems associated with square beanbag rounds, many police agencies in Canada and the United States have adopted the “super sock” beanbag round. Unlike the sharp and square edges of the square beanbag round, the super sock resembles a sock filled with lead shot. When deployed under ideal conditions, it is designed to eliminate the tragic consequences associated with the beanbag. However, even with this new style, there have been three people killed during a two-year period (Blue Line, 2002).

Other options include the “goo” or sticky gun, which is basically a delivery system of sticky foam that is deployed to glue a person in place. However, issues abound with this option as it is difficult to deploy and then clean up and the issue of contamination due to the “goo” substance which now must be removed if the individual is to be transported to the police station.

The US Pentagon is one of the locations where research is being conducted for the purpose of providing more less-lethal options to U.S. armed forces (Grossman, 2002). While most of this technology is in the developmental stage, it is nonetheless an indicator of options that may be available to North American police agencies in the near future. Future less-lethal technology includes:

- **Webs and Nets:** State of the art technology in this area includes a 3-meter wide Kevlar net known as “Webshot”. The net is packed in a cartridge and fired from a special shotgun allowing the disabling and capture of an individual. The net can be deployed so as to entangle targets as far away as 9 meters.
- **Malodorants:** Formulated smells that are so repellent that they will cause an individual to quickly leave the area in which the smell is deployed. Scientists have tested the effectiveness of odours that include vomit, burnt hair, sewage, rotting flesh and a potent concoction known

euphemistically as “U.S. Government Standard Bathroom Malodors.” These odours could be utilized by police as a less-lethal weapon in residential areas where an individual has barricaded himself or herself or in public spaces where rioters or unruly individuals have gathered.

- **Anti-traction Material:** A sprayable anti-traction gel allows the deployment of this technology on the surface of an object causing it to be slippery to human contact. If sprayed on a flooring surface it becomes virtually impossible for an individual to walk upon being described as “slippery as liquid ball bearings.” If sprayed upon a door handle, it becomes too slippery to turn. This non-toxic and biodegradable product has a 12-hour effectiveness and could be utilized by police personnel in the apprehension of a fleeing individual or in containing an individual until they could be apprehended.
- **Tuneable Projectiles:** This would include softer and flatter bullets that could be “adjusted” by the police officer on the street, depending upon the situation that they were facing. This technology would allow the “dialling in” of penetration power so that the bullet discharged from the officer’s firearm could be adjusted for harder or softer impact.
- **Directed Energy Weaponry:** This would include technology that allows a tight, focused beam of microwave energy to “flash-heat” an individual from a distance. While directed energy beams do not burn flesh and are considered harmless they do create an unbearably painful burning sensation to the individual upon whom it is deployed. Like firearms and other current less-lethal weaponry, the directed energy beam would allow more options to the police officer in the field.
- **Pulsed Energy Projectiles:** Somewhat similar to the science fiction “ray gun”, this technology superheats the surface moisture around a target so fast that it literally explodes, producing a bright flash of light and a loud bang. The effect is like a disabling stun grenade; however, unlike a stun grenade, pulse energy projectiles can be deployed from a safe distance and travel at the speed of light with pinpoint accuracy. In addition, development in this area includes a flashlight-size device that transmits a powerful electric current along a beam of ultraviolet light. Similar to the Taser, this electric current could be deployed upon a human target causing them to be disabled. However, unlike the wired Taser with its maximum range of roughly 20 feet, this pulse energy current would be “wireless” with an effective range of roughly 2 kilometres.
- **Weaponized Drugs:** This technology would allow the deployment of anti-depressants, opiates and other “club drugs” that could be administered to individuals or groups by police personnel for the purpose of controlling irrational behaviour or unruly crowds.

However, critics of the new technology that is being pioneered by the U.S. military are quick to note that some of the current research into less-lethal, technology is illegal under international law. In addition, human rights activists add that this newfound technology also presents avenues for misuse and abuse by those in power. "Street punishment" and even torture are possible. While these products are currently under development for military purposes they may eventually find their way into the hands of police personnel in the near future in some shape or form (Grossman, 2002).

Unfortunately, the present array of less-lethal weapons available to many operational police officers within North America is often limited. There is a wide array of non-lethal weaponry currently available that needs to be provided as "standard equipment" to all front-line police personnel, regardless of the department's size. These less-lethal force options need to become an accepted standard within policing if the profession is to advance to an acceptable level.

In addition, the options of containment, retreat or "tactical withdrawal" must also be included within the police response. If possible, police officers should physically distance themselves from individuals who are bent on forcing a victim-precipitated homicide. A tactical withdrawal by the police may serve to neutralize the actions and intentions of the suicidal individual. It may also allow the police to formulate a plan of action that will involve a calculated response with less-lethal force. Importantly, these less-lethal force options provide less severe injuries to the suspect, the public and the police officers.



## Summary

In this chapter, the theories and empirical studies surrounding the police use of deadly force and potentially deadly force have been analyzed and discussed. Throughout these various explanations, it is clear that no single theory serves to explain why the police use of deadly force occurs. In many instances, organizational, psychological and sociological forces combine to influence and direct the individual police officer in the deployment of deadly force. These same psychological and sociological factors may equally influence and direct the role of the victim, leading to his or her demise in a deadly force encounter. Within this framework, police personnel have a variety of force options that may include a multitude of less-lethal weaponry and tactics.

The chapter to follow concerns the methods used to examine those instances involving police use of deadly force within Canada and selected areas within the United States. In relation to Canada, this topic has never been thoroughly studied. There is an obvious need to address the issue of police use of deadly force from a Canadian perspective. Virtually all of the research and literature concerning the subject of police use of deadly force has been derived from studies within the United States of America.

Several fundamental questions need to be addressed within this framework. First and foremost, it is necessary to establish the extent of police use of lethal and potential lethal force within Canada. Specifically, how prevalent are police shootings within Canada? What are the circumstances and dynamics surrounding these high profile and somewhat controversial incidents? How do the various theoretical perspectives and

empirical studies that have been discussed within this chapter apply to police shootings within Canada?

In addition, it is necessary to reflect upon police shootings within the United States of America. How prevalent are police shootings within the U.S.A? What are the circumstances and dynamics surrounding the police use of deadly force in the United States of America? Are there differences between the two nations when examining the characteristics of a police shooting?

Within this context, it is essential that the role of the victim be included. To what extent has the victim's participation in this interaction process lead to his or her demise? Is there a relationship between victim-precipitation and police use of deadly force within Canada and the United States? What of the issue concerning victim-precipitated suicide, sometimes known as "suicide-by-cop".

It is significant that, even within the United States of America, there has been limited research concerning the dynamics of this topic. Most of the research in the United States has occurred recently and, within limited parameters. Has this phenomenon occurred within Canadian police shootings, and if so, to what degree. In this regard, how to the two nations compare? These are the central questions around which this dissertation revolves.

## **CHAPTER 3: METHOD**

This dissertation seeks to explore and explain those incidents of the police use of deadly force and potentially deadly force that have occurred within Canada during the twenty-two year period from January 01,1980 through to and including December 31, 2001. In addition, this dissertation also seeks to explore and explain those incidents of the police use of deadly force that have occurred within the state of Washington and a selection of cities within the United States of America. The methods used to gather data for this dissertation are examined in this chapter.

### **Research Questions and Objectives**

Several research questions precipitated and guided this study. These questions included: what are the factors surrounding the police use of deadly force? How do these factors serve to influence and direct the police use of deadly force within Canada and the U.S.? What are the implications for police training in relation to physiological factors, situational variables, force options and the training process itself? Can physiological factors and situational variables be modified and controlled? Are there viable non-lethal alternatives to the present array of force options and compliance tools?

In addition, questions surrounding the victim specifically played a role in guiding the research, namely: what is the perspective of a survivor of a potentially lethal encounter with the police? What role does the victim play in a police shooting incident? What frame of mind did they have at the time of their lethal-threat? Is there anything that the police officer could have said or done that would have caused the individual to comply and

relinquish his/her lethal-threat? What are the implications for police training in relation to victimology?

Other research questions guiding this research were: to what extent, if any, have victim-precipitated incidents that include the phenomenon of “suicide-by-cop” influenced the police use of deadly force? How have factors that include irrational behaviour, mental illness and, substance abuse impacted upon police shootings? Can the police use of deadly force within Canada and the United States be linked to a broader social policy?

In order to answer these questions, it is necessary to focus upon the dynamics that surround and influence a police shooting incident. Therefore, the main research question guiding this study is to understand why the police use of deadly force occurs. In identifying why deadly force occurs in Canada and the United States this dissertation sets out to provide data to suggest how police officers can be trained to marginalize the effects leading to death by legal intervention.

This dissertation approaches the aforementioned research questions and objectives in a number of ways. First, through a content analysis of Canadian and U.S. police shooting cases, data is gathered on a total number of 50 different variables that may have played a role in influencing the police use of deadly force. The descriptive statistics are revealed and highlighted in Chapter Four of this dissertation, as well as the bivariate analysis that were also conducted so as to examine possible correlational relationships between variables.

A qualitative research component attempts to answer the main research question in a different manner. Interviews were conducted with small, non-representative samples of police officers and prison inmates who have been involved in actual or potential

shooting encounters. Through these interviews, this study attempts to more comprehensively answer the main research question. Specifically, by asking police officers and prison inmates, to identify the various variables that they took into consideration during their actual or potential shooting encounter, more light will be shed on the phenomenon of police shootings.

The main objective of this study is to conduct exploratory research. Through the analysis of documented police shootings, and interviews with police officers and prison inmates, an attempt is made to identify the variables that appear to be related to a police shooting incident. If research can identify the variables that result in a police shooting incident then more effective ways of minimizing a potentially lethal encounter may be revealed.

To begin to embark upon such a research enterprise, it is first necessary to determine the extent of police use of deadly force within Canada. As of present, no research analyses have been conducted from a national perspective on the police use of deadly force in Canada for over 20 years. Information such as the number of fatal police shootings that have occurred within this nation during the period from 1980 through to the year 2001, the number of police shootings that have occurred in which no individual was killed but, nonetheless, the *potential* for a fatal outcome was possible, and the types of differences that exist between the police use of deadly force in Canada and the United States will make a significant contribution to the literature, and will assist police officers in dealing with this phenomenon in the field.

## **Canadian and U.S. Police Shooting Incidents**

### ***Sampling***

In Canada, the vast majority of known fatal police shooting incidents that have occurred between 1980 and 2001 are examined in this dissertation. In addition, a sample of non-fatal Canadian police shooting incidents that have occurred within this same time period is included. Due to record keeping practices, not all of the fatal police shooting cases in Canada can be found. In the U.S., samples of fatal and non-fatal police shooting incidents that occurred between 1980 and 2002 are also examined within this dissertation. A non-probabilistic method of sampling was used. Every police shooting case in Canada that was provided by police agencies, the Office of the Coroner and government agencies that include the B.C. Police Services / Commission and the Special Investigations Unit has been included for examination within this dissertation. Every police shooting case in the United States that was provided by police agencies and Prosecuting / District Attorneys has been included for examination within this dissertation. However, this is not a representative sample of U.S. police shootings.

### ***Data Collection Instruments***

The data-collection instrument was developed for the purpose of analyzing the police shooting incidents under study, and therefore contains 50 variables of interest. Data was collected on a number of points, including the time and location of the shooting, the police response, the perceived lethal-threat, information concerning the officer(s) involved and the demographic information of the victim. All of the information was recorded and entered into the Statistical Program for the Social Sciences (SPSS). A total of 409

Canadian and 412 U.S. police shooting cases were collected and analyzed using SPSS (n=821).

However, an inherent difficulty that arises when collecting data pertaining to police shooting incidents is that not all of the cases will specify all of the information of interest. Therefore, missing data points were commonplace with respect to several variables, especially the variables concerning lighting, weather, the police officer's demographics, the alternate weapons used and the background circumstances of the victim. Statistical analyses were performed on the data, including non-parametric tests of significance (chi-square tests) and non-parametric tests of correlation. Due to the above-noted difficulties surrounding data-collection, which most notably contributed to low cell counts, a descriptive qualitative analysis of the data is the focus of the next chapter.

### ***Interviews with Police Officers and Prison Inmates***

In addition, data was also collected through a process of semi-structured interviews. Careful consideration was taken in contacting those police officers who utilized deadly force. Additionally, caution was used during the interview process as these individuals were asked to re-live a potentially traumatic part of their lives, which may in turn provoke negative reactions.

Careful consideration was also taken in contacting those inmates who have been involved in an actual or potential police shooting encounter. As these individuals were in custody, explicit approval from the head of the prison facility was obtained in writing, prior to the interviews. This was done to diminish any ethical concerns that may arise regarding the legal and mental health aspects of this project (see Appendix "B").

Prior to the actual interview, informed consent was first obtained from the custodial supervisor, as the participants were part of a “dependent population”. Caution was also used during the interview process as these individuals were asked to re-live a past that may possess painful experiences that may in turn provoke negative reactions.

In summary, the interviews of the police officers and the inmates were analysed from a qualitative perspective. The qualitative analysis of this dissertation includes 79 interviews that occurred involving police personnel (n=27) and prison inmates (n=52).

### ***Police Shootings in Canada***

This dissertation has documented that there have been over 200 separate shooting incidents that resulted in death by legal intervention within Canada since 1980. The Royal Canadian Mounted Police, Canada’s national police force, were responsible for 52 of these shooting deaths. As stated, the database for this research has focused on the period from 1980 through to, and including, 2001. Specifically, this examination is of those incidents in which a sworn member of a Canadian police department, outside of training practice, discharged a firearm.

In this regard, this research has focused upon categories of resolution utilized by Canadian police to incapacitate a perceived deadly threat including:

- those incidents in which a police officer utilized deadly force by way of discharging his/her firearm,
- those incidents in which a police officer utilized potentially deadly force by discharging his/her firearm but death did not result.

The data surrounding the two different responses to a perceived lethal-threat were gathered by way of official police reports, coroner inquests, government documents and in a small number of incidents, media reports. Government documents have included



the B.C. Police Services / Commission's "Annual Report on Shots Fired by Police" and, the Ontario Special Investigations Unit "Occurrence Chart" and intake forms pertaining to firearm deaths and firearm injuries caused by police personnel. In addition, government documents include Coroner's reports regarding death as a result of a police shooting and Coroner's Inquest Reports.

The Coroner and Chief Medical Examiner in all of Canada's provinces and territories provided data in regards to the police use of deadly force with the exception of the provinces of Prince Edward Island and Nova Scotia. Both of these provinces lack a Coroner's Office that has the ability to document the police use of deadly force. As a result, police agencies in both of these provinces supplied information pertaining to police shootings. In the province of Nova Scotia, a media database (the Halifax Herald) was additionally used to supplement the police agency information. This is discussed further in this chapter.

Requests to obtain this data were accompanied with "Letters of Introduction" provided by the serving Chief Constable of the Vancouver Police Department and, the Chief Coroner of the Province of British Columbia and, the Royal Canadian Mounted Police – Officer In Charge of North Vancouver Detachment. In some instances, the Chief Constables and the Officers In Charge (O.I.C) of police agencies provided permission to contact those police officers who had resolved a perceived lethal-threat by way of discharging their firearm. (In some instances, this protocol could not be implemented as the individual had since terminated his/her employment with the municipal department in question.) In addition, the Chief Constables or their delegates made available their department records surrounding the incident of potential or deadly force, including details surrounding the police investigation.

In a small number of cases (n=17), individual Canadian police officers who had discharged their firearms were contacted and interviewed in regards to their deadly force encounter. Issues that were examined with reference to these individuals included the following:

- The individual characteristics of the police officers who had utilized a firearm in a manner that resulted in, or had the potential to result in, deadly force.
- The age, length of service and assignment of these officers, during the incident that resulted in the discharge of their firearm.
- The situational and perceived stressors during the incident of firearm discharge or perceived lethal-threat; i.e. was the officer in a high crime area, alone, dealing with a potentially dangerous situation?
- The training provided to the officer and the less-lethal options available to the officer at the time of the incident.
- The situational factors relevant to the incident.
- To what degree did critical-incident stress affect the officer?

In addition, prison inmates (n=52) were also interviewed in regards to their involvement in an actual or potential police shooting incident. The prison inmates had been convicted of a firearms related offence and had been taken down at gunpoint by police personnel during their arrest. In some instances, the inmate had discharged their firearm at police personnel resulting in a “shoot-out”. Issues that were examined with reference to these individuals included the following:

- The inmate’s background and their experience with the police prior to the incident.
- The inmates’ perception of the actual incident.
- The situational factors relevant to the incident.
- To what degree did critical incident stress affect the inmate?

*Ethics approval is contained within Appendix “A”.*

### ***Police Shootings in the United States***

This dissertation has documented over 400 separate shooting incidents that have occurred in the United States. The database for this research has focused on the period from 1980 through to, and including, 2002. Specifically, this examination is a non-representative sampling of those incidents in which a sworn member of a U.S. police department, outside of training practice, discharged a firearm. The reason for the sampling of U.S. police shootings will be discussed further in this chapter.

In this regard, this research has focused upon categories of resolution utilized by U.S. police to incapacitate a perceived deadly threat including:

- those incidents in which a police officer utilized deadly force by way of discharging his/her firearm,
- those incidents in which a police officer utilized potentially deadly force by discharging his/her firearm but death did not result.

The data surrounding the two different responses to a perceived lethal-threat were gathered by way of official police reports, Prosecuting / District Attorney reports and in a small number of incidents, media reports. Requests to obtain this data were accompanied with "Letters of Introduction" provided by the serving Chief Constable of the Vancouver Police Department and, the Royal Canadian Mounted Police – Officer In Charge of North Vancouver Detachment. In response to the request to obtain data, the Chief of Police (or their delegate) or the Prosecuting / District Attorney made available their department records surrounding the incident of potential or deadly force, including details surrounding the police investigation.

Finally, in a small number of cases (n=10), individual U.S. police officers who had discharged their firearms initiated contact with the researcher and were interviewed in

regards to their deadly force encounter. Issues that were examined with reference to these individuals included the following:

- The individual characteristics of the police officers who had utilized a firearm in a manner that resulted in, or had the potential to result in, deadly force.
- The age, length of service and assignment of these officers, during the incident that resulted in the discharge of their firearm.
- The situational and perceived stressors during the incident of firearm discharge or perceived lethal-threat; i.e. was the officer in a high crime area, alone, dealing with a potentially dangerous situation?
- The training provided to the officer and the less-lethal options available to the officer at the time of the incident.
- The situational factors relevant to the incident.
- To what degree did critical-incident stress affect the officer?

*Ethics approval is contained within Appendix "A".*

### ***Researching the Police Use of Deadly Force***

Perhaps the greatest difficulty in conducting research pertaining to the police use of deadly force is in obtaining data. Most police agencies are reluctant to release any information pertaining to a police shooting incident for a variety reasons that include the fear of negative public relations, negative media coverage and, concerns regarding criminal and civil liability. However, in response to the public's right to know and in regards to accountability issues pertaining to a "public police force", many police agencies will prepare a brief media release outlining the police shooting incident. This information is often combined with investigative journalism that typically results in a somewhat accurate published media report that is communicated by a variety of methods.

In some instances, media sources such as the *Ottawa Citizen* and *Halifax Herald* newspapers will maintain a police shooting database on their web site or, internally within their organization. Web-based information may also be accessed by the general public via the World Wide Web. Internal media and legal databases such as “Lexis Nexus” typically require an archival search that is conducted based upon a fee for service. While media databases provide some information pertaining to a police shooting incident, they must be evaluated on an individual bases for their validity and reliability. Finally, sources such as the Inter-University Consortium for Political and Social Research (ICPSR) and the National Criminal Justice Reference Service (NCJRS) provide information pertaining to the police use of deadly force by way of actual studies that exist within criminal justice publications and within downloaded SPSS files.

The best source of data pertaining to a fatal police shooting incidents in Canada and the United States is frequently obtained by way of the independent investigations conducted by the Coroner, the Medical Examiner or the public prosecutor’s office. These public agencies are independent from the police agency thereby providing an additional review of the police shooting incident. In some instances, government agencies such as the Special Investigation Unit in Ontario serve as an additional source of independent and reliable information. The specific role of these public agencies will be discussed further in this chapter.

However, it is important to emphasize that in the vast majority of police shooting incidents it is left to the police agency to conduct a thorough investigation into the incident that will typically include a review by the police agencies homicide unit and internal affairs unit. The police investigation is typically comprehensive, thorough and critical into how and why the shooting occurred. It is in the police agency’s best interest

to conduct a complete and unbiased review of the shooting incident. An impartial investigation serves to maintain the integrity and credibility of the law enforcement agency while providing discipline or, the elimination of personnel, who have wrongly exercised the privilege and powers surrounding the police use of deadly force.

In most instances, the results of the police investigation will be presented to the public prosecution's office for the determination of charges, if any, pertaining to the police personnel involved in the shooting incident. Along with public prosecutions, civil proceedings serve as yet another legal avenue that may be pursued to ensure police accountability. In addition to the review conducted by the public prosecutor's office, the Coroner or Medial Examiner may decide to hold a public inquiry into the fatal police shooting incident. In some jurisdictions, this review will include the presence of a jury that has been selected from the public to review the fatal police shooting and to make recommendations.

Finally, the media remain as one of the most powerful reviews of a police shooting by virtue of their critical examination and wide-reaching dissemination of issues pertaining to the incident. For example, in some instances the media are on the scene of the incident providing live coverage of the police shooting. In other cases, media sources are reporting and distributing information surrounding the shooting incident to the public, within minutes or hours of the event occurring. Typically media reporting will include the interviewing of independent witnesses to the police shooting event.

It is by way of these various checks and balances that exist within the legal system, government agencies and, media sources that police personnel within Canada and the United States are held accountable for the use of deadly force. These same agencies and sources have the potential to provide accurate and reliable research data

pertaining to the frequency and specifics surrounding police shootings. As a result, this dissertation has used a combination of data sources that are discussed further in this chapter.

### ***Accessing Police Data***

Researching the police use of deadly force is a difficult and complex process. Although there are many checks and balances within society that ensure public accountability in the police use of deadly force, these same entities are generally reluctant providers of research information. For example, although police agencies in Canada and the U.S. may provide a brief media release following a police shooting incident they typically will not disclose the specific details of the police investigation beyond the legal requirements pertaining to the Coroner / Medical Examiner and the public prosecutions office. The reluctance of police agencies to provide research data on police shootings varies from liability concerns and the protection of private information to protecting the police agency from criticism, embarrassment and a negative public image. Unlike the glossy and highly promoted aspects of “community policing”, the police use of deadly force is often considered by police managers to be a controversial subject, the details of which are best kept under the lock and key of the police information section.

One of the findings of this dissertation has revealed that in *many instances* the police agency will maintain a public policy that it does not keep track of police shootings and does not maintain a database of such incidents. These agencies will provide an impartial investigation to the Coroner / Medical Examiner’s office as well as the public prosecutions office. However, once the shooting incident has been dealt with via these

government agencies and, upon conclusion of any subsequent civil proceedings, the file is purged from the police record-keeping system.

Ironically, these police agencies will not disclose any information prior to the conclusion of public prosecutions and civil proceedings as “the matter is still before the courts”. However, immediately upon conclusion of all legal processes, the file is typically destroyed with no publicly accessed record kept of the incident. This system of record-keeping often serves to protect the police agency from any criticism or subsequent legal proceedings surrounding the use of deadly force by its personnel. Unfortunately, this process also serves to confound objective research pertaining to the police use of deadly force.

For example, in a police agency in a western state, a Deputy Sheriff in charge of public relations for a populous major state county was interviewed in relation to police shootings. When questioned concerning the obvious absence of official police records and data pertaining to police shootings, the officer candidly stated:

When it comes to a police shooting, the media are typically there before we are. Often there is no need for an official press release; we just answer as many questions as we can, depending upon the circumstances of the particular shooting. In regards to data or a record of police shootings, we simple don't keep that information. If we did we would constantly be subject to media enquiries and scrutiny. Honestly, the less information that we keep . . . the better. We intentionally don't keep this information, only a few facts and figures. That way, we can face the cameras with a straight face (at the next police shooting) and say “Sorry we don't have that information.

While the lack of police databases pertaining to police shootings was not isolated to this one agency, this dissertation noted that in some cases police agencies maintain a discreet database and detailed account of police shootings within their organization. This may occur while maintaining an official stance that the records do not exist or, are



impossible to access due to record keeping practices. In these cases, the police agency may share their information with other police agencies and, in a few instances, with academic researchers, whom “they trust”. Unfortunately, for the most part, these police agencies are reluctant to disclose sensitive information to the public and the research community.

In a smaller number of cases, police agencies will keep accurate and detailed records of incidents of surrounding the police use of deadly force. These records tend to be aggregate numbers and are often posted on the police agencies web site for public consumption and review. Rarely do police agencies maintain descriptive data pertaining to police shootings that may be accessed by the general public. The lack of descriptive data tends to be for reasons that include confidential rights of the deceased and the involved officers.

In some instances, this aggregate information will include official media releases that detail some of the events that pertain to the police shooting. Typically these agencies are responsive to research and will facilitate official requests from researchers investigating the police use of deadly force.

These complexities and difficulties surrounding research pertaining to the police use of deadly force is not new as police scholar James Fyfe notes:

In a democracy that counts executions carefully and tries to keep close count of the political prisoners held by foreign governments, one might expect to find accurate data on the number of Americans who became subjects of police deadly force. Yet in an omission that can be defined only as inexcusable, no federal agency has ever collected or published such data nationwide. Amid their statistics on crimes reported and solved, calls received, tickets issued, and assaults on officers, even the glossiest police department annual reports rarely include any information on, the frequency or the circumstances of police use of deadly force. (Fyfe, 1988:45)

## Overview of the Structure of Policing in Canada

Policing in Canada is carried out at four levels: municipal, provincial, federal and First Nations. The federal government, through the Royal Canadian Mounted Police (RCMP), is the responsibility for the enforcement of federal statutes in each province and territory, and for providing national policing services that include forensic laboratories, identification services, the Canadian Police Information Centre (CPIC), and the Canadian Police College.

The five largest police services in Canada, the RCMP, the Toronto Police Service, the Ontario Provincial Police (OPP), the Sûreté du Québec (SQ), and the Montréal Urban Community Police Service (MUC) account for just over 60 percent of all police officers in Canada. Municipalities across the nation have a choice as to whether to create and operate their own independent police service or to contract out to a provincial police force such as the OPP, the SQ or, the RCMP (Statistics Canada, 2003).

Municipal police forces assume responsibility for enforcing the *Criminal Code*, certain federal statutes such as the *Controlled Drugs and Substances Act*, provincial statutes, and municipal bylaws within the city limits. In some instances, municipal forces are regionalized through the amalgamation of several independent police services into one large organization (e.g., Montréal Urban Community in Québec and the Ottawa Police Service in Ontario).

There were 59,494 police officers in Canada as of June 15, 2003 serving a population of roughly 32 million. The number of police officers per 100,000 population in 2003 reflected a rate of 188 officers per 100,000 population or, one police officer for every 532 Canadians (Statistics Canada, 2003). Across Canada, municipal police

services range in size from three police officers to more than 5000 police officers, having jurisdiction within the city limits. This jurisdiction typically extends within provincial boundaries when the municipal police officer is investigating an offence.

Newfoundland and Labrador, the Yukon, the Northwest Territories and the Nunavut are the only areas in Canada without municipal police services. In Newfoundland and Labrador the Royal Newfoundland Constabulary, which is a provincial police service, provides policing to the provinces largest municipalities that include St. John's, Corner Brook, Labrador City and Churchill Falls. Interestingly, Newfoundland and Labrador additionally contracts the RCMP to provide policing to the remaining municipalities and rural areas. In the Yukon, the Northwest Territories and the Nunavut the federal RCMP conduct all police duties (Statistics Canada, 2003).

In Canada, the provincial and territorial governments are responsible for the administration of justice and, to this end oversee police services. Provincial police forces are charged with enforcing the *Criminal Code* and provincial statutes in areas not covered by municipal police services (Statistics Canada, 2003).

These areas generally comprise rural areas and small towns. In some cases, police boundaries may overlap. For example, provincial police may perform traffic duties on major provincial thoroughfares that pass through municipal jurisdictions. There are three independent provincial police forces in Canada: the Ontario Provincial Police (OPP), the Sûreté du Québec (SQ), and the Royal Newfoundland Constabulary (RNC).

The federal police force, the RCMP, is a component of the Solicitor General of Canada and is divided into 15 divisions and a national headquarters. The headquarters of these divisions are generally located in the provincial and territorial capitals and are under the supervision of a commanding officer. In addition, there is a deputy

commissioner at the national headquarters in charge of the various directorates located there.

The RCMP operates as a federal police force in all provinces and territories, enforcing most federal statutes. Nationwide, approximately 60 percent of RCMP personnel are involved in “contract policing”, serving in the role of provincial or municipal police officers under agreements that are signed between the RCMP and the provinces/territories. There is no RCMP contract in Ontario or Québec. In these provinces, the RCMP only provides policing services at the federal level (Statistics Canada, 2003).

Canada’s municipal police services employ 65% of all police officers in Canada and provide policing services to almost 25 million Canadians (77% of the Canadian population). Municipal policing includes all police services that are paid for by the municipalities and includes contract policing provided by provincial police services and the RCMP (Statistics Canada, 2003).

Finally, Aboriginal police forces have developed over the nation during the past three decades. These police forces have been established through negotiations and cost-sharing agreements involving the federal government, the provincial governments and First Nations communities serving to meet the needs of First Nations communities.

In addition, the federal “First Nations Policing Policy” allows First nations communities to create their own autonomous police service or engage Aboriginal police officers from the RCMP, the OPP in Ontario, or the SQ in Québec. Police officers in Aboriginal police forces generally have full powers to enforce the *Criminal Code* and federal and provincial statutes as well as Aboriginal band bylaws on reserve lands (Statistics Canada, 2003).

### ***Overview of Policing in the Province of British Columbia***

In British Columbia, the *Police Act* and *Municipal Act* state that, when a municipality reaches 5,000 in population, it must assume responsibility for its own police services. There are eleven municipalities with their own “independent” municipal police force within the province of B.C. (e.g. Vancouver, Victoria). In 2002, roughly one third of the province’s population were policed by the eleven independent municipal police forces (approx. one million people). Approximately two thousand sworn municipal police officers are entrusted with the task of policing within these eleven municipalities. Municipal and native police personnel are trained at the Justice Institute of British Columbia - Police Academy, located in the city of New Westminster, B.C. The cost of policing in these municipalities is primarily borne by the local taxpayers (Summary Statistics, 2003).

In 2002, there were fifty-nine municipalities that contracted for R.C.M.P. municipal police services. Under the terms of the agreement in place, the cost of policing these municipalities is shared between the municipality and the federal government. Approximately two thousand and seven hundred sworn R.C.M.P. officers are entrusted with the task of policing these fifty-nine municipalities. In addition, roughly one thousand and seven hundred R.C.M.P. officers provide policing as the provincial force. Finally, an additional nine hundred R.C.M.P. officers serve as the federal force within the province of B.C. (Summary Statistics, 2003).

In total, roughly five thousand and three hundred sworn R.C.M.P. officers, in one form or another, provide policing within the province. These federally employed and trained officers provide police services to roughly three million people within British Columbia (Summary Statistics, 2003). The initial training of R.C.M.P. personnel occurs at ‘Depot

Division' located in Regina, Saskatchewan. Additional training of in-service R.C.M.P. personnel, stationed within the province of B.C., occurs at the Pacific Region Training Centre located in Chilliwack, B.C.

In 2002, a total of 7,457 police officers (both municipal and R.C.M.P.) provided policing services within the province compared with a total of 6,579 police officers in 1992 (Summary Statistics, 2003). The increase in police personnel reflects a growth in population.

The crime rate is defined as the number of recorded *Criminal Code* offences for every 1,000 population (excluding traffic). It is seen as an accurate measure of crime trends as it takes into account population growth. In 1984 and 1985, the crime rate within British Columbia was relatively constant at roughly 128 crimes per 1,000 population but by 1991, the crime rate had increased substantially to 152 offences per 1,000 population. However, for the past ten years the crime rate in British Columbia has been on a downward trend with the 2002 crime rate recorded at 116 per 1,000 population (Summary Statistics, 2003).

Violent crimes or crimes against persons has also decreased over the last ten years within British Columbia. In 1993, 15.1 violent crimes occurred for every 1,000 persons; however, in 2002, this figure decreased to roughly 12 violent crimes for every 1,000 persons. These crimes of violence include homicide, assault, sexual assault, robbery and abduction (Summary Statistics, 2003).

Finally, it should be noted that British Columbia's crime rate is always higher than the national average, and is higher than other provinces. Rates of reported *Criminal Code* offences tend to increase in Canada from the eastern provinces to the western provinces. For example, in the year 2002, the eastern city of St. John's, Newfoundland recorded a

crime rate of 6,869 *Criminal Code* incidents (excluding traffic) per 100,000 population. In the same year, the western city of Vancouver, British Columbia recorded a crime rate of 10,993 *Criminal Code* incidents per 100,000 population (Statistics Canada, 2003). There is no satisfactory explanation for this phenomenon (Summary Statistics, 2003). However, it is within this setting that police personnel within British Columbia conduct their day-to-day duties, including the use of force.

## **Overview of the Structure of Policing in the United States**

In the United States there are over 17,000 separate police agencies and a wide variety of governmental agencies that have police powers (e.g. United States Postal Service). Together these various law enforcement agencies employ roughly 700,000 sworn law enforcement officers serving approximately 280 million people (U.C.R., 2002).

Although the Tenth Amendment to the United States Constitution reserves police powers for the individual states, law enforcement agencies have evolved at the local, state and federal levels, each having unique operational responsibilities. In this regard, Cole (1987) notes:

As a consequence of the bargain worked out at the Constitutional Convention, the general police power was not delegated to the federal government. No centralized national police force with broad enforcement powers may be established in the United States. It is true that the national government has police agencies such as the FBI and the Secret Service, but they are authorized to enforce only those laws prescribed under the powers granted to Congress. Because Congress has the power to coin money, it also has authority to detect and apprehend counterfeiters, a function performed by the Secret Service of the Treasury Department. The FBI, part of the Department of Justice, is responsible for the investigation of all violations of federal laws, with the exception if those assigned by Congress to other departments. The FBI has jurisdiction over fewer than 200 criminal matters, including offences such as kidnapping, extortion, interstate transportation of stolen motor vehicles, and treason.

For the most part, law enforcement in the U.S. is a function of state and local agencies. The U.S. Constitution reserves general police powers to individual states. By act of the U.S. Congress, Federal offences include only offences against the U.S. Government and, against or by its employees while engaged in their official duties. In addition, Federal offences include those offences that involve the crossing of state lines or an interference with interstate commerce (U.S. Census Bureau, 2000:199).

There are 52 separate criminal law jurisdictions in the United States. Of these 52 jurisdictions one exists in each of the 50 states, one in the District of Columbia and one represents the Federal jurisdiction. Each of these jurisdictions has their own criminal law and procedure as well as their own law enforcement agencies. Although the systems of law enforcement among the 50 states are quite similar, there are frequently substantial differences in the penalties for like offences (Gaines, 1994).

In addition, a given jurisdiction in the U.S. may be policed by several law enforcement agencies: a city police department, a sheriff's department, a state police organization and, several federal agencies (e.g., the FBI, the Drug Enforcement Administration and the Bureau of Alcohol, Tobacco and Firearms).

There are roughly 60 different federal police agencies however the vast majority of federal law enforcement responsibilities reside with the Justice Department (FBI, DEA) and the Treasury Department (ATF). For example, the FBI operates 59 field offices throughout the United States having investigative priorities that include white-collar crime, political crime and foreign espionage. In addition, the FBI is responsible for the Uniform Crime Reporting (UCR) system that collects national statistics on crime, criminals and criminal justice agencies (U.C.R., 2002)



In addition to federal police agencies, each state operates their own law enforcement agency that may include a state police or a state highway patrol agency. Historically, state police agencies were created for a variety of reasons that included the need to provide law enforcement in rural or undeveloped areas, the need to investigate criminal activities occurring outside of city or county jurisdictions and, to provide assistance to local police agencies if need be (U.S. Department of Justice, 2003).

Finally, there are local police agencies in the United States. These local police agencies include city, municipal, college, university and county agencies. County police departments include sheriff's departments and county police agencies. Also noteworthy is that as of 2000, tribal governments in the U.S. operated a total of 171 local police departments. Combined, these local police agencies employ the largest number of police officers in the U.S. and account for the vast majority of police services provided. As of June 2000, local police departments employed roughly 441,000 sworn police personnel (U.S. Department of Justice, 2003).

In terms of geographic location, cities in the Northeast had the highest ratio of sworn police officers to population with 2.7 officers for every 1,000 persons. The south followed with 2.6 officers for every 1,000 inhabitants and the Midwest had a rate of 2.2 officers. The West had a rate of 1.7 officers per 1,000 inhabitants (U.C.R., 2002).

The largest municipal police department in the United States is the New York City Police Department (NYPD). The NYPD has more than 40,000 full-time sworn police officers and in a 12-month period receives millions of 911 requests for service. While most of the larger local police departments in the U.S. are well known, the vast majority of local police agencies in the U.S. are small departments having less than 1,000 officers (U.C.R., 2002).

**Table 1: Sampling of Full-Time Sworn U.S. Police Officers: 1996**

State	Number of Officers	Officer per Population
California	69,134	220 per 100,000
Florida	37,395	260 per 100,000
Iowa	5,043	180 per 100,000
New York	71,221	390 per 100,000
Texas	47,767	250 per 100,000
Idaho	2,524	210 per 100,000
Oregon	6,064	190 per 100,000
Washington	9,292	170 per 100,000

### ***Overview of the Structure of Policing in the State of Washington***

For the purpose of this dissertation, the U.S. state of Washington was chosen owing to the state's proximity to the Canadian province of British Columbia thereby allowing an international comparison. The state of Washington is located in the north-west corner of the contiguous forty-eight United States between 49 and 46 degrees North Latitude, covering a land area of 66,582 square miles. It is bounded on the north by the Canadian province of British Columbia, the south by the state of Oregon, the west by the Pacific Ocean, and the east by the state of Idaho (E.B., 1995)

In the year 2002, the population of Washington State was 6,098,300 and is ranked 15<sup>th</sup> in the United States reflecting a population density of 91.6 persons per square mile. As of October 31, 2001, a total of 9,793 sworn law enforcement officers

(8,846 males and 947 females) were employed by 246 different government agencies within the State of Washington. The size of the law enforcement agencies within the state ranged from small townships employing one full-time sworn officer (e.g. Elmer City, Garfield, and Harrington) to large cities such as Seattle, employing 1,287 sworn officers. (UCR, 2001).

The Washington State Highway Patrol (WSP) is a department of state government working within the Department of Transportation. The chief of the WSP is appointed by, and serves at the will of, the state governor. The WSP has roughly 1,000 sworn law enforcement officers. The chief and other officers of the state patrol have and, may, exercise the same police powers and duties as sheriffs and peace officers, as are prescribed by law within the state. WSP maintains reciprocal agreements with local peace officers and assists local police agencies. The WSP also has the authority to cross jurisdictions within the state (League, 1999).

Within the state, a "Three Strikes You're Out" law, officially known as the *Persistent Offender Accountability Act*, became effective on December 02, 1993. Under this law, anyone who is convicted three separate times of a "most serious offence" is considered to be a "persistent offender". Persistent offenders will be sentenced to life without parole.

In addition, within Washington State there exists legislation known as the "Two Strikes You're Out" law. Effective June 6, 1996, anyone convicted two separate times of certain sex crimes or certain crimes with sexual motivation is deemed to be a "persistent offender" and will be sentenced to life without parole (League, 1999).

Finally, the *Revised Code of Washington* provides for capital punishment for aggravated murder in the first degree. Execution is either by hanging or lethal injection, depending upon the choice of the offender. Together these legislated provisions provide

severe punishments for offenders that are apprehended by law enforcement personnel and convicted of their crimes. It is within this setting that police personnel within Washington State conduct their day-to-day duties, including the use of deadly force.

### **Canada and the United States: International Comparisons**

Canada and the United States are geographically proximate, sharing similar social and economic experiences. The population of Canada is roughly 32 million within a nation comprised of 3,560,219 square miles reflecting a population of 9 individuals per square mile. In comparison, the population of the United States is roughly 280 million within a nation comprised of 3,539,227 square miles reflecting a population of 79 individuals per square mile (Statistics Canada, 2003).

In 2000, 49% of the Canadian population and American population lived in a metropolitan area with a population of 500,000 or more. Eight percent of Canadians and Americans lived in a metropolitan area with 250,000 to 499,999 residents. Both nations administer national Uniform Crime Reporting (UCR) programs that are based upon police reported data. Although there are some differences between the two programs, a recent Statistics Canada study noted that the two UCR programs could be reliably compared, with some minor modification or caveats (Statistics Canada, 2001).

As stated, there are 59,494 police officers in Canada as of June 15, 2003. Between 1975 and 1991, the number of police officers increased at about the same pace as the Canadian population, maintaining an average of around 200 police per 100,000 population. However, this rate began dropping in 1991 and in 2003 stood at 188 officers per 100,000 population (Statistics Canada, 2001).

International comparisons show that the number of police per 100,000 in Canada is almost 25% lower than the United States at 245 (2002 data) and England and Wales at 247 (2002 data). Canada and the United States had very similar rates of police officers until the late 1980's. However, while the number of police officers per capita increased in the U.S. from 1989 to 1999, Canada experienced declines from 1991 to 1998 (Statistics Canada, 2003).

In relation to incidents of crime, crime rates between Canada and the United States for the year 2000 note that the U.S. has much higher rates of violent crime, while Canada generally has higher rates of property crime. Despite differences in rates, trends in crime between the two countries have been quite similar over the past twenty years (Statistics Canada, 2001).

For example, in Canada there were 542 homicides in 2000 resulting in a national rate of 1.8 homicides per 100,000 population. In comparison, there were 15,517 homicides in the U.S. resulting in a national rate of 5.5 per 100,000 population – a figure that is roughly three times higher than Canada's. However, while the homicide rate in Canada is roughly 3 times lower than the rate in the neighbouring United States, it nonetheless remains many times higher than the homicide rates in many European countries (Statistics Canada, 2001).

Similarly, the aggravated assault rate in the United States for the year 2000 was more than double the Canadian rate. The U.S. also showed a higher rate of robbery (65% higher) than Canada and roughly 41% of the robberies in the U.S. involved a firearm, compared to 16% in Canada. This translates into 60 firearm robberies per 100,000 U.S. population, which is over four times the Canadian rate of 14 per 100,000.

Also significant is that over the past 20 years, Canada has recorded much lower rates of violent crime than rates within the United States (Statistics Canada, 2001).

### ***The Significance of Canada and U.S. Differences***

As stated in Chapter Two, the rate and extremity of crime serves as an indicator of the deadly force encounters to be expected by the police. Fyfe (1986) supported this position in his cross-sectional microanalysis of police shooting within New York City. Fyfe noted a strong correlation between the rates of police shootings and the incidence of criminal homicide. In this regard, the most recent homicide data from 2001 shows an average of 2.04 individuals per 100,000 were killed in Canada (Statistics Canada, 2001). This is compared with 9.03 individuals per 100,000 individuals killed during 1998 in the United States of America (Sourcebook, 2000).

Matulia (1985) adds that *community attitudes* towards crime and violence are also closely related to the rates of justifiable homicide by the police. To illustrate this point Matulia notes that the highest rate of violent crime in the United States has traditionally been in the southern states. Matulia also notes that the possession of handguns are the most common in this area as well as the fact that southern states account for the highest percentage of officers killed and the highest percentage of justifiable homicide by the police. In essence, it is argued that the social, cultural and historical forces of a geographic area serve to influence and direct the associated levels of violence.

In this regard, one of the reasons most widely cited in the differing levels of homicide between the Canada and the U.S. is in the availability of handguns. While firearms are relatively common place in both nations, Canada has recently embarked

upon a policy of strict gun control. Also significant is that while rifles and shotguns are widely available in rural Canada and, in the United States, handguns are strictly controlled within Canada and are considered “restricted weapons” (Criminal Code, 2003).

In summary, the reason for the wide disparity in crimes associated with violence between the two neighbouring nations is varied and complex. While there are stark differences in violent crime rates between the two neighbouring nations, it is important to note that in many other areas of comparison both nations are very similar. Both Canada and the United States reflect nations founded upon democratic principles and high qualities of life. Both nations enjoy a GNP that is one of the highest in the world.

### **Reporting Incidents of Police Use of Deadly Force: Canada**

In Canada, the Health Statistics Division of Statistics Canada compiles and records information pertaining to deaths occurring within the nation. This information is forwarded to Statistics Canada from provincial and territorial Vital Statistic Registrars. It is within this framework that these government agencies are also tasked with the responsibility of gathering and reporting data pertaining to deaths attributed to the police use of deadly force. In this regard, Statistics Canada utilizes the World Health Organization’s International Statistical Classification of Diseases and Related Health Problems to record the police use of deadly force under the code category of “Y35 – Legal Intervention” (Statistics Canada, 2003).

Within the Statistics Canada publication “Causes of Death”, the federal agency relies upon the attending physician, medical examiner or coroner to accurately record on the medical certificate the cause of death. This information is then gathered by

provincial and territorial Vital Statistic Registrars who, in turn, forward the aggregate data to Statistics Canada. *This is the only known published document within the nation to provide some account of the police use of deadly force within Canada.*

Unfortunately, Canadian statistics pertaining to the police use of deadly force are difficult to locate within the Statistics Canada publication and additionally the aggregate statistics are typically *inaccurate*. *Although roughly ten fatal police shootings occur each year within the nation, Statistics Canada will typically significantly under report this number.* For example, in the year 1993, the Statistics Canada publication entitled “Causes of Death 1993” states that 5 deaths occurred within the nation that were attributed to “injury due to legal intervention by firearms” (Statistics Canada, 1995).

Specifically, the 1995 Statistics Canada publication records that, in the year 1993, “0” deaths occurred within the province of Newfoundland and that “0” deaths occurred within the province of Ontario. However, the present study has revealed that, in fact, one individual was shot and killed by police within the province of Newfoundland during 1993. In addition, two individuals were shot and killed by police within the province of Ontario during 1993. *These factors were not recorded within the Statistics Canada publication.*

It is also significant to note that the Statistics Canada definition of death by legal intervention includes “deaths due to injuries inflicted by the police or other law enforcing agents, including military on duty, in the course of arresting or attempting to arrest lawbreakers, suppressing disturbances, maintaining order, and other legal action; legal execution” (Statistics Canada, 2003). *This definition is well beyond the parameters of the police use of deadly force further emphasizing the significant under reporting of fatal police shootings by Statistics Canada.*



Finally, it is interesting to note that within Statistics Canada annual publication, entitled "Homicide In Canada", the category known as "Occupations At Risk" reports on information pertaining to the victim's death and their associated profession. Within this category are recorded victims who were killed, partly or entirely, as a consequence of their profession. In the 2003 publication, Statistics Canada states, that in a period of roughly 40 years, a total of 118 police officers were killed on the job and that, in the year 2002, one officer was the victim of a homicide. Statistics Canada adds that despite the obvious dangers inherent in police work, the number of police officers murdered in Canada, in the line of duty, is low (Statistics Canada, 2003).

### ***Reporting Incidents of Police Shootings in B.C. and Ontario***

In the province of British Columbia, Police Services (formerly the B.C. Police Commission) records all instances in which a municipal police firearm was discharged by a police officer. In many instances, there is also a brief narrative report outlining the circumstances of the shooting incident. In addition, Police Services also records the instances in which a member of the Royal Canadian Mounted Police discharges his/her firearm within the province of British Columbia. This information is contained with a document entitled "Annual Report On Shots Fired By Police".

In the province of Ontario, the civilian Special Investigations Unit (SIU) records all instances in which an individual within the province was killed or injured through the use of police firearms. This information is disseminated to the public by way of a document entitled "SIU Occurrence Chart" that is published on the SIU web site and within an annual SIU report. The occurrence chart provides aggregate numbers of occurrences

that include firearm deaths and firearm injuries and, the number of cases in which charges laid against police personnel.

Unlike the B.C. Police Services, the role of the SIU in Ontario is to conduct professional and independent investigations into incidents involving police activities that have resulted in serious injury, sexual assault, or death. Ontario is the only Canadian province with an independent civilian agency that has the power and authority to investigate and charge police officers with criminal offences. The jurisdiction of the Unit includes all municipal, regional and provincial police services across Ontario, comprising 65 police services and approximately 21, 600 police officers (SIU, 2003).

In addition to the document entitled "SIU Occurrence Chart", the Unit also maintains a confidential database of police shooting intake forms that provide a brief outline of each shooting event. For the purpose of this dissertation, the SIU provided access to this confidential database. The detailed information obtained from Police Services and the SIU was entered upon S.P.S.S. and are discussed further in this chapter.

Importantly, the Police Services records pertaining to shots fired in B.C, and the Ontario SIU police shooting intake database, document all occurrences pertaining to the discharge of a police firearm, outside of training practice. By collecting this information it was possible to ascertain those incidents in which an officer levelled his/her firearm at an individual and fired it with intent to kill, regardless of whether the individual was actually hit by the bullet. This important piece of information is easily missed as often research is based upon those reported incidents of death or wounding. However, equally important are those instances in which deadly force was contemplated and exercised but for an act of God, or poor marksmanship, did not occur.

### ***Office of the Coroner – Medical Examiner***

A key source utilized to gather information for this dissertation was provided within those files held by the Coroner. In most Canadian provinces, the Coroner's office is legislated to conduct an inquest into all deaths resulting from, or related to, a police action. Typically, under the category "type of death," the Coroner's office maintains a database regarding those deaths that occur within the province as a result of a police shooting.

For example, section 9(1)(a) of the British Columbia *Coroner's Act* states that the Coroner will conduct an investigation into any death occurring as a result of "violence, misadventure, negligence, misconduct, malpractice or suicide." Section 9(3) additionally notes that a Coroner's investigation will commence when any death occurs while a person is "detained by or in the actual custody of a peace officer." Further, the Coroner's office maintains an internal policy to hold an inquest into all deaths that result from a police shooting (B.C.C.A., 1993).

Governed by both policy and legislation, a provincial Coroner's office will typically conduct an independent public review into all police shooting incidents that result in death. The Coroner's office controls and conducts the investigation into the police shooting, independently of the police agency. In addition, a Coroner's Inquest serves as an independent public forum to examine and comment on police shootings. Typically, five jurors are selected from the public voters list to hear the information presented and ultimately to submit their findings and recommendations. In B.C., the Coroner's comments and analysis of the police shooting are documented within a final report known as the *Verdict-at-Coroner's-Inquest*. Included within this report are a narrative account of the police shooting, the independent investigation and, significantly, the

recommendations of the jurors. The investigation and subsequent findings contained within the *Verdict-at-Coroner's-Inquest* reports provide both a detailed and impartial account of a police shooting. The recommendations reached provide a lay commentary on how such incidents of violent death can be reduced in the future.

However, unlike a criminal court, it is important to distinguish that a coroner's inquest simply serves as a fact-finding exercise in determining the cause of death. It is not a fault-finding process. Therefore, the recommendations and conclusions reached by a coroner inquest must be viewed with caution. Notwithstanding these caveats, the database and findings maintained by the Coroner's office remain to be the most comprehensive and independent source of information regarding police shootings in Canada.

## **Reporting Incidents of Police Use of Deadly Force: United States**

In the U.S., the major sources of crime reported data are published yearly by the Bureau of Justice Statistics (BJS), the FBI, and the Administrative Office of the U.S. Courts. BJS issues several reports that include the *Sourcebook of Criminal Justice Statistics*, *Criminal Victimization in the United States* and the annual *Expenditure and Employment Data for the Criminal Justice System*. The reporting of the police use of deadly force in part reflects a provision in the 1994 *Crime Control Act* requiring the Attorney General to collect the data and publish an annual report pertaining to statistics on police shootings.

The FBI's major annual report entitled *Crime in the United States* presents data on reported crimes gathered from state and local law enforcement agencies. The FBI through its Uniform Crime Reporting Program (UCR) provides this information. In

preparing this report, the FBI receives monthly and annual reports from law enforcement agencies throughout the United States with the representation of roughly 90 percent of the national population (BJS, 2001).

For example, during each month city police, county sheriffs and state police agencies file reports on the number of index offences that become known to them. In summarizing the crime data, the FBI depends primarily on the adherence to the established standards of reporting for statistical accuracy. (U.S. Census Bureau, 2000:200)

One of the FBI Crime Index offences that are recorded includes the category of Murder and non-negligent manslaughter. This information is based upon police investigations, as opposed to the determination of a medical examiner or judicial body and includes wilful felonious homicides. However, this data base excludes attempts and assaults to kill, deaths caused by negligence, suicides, accidental deaths, and justifiable homicides (BJS, 2001).

In the United States, when a police officer deliberately kills an individual, a determination is made by the police agency as to whether the homicide occurred in the line of duty and, whether the homicide was justified to prevent imminent death or serious bodily injury to the police officer or another person. If an investigation determines that the homicide did occur in the line of duty and, that circumstances warranted lethal force by the police officer, then a record of justifiable homicide is to be *voluntarily* sent by the investigating agency to the FBI in Washington, D.C. (BJS, 2001)

This information received by the FBI is forwarded to the U.S. Department of Justice – Bureau of Justice statistics that compile and maintain a national database on the “justifiable homicides” that occur within the U.S. In this regard, the killings by police

are referred to as “justifiable homicides” and the persons who kill police are referred to as “felons” – terminology utilized by U.S. police agencies. The *rational* for the use of the term “felons” for those individuals killed by police is based upon the perspective that the deceased was involved in a violent felony at the time of police intervention or, was perceived to be involved in a violent felony at the time, ultimately resulting in the police use of deadly force.

According to the FBI national data on justifiable homicides by police, during the period from 1976 to 1998 the following data has been recorded:

- 8,758 felons were justifiably killed by police in the United States,
- On average, 373 felons were justifiably killed by police each year,
- 98% of the felons justifiably killed by police were males.
- The race of 56% of the individuals justifiably killed was recorded as “white”.
- The race of 42% of the individuals justifiably killed was recorded as “black”. In 2% of the remaining incidents the race was recorded as “other”.

(Bureau of Justice Statistics, 2001)

The police-use-of-deadly-force information compiled by the U.S. Department of Justice – Bureau of Justice is aggregate in nature, lacking specific information, and is therefore limited. Important research information such as the specific characteristics of the shooting incident, the name of the police agency and the final determination of the incident are not included with this document.

In this regard, this dissertation has attempted to address the inherent weakness of the aggregate data reported by the Bureau of Justice Statistics by making direct contact with specific U.S. police agencies in an attempt to obtain detailed information of a police shooting incident. In addition, U.S. police officers who have been involved in a

shooting incident are interviewed (n=10). Finally, inmates who have been in a shooting encounter with U.S. police personnel are also interviewed (n=4). The purpose of this procedure is to obtain information that is qualitative in nature, thereby providing descriptive characteristics of a police shooting incident.

### **Canada: Methodology**

Owing to the limited number of police agencies within Canada, it was possible to obtain police shooting data from a variety of sources that included the Office of the Coroner / Chief Medical Examiner, the police agencies themselves, and, in a small number of cases, media reports. In the province of Ontario, this data was supplemented with official police shooting data provided by the Special Investigations Unit. Unfortunately, several of the records pertaining to police shootings in Ontario during the 1980's were not kept by the Office of the Coroner thereby limiting the findings of this research. In the province of British Columbia, this data was supplemented with official police shooting data provided by the B.C. Police Services / Commission.

In addition, police agencies were contacted directly and requests were made to provide data in relation to the police shootings that had occurred within their jurisdiction; both fatal and non-fatal. All of the police shooting information that was provided by these various sources was analyzed within the Statistical Program for the Social Sciences (SPSS). In only three instances, did police agencies within Canada decline to officially participate in this national research project. The three police agencies declining participation were the Montréal Urban Community Police Service (MUC) also known as the Service De Police De La Communaute Urbaine De Montréal (SPCUM), the Sûreté

du Québec (SQ) (the Québec Provincial Police) and the Royal Canadian Mounted Police (RCMP).

### ***The Montréal Police - SPCUM***

For the purpose of this research project, personal attendance was made to the Service De Police De La Communaute Urbaine De Montréal (SPCUM) Headquarters located in Montréal, Québec. A request for police shooting data was made and a written response was provided by the Service De Police De La Communaute Urbaine De Montréal (SPCUM) intimating that they did not keep information pertaining to police shootings and that it was suggested that Statistics Canada be contacted. This is discussed further in this chapter. As a result, a “police source” within the SPCUM was contacted and provided written documentation pertaining to police shootings within the city of Montréal. This individual was authorized to release the police shooting information for research purposes.

### ***The Québec Provincial Police - SQ***

For the purpose of this research project, personal attendance was made to the Sûreté du Québec (SQ), Headquarters located in Montréal, Québec. A request for police shooting data was made at the time. When no information was received a “police source” within the Sûreté du Québec was contacted and provided information pertaining to fatal police shootings by the SQ. This individual was authorized to release the police shooting information for research purposes.



### ***The Royal Canadian Mounted Police***

For the purpose of this research project, several official requests for access to police shooting data were made to the RCMP. Written requests and phone calls were made to the RCMP Headquarters in Ottawa, also to “E” Division Headquarters in Vancouver and, to the Commissioner of the RCMP himself. In response to the various requests for RCMP shooting data, a variety of replies with differing answers were received from several sources within the bureaucracy of the RCMP. Based upon the responses that were received by Canada’s national police force it was apparent that the RCMP either did not maintain a police shooting data base or, the RCMP were unable to locate the data within the bureaucracy of their organization or, the RCMP did not intend to release the information for this research.

However, by way of informal contacts and “police sources” within the RCMP, information pertaining to the discharge of firearms by members of the RCMP was provided documenting incidents of fatal and non-fatal shootings from 1981 through to 1993. These individuals were authorized to release the police shooting information for research purposes. Interestingly, the documentation ended in 1993 as it was explained that “it was too difficult and not a wise move” to maintain official records of firearm discharges from a national perspective. In addition to the data that was provided, personal contact was made with serving members of the RCMP. These individuals had been involved in a fatal shooting incident and agreed to participate in this research by providing a first hand account of how and why the shooting unfolded.

As a result of the information that was received it was possible to compile an accurate record of fatal police shootings by members of the RCMP. By way of Coroner’s Inquests, interviews with individual members of the RCMP, media reports and by way of

information obtained from other government and non-government sources a detailed record of fatal shooting by members of the RCMP was tabulated and analysed.

This analysis revealed that members of the RCMP were responsible for 52 fatal shootings during a 21-year period. The majority of the shootings occurred within the western province of British Columbia (n=27). Interestingly, in two instances, one police officer killed two individuals during an encounter. In both of these instances, alcohol and domestic violence were variables contributing to the police shooting.

### **Canadian Provinces and Territories**

As stated, this dissertation utilized the Statistical Program For the Social Sciences (SPSS) for the coding and tabulation of data. *In total, 409 Canadian police shooting cases were analyzed and entered on SPSS.* The Canadian data noted that:

- 194 incidents were fatal police shootings – 47%.
- 150 incidents were non-fatal police shootings – 37%.
- 46 incidents were police shootings where no injury occurred – 11%.
- 19 incidents, a self-inflicted injury occurred upon police intervention – 5%.

The cases that were entered on SPSS reflect:

- |                    |             |
|--------------------|-------------|
| • British Columbia | n=126 cases |
| • Alberta          | n=40 cases  |
| • Saskatchewan     | n=18 cases  |
| • Manitoba         | n=42 cases  |
| • Ontario          | n=123 cases |
| • Québec           | n=35 cases  |
| • New Brunswick    | n=6 cases   |
| • Prince Edward Is | n=0 cases   |

- Nova Scotia n=11cases
- Newfoundland n=8 cases
- Yukon n=1 case
- Territories n=0 cases

### ***On-Duty Police Suicides***

During the review of the 409 Canadian police files, it was noted that in a very small number of cases an “on-duty” police officer had committed suicide by using his issued service firearm. These incidents were typically recorded by the government agency as a police firearm discharge that had resulted in death. The cause of death was attributed to suicide. *These cases have not been included within this dissertation.*

### ***The Province of British Columbia (n=126)***

- 45 Fatal Shootings
- 59 Non Fatal Shootings
- 20 Non Injury Shootings
- 2 Acts of Self-Inflicted Injury During Police Intervention

In the province of British Columbia, an analysis of police shooting incidents was conducted during the period from January 01, 1980 through to December 31<sup>st</sup>, 2000. *In total, 126 police shooting cases in the province of British Columbia were analyzed and recorded on SPSS.*

The vast majority of the data were obtained via the B.C. Coroner’s Office, the B.C. Police Services / Commission, official police records and interviews with police personnel. In a few instances, this information was supplemented with media reports. In one instance, the estranged wife of an individual that was shot and killed by the police

initiated contact, requesting an interview as she wished to explain her late husband's death at the hands of the police.

The police shooting data represent two main sources; the 11 municipal police agencies in the province and, the RCMP in their role as a Federal police force, a contracted provincial police force and, as a number of contracted municipal police forces within the province. An analysis of the data pertaining to police shootings within the province of British Columbia revealed that:

- The information filed by official RCMP sources was vague and incorrect. For example, official RCMP sources in 1990 reported that one fatal shooting incident had occurred. However, upon checking with the Coroner's office and media sources, it was revealed that members of the RCMP were responsible for three fatal shootings that occurred within the province in 1990.
- In some instances, non-fatal police shooting data were not recorded by official sources such as the B.C. Police Services / Commission. In these instances, records kept by the local police agency or, documentation made by media sources recorded the shooting incident. As a result, the number of non-fatal shootings is believed to be roughly 15 to 25 % higher than the "official" recorded number that government agencies have on file. In relation to this research, the number of non-fatal police shootings recorded is believed to be less than the actual number that occurred. However, the number of fatal police shootings recorded and, represented in this dissertation, is believed to be accurate due to the high visibility and level of accountability associated with a police killing.
- Of the 45 recorded incidents of police use of deadly force in the Province of B.C., 13 incidents have occurred in the City of Vancouver. Interestingly, roughly half of the fatal police shootings within the City of Vancouver involved mental illness or an act of suicide on the part of the deceased, significantly contributing to the outcome of the event. In municipalities served by municipal police agencies in the province of B.C., there have been five fatal shooting incidents: Delta (1982 – Robbery incident), Saanich (1984 – Domestic / Suicide), New Westminster (1990 – Hostage Incident), Port Moody (1990 – Police Personnel Disarmed), West Vancouver (1992 – Perceived Rifle). In both the Saanich and New Westminster fatal shootings, mental illness or suicide on the part of the deceased are believed to be a significant contributing factor to the outcome of the event.

- The remaining 27 fatal shooting incidents have occurred in areas policed by the R.C.M.P. with many of these shootings occurring in remote rural areas within the province. However, within the lower mainland, there have been fatal police shootings in Chilliwack, Maple Ridge, Coquitlam, Langley, Surrey, Burnaby and one incident involving the R.C.M.P. Drug Section within the City of Vancouver.

### ***The Territories (n=1)***

- 1 Fatal Shooting

In the Yukon and northern Territories of Canada, an analysis of police shooting incidents was conducted during the period from January 01, 1980 through to December 31<sup>st</sup>, 2000. *In total, a single police shooting case from the Yukon Territory was analyzed and recorded on SPSS.* The single fatal shooting incident occurred during the fall of 1998. Upon speaking with the Chief Coroner for the Yukon, it was stated that the incident is the only known fatal shooting to have occurred in recent memory. The information was obtained from the Chief Coroner of the Yukon. *The federal RCMP conducts all of the policing in the Territories. Although fatal and non-fatal shooting data was officially requested, the RCMP did not provide any information.*

### ***The Province of Alberta (n=40)***

- 24 Fatal Shootings
- 13 Non Fatal Shootings
- 2 Non Injury Shootings
- 1 Act of Self Inflicted Injury During Police Intervention

In the province of Alberta, an analysis of police shooting incidents was conducted during the period from January 01, 1980 through to December 31<sup>st</sup>, 2001. *In total, 40 police shooting cases in the province of Alberta were analyzed and recorded on SPSS.*

The vast majority of the data was obtained via the Alberta Coroner's Office, the Calgary Police Service, the Edmonton Police Service, the Lethbridge Police Service and, by interviews with police personnel. In a few instances, this information was supplemented with media reports.

The police shooting data represent four main sources:

- The Calgary Police Service  
– 6 Fatal and 3 Non-Fatal Incidents
- The Edmonton Police Service  
– 7 Fatal and 8 Non-Fatal Incidents
- The Lethbridge Police Service  
– 4 Fatal and 2 Non-Fatal Incidents
- The RCMP  
– 7 Fatal and 3 Non-Fatal Incidents

(Note: The RCMP provides provincial policing within the province and contract policing to smaller municipalities within the province of Alberta.)

An analysis of the data pertaining to police shootings within the province of Alberta revealed that:

- In one instance, an individual suffering from Schizophrenia was killed when police applied an improper "lateral neck restraint", as well as a "groin pull" and a "hair pull" on a combative individual that the officers were attempting to arrest. *A police firearm was not utilized during this police killing. As a result, this case was not recorded within the data.*

### ***The Province of Saskatchewan (n=18)***

- 13 Fatal Shootings
- 3 Non Fatal Shootings
- 2 Acts of Self Inflicted Injury During Police Intervention

In the province of Saskatchewan, an analysis of police shooting incidents was conducted during the period from January 01, 1980 through to May 30<sup>th</sup>, 2001. *In total,*

*18 police shooting cases in the province of Saskatchewan were analyzed and recorded on SPSS.* The data were supplied by a variety of sources that included the Saskatchewan Coroner's Office, the Regina Police Service, the Saskatoon Police Service, the Prince Albert Police Service and, interviews with police personnel. In a few instances information was supplemented with media reports.

The police shooting data represent four main sources:

- The Regina Police Service  
– 4 Fatal and 1 Suicide During Police Intervention
- The Saskatoon Police Service  
– 2 Fatal and 2 Non-Fatal Incidents
- The Prince Albert Police Service  
– 1 Fatal Incident
- The RCMP  
– 6 Fatal and 1 Non-Fatal Incident  
and 1 Suicide During Police Intervention.

(Note: The RCMP provides provincial policing within the province and contract policing to smaller municipalities within the province of Saskatchewan.)

### ***The Province of Manitoba (n=42)***

- 10 Fatal Shootings
- 15 Non Fatal Shootings
- 17 Non Injury Shootings

In the province of Manitoba, an analysis of police shooting incidents was conducted during the period from January 01, 1981 through to December 31st, 2000. *In total, 42 police shooting cases in the province of Manitoba were analyzed and recorded on SPSS.*

The vast majority of the data were obtained via the Winnipeg Police Service and the Brandon Police Service with some additional information provided by the Manitoba Coroner's Office. In a few instances, this information was supplemented with media reports.

The police shooting data represent three main sources:

- The Winnipeg Police Service  
– 7 Fatal and 30 Non-Fatal Incidents
- The Brandon Police Service  
– 2 Non-Fatal Incidents
- The RCMP  
– 3 Fatal Incidents

(Note: The RCMP provides provincial policing within the province and contract policing to smaller municipalities including Aboriginal Reservations within the province of Manitoba.)

### ***The Province of Ontario (n=122)***

- 59 Fatal Shootings
- 50 Non Fatal Shootings
- 2 Non Injury Shootings
- 11 Acts of Self Inflicted Injury During Police Intervention

In the province of Ontario, an analysis of police shooting incidents was conducted during the period from January 01, 1985 through to December 31st, 2000. *In total, 122 police shooting cases in the province of Ontario were analyzed and recorded on SPSS.* The vast majority of the data were obtained via the Toronto Police Service, The Ottawa Police Service, the Ontario Provincial Police Service, the Ontario Coroner's Office and the Special Investigations Unit of Ontario (SIU). In a few instances this information was supplemented with media reports.

The police shooting data are representative of the noted sources:



- The Toronto Police Service,
- The Ontario Provincial Police,
- The Ottawa Police Service, and
- Several smaller police agencies within the province of Ontario
- The Ontario Provincial Police, the Ottawa Police and the Toronto Metropolitan Police participated in this research, supplying confidential information pertaining to both fatal and non-fatal police shootings.
- A total of 49 documented cases were supplied by the SIU. The Ontario Coroner's office supplied supporting documentation. In addition, the Ontario Coroner's office supplied documentation relating to 17 fatal shootings that occurred from January 1985 through to May 1990. Interestingly, the Verdicts of a Coroner Inquest are made public: however the results of Coroner investigations are not typically disclosed to the public.

### ***The Province of Québec (n=35)***

- 26 Fatal Shootings
- 5 Non-Fatal Shootings
- 3 Non-Injury Shootings
- 1 Act of Self Inflicted Injury During Police Intervention

In the province of Québec, an analysis of police shooting incidents was conducted during the period from July 01, 1985 through to December 31st, 1999. *In total, 35 police shooting cases in the province of Québec were analyzed and recorded on SPSS.*

The majority of the data was obtained via the Québec Coroner's Office with some additional information provided by the Québec City Police, two police sources within the Service De Police De La Communaute Urbaine De Montréal (SPCUM) and one police source with the Sûreté du Québec (SQ). In addition, a media source within the English language newspaper, "The Gazette", provided details of Québec police shootings that

were recorded on the data base of the newspaper. Finally, this information was supplemented with the interview of a serving Québec police officer.

Unique to the province of Québec is the fact that the majority of the information provided by official government sources were written in the French language. As a result, it was necessary to have these documents translated from French into English. Owing to the technical nature of the documents, a member of the Royal Canadian Mounted Police, Burnaby Detachment, and a member of the Vancouver Police Department provided translation of the French documents. Both of these individuals are “bi-lingual” police officers, having been born and raised in the province of Québec and relocated to western Canada.

The police shooting data represent four main sources:

- The SPCUM – Montréal Urban Police
- The Québec City Police Service
- The Sûreté du Québec – Québec Provincial Police
- Smaller municipal police agencies within the province of Québec

An analysis of the data pertaining to police shootings within the province of Québec revealed that:

- Unique to the province of Québec exists a protocol that provides for members of the Sûreté du Québec to conduct investigations into police shootings that occur as a result of the actions of the SPCUM in Montréal. This agreement is reciprocal in that members of the SPCUM routinely conduct investigations into police shootings that are a result of the actions of the Sûreté du Québec.

***Methodological Issues Unique to the Province of Québec***

In the province of Québec, there are roughly 17,000 police officers serving a population of roughly 7.5 million people. However, the ratio of police to population is somewhat skewed as Québec is the only province in Canada to utilize part-time police personnel within police agencies.

Without question, one of the most challenging aspects of this dissertation was researching the issue of police shootings within the province of Québec. In addition to language, cultural and administrative differences with that of the other provinces, the police subculture within Québec proved to be equally distinct. When questioned about the police use of deadly force in Québec, one Québec police officer stated:

We don't talk about those things around here. That's a sensitive subject. I don't think you're going to find many police in Québec who want to talk about that.

Another Québec police officer stated:

It may be better for you to try the media. I don't think in Québec you will have much luck with police forces. It is something we don't talk about here...in Québec.

Enquiries and official requests to Québec police agencies, for the most part, proved to be difficult and at times fruitless. As stated, a personal visit was made to the Sûreté du Québec Police Headquarters located in Montréal. Face-to-face contact was made with Sûreté police research personnel and management, which was followed up with a formal request for access to police shooting data.

In the case of the SPCUM, a personal visit was made to the SPCUM "Use of Force Training Centre" located in Montréal. This was followed up by a written request to SPCUM Headquarters for access to police shooting data. In response, the SPCUM Assistant Director of the Operational Development Bureau wrote stating:

In the Province of Québec, there exists an agreement, set forth by the ministry of Public Security, in which any police intervention, causing death of a person being pursued or under police control, be investigated by another police service. Thus, any event concerning the Service de police de la Communaute urbaine de Montréal is investigated by the Sûreté du Québec, our provincial counterpart. The result of their investigation is forwarded to the Minister who, in turn, takes appropriate measures. In regards to your request....I am obliged to refer you to Statistics Canada....

Unfortunately, as stated previously, the information maintained by Statistics Canada is vague and inaccurate. It is important to emphasize that the police shooting data contained within this dissertation is only a very small representative of fatal, and non-fatal, police shootings within the province of Québec. Owing to a variety of factors that include language, cultural, and, administrative differences, it was not possible to obtain further data pertaining to police shootings. The information that was supplied is believed to be only a partial representation of the fatal police shootings that have occurred within the province of Québec during the period of analysis noted.

It is estimated that an accurate number of police shootings within the province of Québec, during the 21-year period from 1980 through to 2000, would be approximately 80 fatal police shootings. On average, roughly 4 fatal police shootings occur within the province of Québec each year. The Québec criminologist Jean Claude Bernheim, notes that several fatal police shootings occurred during the decade of the 1980's in his 1990 book entitled "Police Et Pouvoir D' Homicide". However the exact number is unclear. The lack of police shooting information from the province of Quebec limits the findings of this dissertation.

### ***The Province of New Brunswick (n=6)***

- 6 Fatal Shootings

In the province of New Brunswick, an analysis of police shooting incidents was conducted during the period from January 01, 1980 through to December 31st, 2000. *In total, 6 police shooting cases in the province of New Brunswick were analyzed and recorded on SPSS.* All of the data were obtained by way of the New Brunswick Coroner's Office. In two instances, this information was supplemented with police reports.

The police shooting data represent three main sources:

- The Saint John Police Department  
– 1 Fatal Incident
- The St. Stephen Police Department  
– 1 Fatal Incident
- The RCMP  
– 4 Fatal Incidents

(Note: The RCMP provides provincial policing within the province and contract policing to smaller municipalities within the province of New Brunswick.)

### ***The Province of Nova Scotia (n=11)***

- 4 Fatal Shootings
- 3 Non-Fatal Shootings
- 2 Non-Injury Shootings
- 2 Acts of Self-Inflicted Injury During Police Intervention

In the province of Nova Scotia, an analysis of police shooting incidents was conducted during the period from July 01, 1986 through to December 31, 2001. *In total,*

*11 police shooting cases in the province of Nova Scotia were analyzed and recorded on SPSS.*

The majority of the data were obtained from the Halifax Regional Police Service, the Nova Scotia Medical Examiner, and by way of a records search via the Halifax Herald news service. Additional information was provided during interviews with police personnel. In a few instances, this information was supplemented with additional media reports.

The police shooting data represent two main sources:

- The Halifax Regional Police Service
  - 4 Fatal and 2 Non-Fatal Incidents
  - 2 Non-Injury Shootings
- The RCMP
  - 1 Non-Fatal Incident and 2 Suicide During Police Intervention

(Note: The RCMP provides provincial policing within the province and contract policing to smaller municipalities within the province of Nova Scotia.)

### ***The Province of Newfoundland (n=8)***

- 6 Fatal Shootings
- 2 Non-Fatal Shootings

In the province of Newfoundland, an analysis of police shooting incidents was conducted during the period from January 01, 1981 through to December 31st, 2000. *In total, 8 police shooting cases in the province of Newfoundland were analyzed and recorded on SPSS.*

The majority of the data was obtained from the Director of Public Prosecutions who is responsible for the investigation of fatalities within the province of Newfoundland

by virtue of Bill 36. In addition to this information, the Royal Newfoundland Constabulary provided documentation in three shooting incidents.

The police shooting data represent two main sources:

- The Royal Newfoundland Constabulary  
– 1 Fatal and 2 Non-Fatal Incident
- The RCMP  
– 5 Fatal Incidents

(Note: The RCMP provides provincial policing within the province and contract policing to smaller municipalities as does the Royal Newfoundland Constabulary.)

### ***Participation of Canadian Police Agencies***

All of Canada's major police agencies officially participated in this dissertation with the notable exception of the Montréal Urban Police, the Québec Provincial Police and, Royal Canadian Mounted Police. Although these three major Canadian Police agencies did not "officially" participate in this research, nonetheless police shooting data pertaining to these agencies were obtained by "other authorized means".

For the purpose of this research project, the researcher personally attended several police agencies within Canada, obtaining data and interviewing police personnel.

These police agencies included:

- Victoria Police Department
- Saanich Police Department
- Vancouver Police Department
- Royal Canadian Mounted Police – "E" Division
- Abbotsford Police Department
- Royal Canadian Mounted Police Detachments In BC
- Edmonton Police Service
- Calgary Police Service

- Lethbridge Police Service
- Winnipeg Police Service
- Ontario Police College – Alymer
- Windsor Police Service
- Special Investigations Unit – Toronto
- Toronto Metropolitan Police Service
- Ontario Provincial Police Headquarters
- York Regional Police
- Durham Regional Police
- Ottawa Police Service
- SPCUM – Montréal Urban Police
- Québec City Police Service
- Sûreté du Québec – Québec Provincial Police H.Q. - Montréal
- St. Foye Police Department - Québec
- Québec City Police
- Royal Newfoundland Constabulary – St. John's

In some instances, these police agencies did not provide written correspondence in relation to their participation in this research. However, upon attendance at the actual police agency, the researcher was welcomed and physically handed over official police shooting data. For example, in one instance, the discussion for access to police shooting data occurred over the phone. It was stated, "When you arrive, you will be provided with what you're asking for." As a result, the researcher attended the police agency and met with the official police contact. After initial greetings were concluded, the police contact requested that the researcher produce police identification, a "badge". Upon producing the identification, the researcher was handed a thick folder of official police shooting information that had been copied for the disposal of the researcher.



## **United States of America: Methodology**

As stated, the Bureau of Justice provides a publication pertaining to the police use of deadly force in the United States. This annual report provides aggregate data in regards to the vast majority of fatal police shootings that occur within the nation. In the U.S. there are approximately 400 fatal police shootings, each year. In addition, there are literally thousands of non-fatal police shootings incidents each year (BJS, 2000).

This dissertation attempted to address the inherent weakness of the aggregate data reported by the Bureau of Justice Statistics by making direct contact with specific U.S. police agencies and obtaining detailed information of a police shooting incident. In addition, a selected number of American police officers, who had been involved in a police shooting incident, were interviewed. For the purpose of this dissertation, only a small selected non-representative sample of United States police shooting data was obtained and analyzed (n=434). The majority of U.S. police shooting data was obtained directly from police agencies.

A total of 50 requests were made to various police agencies located throughout the U.S. (with the exception of Washington state) in an attempt to obtain access to confidential information pertaining to police shooting incidents. The 50 police agencies were selected at random by way of the Internet. A search of the Internet was conducted to obtain postal mailing addresses of police agencies within various states so that a written request for information could be forwarded.

The police agencies that were identified tended to be located within major cities in 40 different states. Of the 50 requests that were mailed, a total of 15 police agencies responded to the requests by providing either detailed or aggregate police shooting data.

The 15 participating U.S. police agencies include:

- Bangor, Maine
- Boston, Massachusetts
- Charlotte, North Carolina
- Honolulu, Hawaii
- Las Vegas, Nevada
- Nashville, Tennessee
- Rapid City, South Dakota
- Savannah, Georgia
- Sacramento, California
- Salt Lake City, Utah

Significantly, in a few instances police shooting information and data were provided in a *confidential manner* from a representative within the police department or government agency that was authorized to release the information. The individual and the agency did not wish to be named in this research report. While the official investigation information has been included in this report, the name of the police department or government agency has not. For example, in one instance, the Chief of a major U.S. police agency provided a large database of police shootings. Although the material came directly from the Chief of Police it did not have a cover letter but rather a “yellow sticky” signed by the Chief secretary stating that “Chief XX asked me to forward this information to you.”

### ***Washington State: Methodology***

In addition to the 50 national requests, a total of 25 requests for police shooting information were made to various police agencies and Prosecuting Attorney Offices located within the state of Washington. As stated, this was owing to the state’s proximity and relationship with the neighbouring province of British Columbia. Of the 25 requests

that were mailed, a total of 12 law enforcement agencies responded to the requests typically by providing either detailed or aggregate police shooting data. The 12 participating Washington State law enforcement agencies include:

- Bellingham Police Department
- Clark County Sheriff's Office
- Pierce County District Attorney
- Spokane Police Department
- Tacoma Police Department
- Thurston County Sheriff's Office

In total, 75 written requests for police shooting information were made to various law enforcement agencies within the United States. The fatal and non-fatal police shooting data that was provided by these various sources was analyzed within the Statistical Program for the Social Sciences (SPSS).

In addition to the 75 written requests that were sent to U.S. law enforcement agencies, police shooting data was additionally provided by media sources, prosecuting attorneys and, individual police officers. These individuals initiated contact in relation to a police shooting that they were investigating, or were involved in. The information that these sources provided is discussed further in this chapter.

### ***Accessing Coroner and Medical Examiner's Office Data in the USA***

As stated, the best source of data pertaining to a fatal police shooting incidents in Canada and the United States is the independent investigations conducted by the Coroner or the Medical Examiner. These public agencies are independent from the police agency, thereby providing an additional review of the police shooting incident.

Ideally, this review will occur in addition to the police agency investigation of the shooting incident.

However, in the United States, the sheer size of the nation, the density of population and, the various forms of government bureaucracy's that exist further complicate this situation. Within the United States, the Coroner or Medical Examiners are typically established upon county-representation lines and vary from county to county. For example, within the state of Washington, there are 39 distinct counties, illustrating the difficulty in researching the police use of deadly force in but one of the fifty states with the United States of America. This is in stark contrast to the confederation of Canada with ten provinces and four northern territories, each with its own single Coroner's Office or government agency responsible for the review of deaths.

The complexities and bureaucratic hurdles of researching the police use of deadly force in the United States of America are delineated in the following example. In one instance, an attempt was made to conduct a review of police shootings within a major US city located in the west. The police agency of the major city had been involved in several police shootings, some of which had been controversial. An initial attempt to review the police shooting data was made by a written request to the Chief of the police agency. The Chief responded to the request by denying access to police shooting data and declining to participate in this research project.

A second attempt to review the police shooting data was made by contacting the County Medical Examiner's Office that was legislated as being responsible for the review of fatal police shootings resulting from the actions of the police agency. Unfortunately, the County Medical Examiner advised they did not maintain an aggregate database or a detailed record of police shootings within the county. The Medical Examiner's Office

further advised that when a fatal police shooting occurs, they typically maintain the sudden death information for a period of only six months. During this period, the sensitivity of the information dictates that the public cannot access it. After six months, the information is then forwarded to the state Department of Vital Statistics, as the local county did not maintain fatal police shooting information.

Upon contacting the state Department of Vital Statistics it was learned that information pertaining to fatal police shootings is not kept on a county-by-county basis but rather tabulated in a year-end, state-wide, aggregate manner. It is, therefore, impossible to trace the state-wide data back to the originating county. In addition, although this information does exist for access by the general public, it is grouped within the general category of “death by legal intervention”. This grouping serves to confound the data as the final aggregate state numbers may include shooting deaths that have occurred in correctional facilities involving prison guards. This situation illustrates the difficulties and complexities involved in researching police shootings within the United States.

### ***Washington State – Medical Examiner and Coroner’s Office***

During an interview with an investigator from a major Washington State county Medical Examiner’s office it was learned that, although individual counties have the authority to investigate fatal police shootings, they typically limit their role to assisting the involved police agency and the Prosecuting Attorney’s Office. Typically these three government agencies will work together in reviewing the fatal police shooting, providing forensic evidence and ultimately determining why the death resulted.

In Washington State, section 68.50.010 of the *Revised Code of Washington* legislates the “coroner’s jurisdiction over remains” and includes:

where the circumstances of death indicate death was caused by unnatural or unlawful means;...or where the death is caused by any violence whatsoever, or...where death apparently results from...gunshots wounds....

Section 68.50.101 of the *Revised Code of Washington* legislates who may authorize autopsies with section 68.50.105 of the Code outlining that Autopsies, post mortems – reports and records are considered confidential with the exception of:

any family member, the attending physician, the prosecuting attorney or law enforcement agencies having jurisdiction...

As a result of this situation it was not possible to obtain research information from the Medical Examiner’s Office within the state of Washington. Also significant is that within the state of Washington, the Medical Examiner or Coroner’s Office for a county does not provide an independent public review of the fatal police shooting.

### ***Summary of United States Data***

As stated, this dissertation utilized the Statistical Program for the Social Sciences (SPSS) for the coding and tabulation of data. *In total, 412 U.S. police shooting cases were analyzed and entered on SPSS.* The U.S. data noted that:

- 207 incidents were fatal police shootings – 50%.
- 155 incidents were non-fatal police shootings – 38%.
- 44 incidents were police shootings where no injury occurred – 10%.
- 6 incidents reflect a self-inflicted injury upon police intervention – 2%.

The cases that were entered on SPSS reflect:

- California n=29 cases

• Georgia	n=6 cases
• Hawaii	n=22 cases
• Idaho	n=2 cases
• Maine	n=2 cases
• Nevada	n=75 cases
• North Carolina	n=4 cases
• South Dakota	n=3 cases
• Tennessee	n=84 cases
• Texas	n=28 cases
• Oregon	n=10 cases
• Utah	n=10 cases
• Washington State	n=107 cases

### ***Additional Cases from the USA***

In addition to cases that were obtained and entered upon SPSS, this dissertation also reflects the analysis of a number of *qualitative* cases that were provided by attorneys and police officers (n=22). In these instances, the police officer involved in the fatal shooting or, the attorney representing the officers involved in the fatal shooting, initiated contact and provided an official copy of the police investigation. *The vast majority of these cases concerned specific “suicide-by-cop” incidents and, therefore, were not included with the general police shooting cases that were entered upon SPSS cases.* This was done to avoid bias in the SPSS analysis of U.S. cases.

In three instances, the police-shooting information was provided by a close relative of the individual who was shot and wounded by the police in an attempt to commit suicide at the hands of the police. The close relatives included the mother, father, and sister, of the individual who was shot by the police.

These individual cases were examined from a qualitative perspective. In all of these cases, the attorney or the police officer was of the perspective that the incident was that of a “suicide-by-cop” case. However, upon closer independent examination, many of these cases were classified as police shootings that occurred due to factors *other than* an act of suicide on the part of the deceased.

In addition to the 412 cases entered on SPSS, this dissertation also reflects a quantitative analysis of 22 police shooting incidents that have occurred in the following States:

- Arizona n=1
- California n=5
- Colorado n=1
- Connecticut n=1
- Florida n=5
- Iowa n=1
- Louisiana n=1
- Maine n=2
- Massachusetts n=1
- Missouri n=1
- Nebraska n=1
- Texas n=1
- West Virginia n=1

Of the 22 police shootings, 16 resulted in a fatality.

In total, this dissertation reflects the documentation and analysis of 434 police shootings that occurred in the United States of America during the period from 1980 through to 2002. Of these 434 police shootings, 223 of the incidents were fatal police shootings.



## The Interviewing of Police Personnel

In addition to the police shooting data that was provided, police officers in Canada (n=17) and the United States (n=10) were interviewed in relation to their involvement in a shooting incident. As stated, ethics approval for this portion of the dissertation was first obtained from Simon Fraser University. A total of twenty-seven police officers, who had faced a lethal-threat, were then interviewed. The vast majority of these officers had been involved in a fatal police shooting.

Fifteen of the twenty-seven police officers interviewed were identified during a review of police agency files pertaining to the use of deadly force. Requests for an interview were made to these individuals. The remaining twelve police officers, who were interviewed, initiated contact with the researcher stating that they were aware of this research project and expressed a desire to discuss their police shooting incidents. Prior to the interview, official police reports and documents were obtained in relation to the police officer's shooting incident. All of the interviews lasted approximately one hour with sixteen of the interviews occurring within a public restaurant or private setting. Ten of the interviews were conducted by phone.

In one instance, the individual interviewed was a former police officer who had been sentenced to prison for murder. *As a result, the interview of the ex-police officer occurred within a federal prison setting.* For the purpose of this research, this individual had shot and killed an assailant while serving as a police officer. However, a few years after the police shooting incident occurred, this individual began a life of crime that ultimately led to a conviction for murder as well as suspicion in yet another murder incident.

In Canada, police personnel employed by the following police agencies were interviewed in relation to their particular shooting incident:

- Abbotsford Police Department                      n=1
- Calgary Police Service                                n=1
- Halifax Police Service                                n=1
- Montréal Urban Police                                n=1
- Ottawa Police Service                                 n=2
- Royal Canadian Mounted Police                    n=4
- Saanich Police Department                         n=1
- Vancouver Police Department                      n=6

In the United States, police officers employed in the following states were interviewed in relation to their particular shooting incident:

- Arizona    n=1
- California    n=3
- Colorado    n=1
- Maine     n=1
- Missouri     n=1
- Mississippi     n=1
- Nebraska    n=1
- Texas     n=1

In one instance, the serving U.S. police officer was on stress leave in relation to his fatal police shooting incident. When contacted concerning this research, the police officer requested permission to attend the Vancouver area and personally meet the researcher for his interview. At his own expense, the serving U.S. officer flew to Vancouver, Canada and remained with the researcher in the Vancouver area for roughly

one week. The officer stated that the visit to Vancouver, and the discussion of his shooting incident, was “therapeutic” as it allowed him to fully express his thoughts and emotions that he had experienced as a result of his shooting.

In summary, a total of twenty-seven police officers from Canada and the United States were interviewed for this dissertation. All of the officers who were interviewed had discharged their firearm resulting in the death or wounding of a perceived assailant. During the course of each interview, six broad categories of questions were covered. These broad categories included the police officer’s background, their preparedness for the lethal-threat incident and the actual incident itself. In addition, interview discussions focused upon the events after the incident. Resulting personal effects, including critical incident stress, were discussed and noted. Finally, other issues that were unique to the officer, the life-threatening incident and or the police shooting were identified and discussed. The findings of these interviews are discussed in the chapter to follow.

### **The Interviewing of Prison Inmates**

In addition to the interviewing of police officers, prison inmates (n=52) were also interviewed concerning their involvement in an actual or potential police shooting incident. The vast majority of these individuals were identified by Correctional Service Canada who provided a list of federal prison inmates who had been convicted of firearms offences and robbery. All of the individuals listed by Correctional Service Canada were incarcerated in various federal institutions located in the eastern portion of the Fraser Valley area of British Columbia. In a smaller number of cases, the provincial Corrections Branch of B.C. provided a list of provincial prison inmates who had been convicted of firearm offences and robbery. The individuals listed by the Corrections

Branch of B.C. were incarcerated in various provincial institutions located in the Vancouver, B.C. area.

The list of information provided by Correctional Service Canada and the Corrections Branch of B.C. named the inmates who had been convicted of *Criminal Code of Canada* firearm related offences that included Section 85 “Use of Firearm During the Commission of an Indictable Offence” and, Section 344 “Robbery”. Many of these individuals were in prison for other convicted offences. However, all of the individuals listed had at one point in their lives been convicted of a firearms-related offence.

Once equipped with this information, personal contact was made with the Institutional Preventive Security Officers (I.P.S.O.) and prison guards of the institutions in attempt locate specific individuals who would fit within the research sample. These individuals proved to be invaluable as they were able to link the raw list of over 500 names with individuals who had utilized firearms in the commission of their crime and often, had been in a “shoot-out” with the police.

In the majority of the instances, the individual was in possession of a firearm during the commission of a crime often causing the police officer to perceive a lethal-threat. During the arrest procedure, police personnel typically responded to the perceived lethal-threat with their firearms drawn and pointed at the perpetrator of the crime with intent to incapacitate the immediate threat. In some instances, police personnel discharged their firearm at the suspect, at times wounding the individual.

For the purpose of this dissertation, the following occurred:

- Ethics approval for this portion of the dissertation was first obtained from Simon Fraser University. Secondly, written permission to conduct research was obtained from Correctional Service Canada and the Corrections Branch of B.C. who together provided a list of roughly 500 inmates that had been convicted of a *Criminal Code* firearms related

offence. Correctional Service Canada provided a listing of roughly 450 inmates being held in the Fraser Valley area of B.C. and the Corrections Branch of B.C. provided a listing of roughly 50 inmates being held in the lower mainland area of Vancouver. Written permission from Correctional Service Canada and the Corrections Branch of B.C. to conduct research is contained with Appendix "B".

- A total of 56 prison inmates who fit within the criteria of this research project were identified from a list of over 500 inmates. The vast majority of the inmates were being held in a federal prison. These individuals were approached and requested to participate in this dissertation. Four of the individuals who were approached declined to participate in this dissertation, three males and one female.
- A total of 52 individuals (42 males and 10 females) were interviewed and participated in the dissertation.
- The prison inmates who participated can be categorized as:
  - 37 male individuals were inmates of a federal prison – under the control and supervision of Correctional Service Canada.
  - 5 male individuals were inmates of a provincial prison – under the control and supervision of the Corrections Branch of B.C.
  - 10 female individuals were inmates of a provincial prison housing both provincial and federal female inmates – under the control and supervision of the Corrections Branch of B.C.
- The background of the prison inmates included:
  - Two of the inmates had shot and killed police officers.
  - One inmate had killed two correctional guards while in prison.
  - Four of the inmates had shot and wounded police personnel.
  - Four of the inmates had also committed extensive felony crimes in the United States of America. Two of these individuals had served prison sentences in a U.S. correctional facility.

All of the interviews lasted approximately forty-five minutes and occurred with the setting of the prison institution. In each instance, both the inmate and the custodial supervisor of the inmate provided written consent for the interview. The shooting-encounter information described by the federal and provincial inmates typically referred to crimes that occurred in Western Canada. However, in a smaller number of cases the

inmate discussed their police shooting incident(s) that had occurred in the province of Ontario. In four instances, inmates also described their police shooting incident(s) that occurred within the United States including one case that resulted in the murder of a U.S. police officer.

In summary, the interviewing of prison inmates involved individuals who had been convicted of a firearms related offence and, had been taken down at gunpoint by police personnel during their arrest. In some instances, the inmate had discharged their firearm at police personnel resulting in a “shoot-out”. In other instances, police personnel arrested the inmate without discharging their issued firearm.

During the course of each interview, six broad categories of questions were covered. These broad categories included the inmate’s background, their experience with police prior to the incident and the actual incident itself. In addition, interview discussions focused upon the events after the incident. Resulting personal effects, including critical incident stress, were discussed and noted. Finally, other issues that were unique to the incident were identified and discussed. The findings of these interviews are discussed in the chapter to follow.

### **Summary of Data Collection Procedures**

In summary, this dissertation reflects an examination of 843 separate incidents where police personnel within Canada (n=409) and the United States of America (n=434), have discharged their firearms typically while facing a lethal threat. In 417 of these incidents, the police have responded by discharging their firearm and killing a total of 419 people. During two instances, a lone police officer killed two individuals by discharging his firearm, bringing the total number of individuals killed to 419. The

remaining cases that were examined reflect incidents in which police personnel responded with less-lethal force. All of these incidents occurred from January 01, 1980 through to, and including, December 31, 2002.

The Statistical Program for the Social Sciences (SPSS) was utilized for the coding and tabulation of data. A total of 409 Canadian and 412 U.S. police shooting cases were collected and analyzed using SPSS (n=821). However, due to missing-data points and a low cell count, a descriptive qualitative analysis of the data was conducted and forms the basis of this dissertation.

In addition to 412 U.S. cases that were entered upon SPSS, this dissertation also reflects the analysis of 22 police shooting cases that occurred within the U.S. As these cases primarily concerned “suicide-by-cop” incidents, they were not included within the SPSS analysis. This was done to eliminate potential bias. These cases were analysed from a qualitative perspective. Finally, this dissertation also reflects the qualitative analysis of the 79 interviews that occurred with police personnel (n=27) and prison inmates (n=52). As a result, the findings of this dissertation are qualitative in nature and are based upon the following sources of information:

- Canadian and U.S. police department reports and investigations pertaining to a police shooting.
- Canadian Provincial Coroner’s Office reports and Inquest reports pertaining to a death resulting from a police shooting incident.
- U.S. Prosecuting / District Attorney reports and investigations pertaining to a police shooting.
- The B.C. Police Services / Commission Annual Report on Shots Fired by Police.
- The Ontario Special Investigations Unit intake reports and year-end reports pertaining to police shootings within the province of Ontario.
- Interviews with police officers who have been involved in a police shooting (n=27).

- Interviews with prison inmates who have been convicted of a firearm related offence and have been taken down at gunpoint by police personnel in Canada and the U.S. (n=52).
- Media reports pertaining to police shooting incidents that have occurred in Canada and the U.S.

This chapter has examined the methods used to gather data pertaining to police shootings in Canada and the U.S. The findings and interpretations of this examination are contained within the following chapter.



## **CHAPTER 4: FINDINGS AND INTERPRETATIONS**

### **Introduction**

The police use of deadly force is a rare occurrence within Canada. During a period of roughly 20 years, there have been approximately 250 fatal shooting incidents by police. With the exception of training, the vast majority of Canadian police officers will never discharge their firearm during the course of their career. In the United States, it was noted that although the police use of deadly force is somewhat of a rare occurrence, it nonetheless occurs at a rate that is four times greater than in Canada. Some of the reasons for the difference in the frequency of extreme violence in these two nations were discussed in Chapter Three.

In this chapter, the various theoretical issues discussed within Chapter Two are taken and applied to the results of the 79 interviews (police personnel and prison inmate's) and the 843 cases that were examined. As stated, the majority of these cases were analysed by way of the Statistical Program For the Social Sciences (SPSS). This chapter discusses the findings of the SPSS analysis, the qualitative analysis of the police shooting cases, the interviews of police personnel (n=27) and the interviews of the prison inmate's (n=52). The dynamics and complexities surrounding a police shooting are discussed at length. The role of the victim and the issue of "suicide-by-cop" are also taken up in detail. Finally, this chapter deals with the subject of critical incident stress and its effect upon the police officer within the context of a police shooting.

It is argued that the victim causes or contributes to a police shooting by intentionally or unintentionally provoking the police. In many instances, suicidal

individuals have engaged in life-threatening criminal behaviour in order to force the police to kill them. It is also argued that, during the aftermath of a police shooting, the police officer is frequently a “victim” of the shooting process.

### **Police Use of Deadly Force: International Comparisons**

When police officers in North America use firearms against individuals, it may be assumed that they are using lethal force. Generally, officers who discharge a firearm or utilize other forms of potentially deadly force are attempting to immediately incapacitate a perceived lethal threat to themselves or another individual. This decision-making process will usually transpire at a time when the individual officer is under considerable stress, leaving him or her open to the influence of a variety of physiological and psychological factors.

It is within this setting that roughly 300 individuals are shot and killed by U.S. law enforcement personnel each year (Uniform Crime Reports for the United States (UCR), 2001). In Canada, there have been roughly 250 incidents since 1980, or approximately 10 per year.

In Australia, 41 deaths were attributed to gunshot wounds inflicted by police personnel from January 01, 1990 through to June 30, 1997 (Australian Institute of Criminology (AIC), 1998). In New Zealand, there have been approximately 20 fatal police shootings in the past 60 years. The vast majority of these shootings have occurred since the mid 1970's. (New Zealand Police, 2002)

In Europe, the United Kingdom recorded 23 incidents involving the discharge of a firearm by police in England and Wales during the period from 1991 to 1993. In seven of these incidents, an individual was killed (Police Scientific Development Branch (PSDB),

1996). A more recent review of police shootings in England and Wales, during the period from 1998 to 2001, indicates that 24 incidents occurred. Eleven of these firearm incidents were fatal (Police Complaint Authority (PCA), 2003). In the nearby Netherlands, 67 fatal police shootings were recorded from 1978 through to 1999. During this same period, a total of 288 individuals were wounded by police (Timmer, 2002).

It is important to note that, in New Zealand, England and Wales, the police do not typically carry firearms while on duty. However, specially trained police personnel may be authorized to carry a firearm that is locked in a weapon's box inside their police vehicle. In addition, firearms are available for issue from all police stations.

When an unarmed officer confronts an "armed offender", the suggested police tactic is that of "contain and appeal." This will usually result in officers withdrawing from the immediate area and acting in an observation role until specially trained and equipped police personnel (The Armed Offenders Squad) arrive on the scene of the incident.

In North America, the eastern Canadian province of Newfoundland remained the last bastion of "unarmed policing" until as recently as 1999. Prior to June 1999, the "Royal Newfoundland Constabulary (RNC)" continued to be the only policing jurisdiction within Canada and the United States where day-to-day street level policing was conducted *without police having immediate access to firearms*. From 1979 through to 1999, the RNC had been involved in only one shooting incident. This incident was a non-fatal police shooting.

However, owing to a changing society and the influx of visitors from the United States and the rest of Canada, members of the Royal Newfoundland Constabulary lobbied to have immediate access to firearms like their Canadian and American counterparts. In June 1999, the RNC was granted its request, *but not without incident*.

Shortly after being equipped with firearms the RNC became involved in two shooting incidents. *It is noteworthy that one of these shootings would be classified as a fatal "suicide-by-cop" incident.*

Finally, it is also significant that, in the United States, private citizens (non-police) "justifiably" kill roughly 200 individuals each year. The vast majority of these individuals are shot and killed with a handgun. Justifiable homicide in the U.S.A. is defined as, and limited to, the killing of a felon by a law enforcement officer in the line of duty, or the killing of a felon by a private citizen during the commission of a felony (UCR, 2001).

### **The Risk to Police Personnel**

Added to these figures are numerous documented incidents where law enforcement personnel in the United States and Canada have faced a potentially lethal threat, but the death of a suspect *did not* occur. This category includes those incidents in which a police officer utilized potentially deadly force by discharging his or her firearm, but death did not result. In these instances, the suspect either survived his or her wounds or, in other instances, the police missed, so the suspect was not shot.

Finally, it must be emphasized that there are also countless incidents of lethal threats to law enforcement personnel that are resolved each year *without the discharge of a firearm*. During these instances, the officers utilized alternate tactics or less-lethal compliance tools such as pepper spray or Taser guns to subdue the individual who was posing a lethal threat. Often, this method of resolution has occurred with an increased risk to the police officer. This increased risk to police officers has at times resulted in their deaths. Owing to the very nature of their day-to-day duties, operational police personnel routinely face the real possibility of being assaulted or murdered.

On average, approximately 70 police officers are feloniously killed in the line of duty each year within the United States. In addition, approximately 60 police officers will accidentally be killed each year in the United States owing to mishaps such as automobile and aircraft accidents (B.J.S.2001). In Canada, during the period from 1980 through to 2000, an assailant has murdered a total of 47 police officers, reflecting a rate of roughly 2 police murders per year. In addition to these wilful killings, roughly 5 police officers will die each year, accidentally in the line of duty (O.D.M.P., 2004).

### **Deaths During Police Intervention**

During the examination of official Coroner's reports pertaining to police shootings, it was noted that in several instances the Coroner's data erroneously included deaths that occurred during police intervention. In these instances, police personnel did not discharge their firearms and the Coroner had ruled that death had occurred "due to other means." Nonetheless, Coroner's data pertaining to police shootings would occasionally include instances of death that resulted during police intervention. The reason for this is not clear. Examples of death occurring during police intervention include excited delirium resulting in death, positional asphyxia and cardiac arrest resulting in death, and firearm suicides.

### **Excited Delirium Resulting in Death**

Excited delirium refers to individuals who are in a state of temporary mental confusion and clouded consciousness and who display unusual, bizarre behaviour. These individuals may be emotionally charged, under the influence of a drug, suffering

from a form of mental illness or under the influence of a combination of these factors. In many instances these individuals are brought to the attention of police personnel as a consequence of extreme behaviour that includes violence, recklessness and often, the removal of their clothing.

Upon intervention, police personnel will typically deploy less-lethal force techniques in an attempt to control and restrain the irrational behaviour displayed by these individuals. Once subdued, these individuals are handcuffed and may additionally be restrained by “hog-tying” their legs together, or by strapping the individual to a stretcher or board. This additional restraint will be dependent upon the individual’s continued violent and combative behaviour as well as issues surrounding transportation to either a police lock up or a medical facility.

For example, a handcuffed individual attempting to kick out the rear windows of a police vehicle during transport to jail will typically have the additional restraint of having their legs being hog-tied. The rationales for this procedure include; protecting the police officer(s) from assaultive behaviour, protecting the prisoner from self-inflicted injuries, minimizing damage to the police transport vehicles as well as minimizing the potential for escape.

In some instances, it is necessary for the violent and combative individual to be transported to a medical facility for treatment. In these cases, the individual will typically be strapped to a stretcher and transported in an ambulance to the appropriate facility. Unfortunately, it is during the restraining and transporting process that many of these individuals will suddenly lapse into respiratory arrest resulting in death. In other instances, the sudden lapse into respiratory arrest will be followed by a comatose state for a prolonged period of time resulting in medical complications leading to death. In all

of these instances, the resulting death, or extensive hospitalisation, is directly attributed to the police intervention by way of the application of less-lethal force techniques, including methods of physical restraint.

*The symptoms of excited delirium include:*

- Overt demonstration of violent, agitated and combative behaviour.
- Exhibiting psychosis; hallucinations / delusions of grandeur or persecution.
- Possibly under the influence of stimulant drugs that include cocaine.
- Hyperthermia (extremely high temperature).
- Great strength and non-pain compliance.
- Talking incoherently and failing to respond to simple commands.
- Sudden collapse and death may follow.
- In some instances, death will result during the application of physical restraint by police.

The symptoms and characteristics associated with excited delirium, resulting in death during police intervention, are delineated in the following cases:

#### **Case #4**

In November 1992, two police officers were dispatched to a report of a “male acting crazy and taking his clothes off”. When police personnel arrived at the scene they noted an individual standing in the street, wearing only his underwear. When the two officers attempted to reason with the individual, a fight ensued. Several people in the area came to the aid of the police officers, attempting to assist in the arrest of the violent and combative individual.

Upon achieving control of the deranged individual handcuffs were applied. However, as this occurred the individual suddenly went into a coronary arrest. The police officers responded by administering C.P.R. but to no avail. The individual died at the scene. A subsequent Coroner investigation determined the cause of death as a cocaine overdose.

**Case #5**

During the summer of 1999, police personnel were dispatched to a complaint of a “male running in and out of traffic.” Three police members responded to the initial call. Three additional police were dispatched to assist, arriving at the scene some fifteen minutes later. Upon the police arrival, an ambulance crew was in attendance dealing with an individual lying on his back, in the middle of the roadway intersection, wearing only a pair of jeans. The male subject was screaming and slapping his fists against the roadway. As the ambulance crew were removing a stretcher from their vehicle, the male subject removed his pants and abruptly stood up. He then ran naked down the roadway.

With police personnel in foot pursuit, the male subject ran to another intersection and then once again, laid down on the roadway. As one police officer began to approach the irrational male, a physical altercation ensued. Police personnel were unable to control the naked male. Eventually additional police personnel arrived at the scene to assist in physically restraining the combative male.

In an attempt to control the subject, the male was placed face down on a stretcher, strapped into place and placed in an ambulance. As this occurred the subject struggled against the straps. Unfortunately, while being transported to a nearby hospital, the male subject lapsed into respiratory arrest. Ambulance personnel administered CPR and the subject was briefly stabilized. However, at the hospital, the subject lapsed into a coma and died some two days later.

**Case #6**

In September 2001, a 35-year-old male with a history of bipolar disorder fatally stabbed his nine-year old son on the front lawn of the family residence. He then shouted that he had “killed Satan” and began removing most of his clothing. Police were summoned to the scene with six officers confronting the irrational male.

Police personnel utilized pepper spray in order to gain control of the combative individual. Handcuffs were applied and his legs were “hog-tied” in order to restrain the individual while he was placed in the rear of a police vehicle. Unfortunately, as this was occurring, the individual suffered a massive heart attack and died. A subsequent coroner’s inquest determined that the mentally ill male died as a result of “excited delirium.”



**Case #7**

In this case, an individual had attended a local bar and attempted to cash an obviously stolen cheque. When staff at the bar refused to cash the stolen cheque, the individual pushed an employee, grabbed her purse and fled out of the bar on foot. Three off-duty police officers as well as other bar patrons witnessed the event and gave chase to the suspect. Upon being confronted, the suspect reached into his jacket as if he had a weapon, advising the individuals to back off. Eventually the suspect was cornered and a physical altercation developed with suspect being restrained and handcuffed. However, within two minutes of being handcuffed, the suspect began to lose consciousness and medical services were summoned. The suspect was pronounced dead at the scene, his death attributed to a cocaine overdose.

**Positional Asphyxia and Cardiac Arrest Resulting in Death**

In addition to “excited delirium” deaths occurring during police intervention, front-line police personnel face the additional challenge of preventing deaths resulting from “positional asphyxia” and “cardiac arrest.” In these instances, death results when the positioning of an individual’s body interferes with the ability to breathe, or when an individual suddenly suffers a cardiac arrest due to the exertion associated with a foot chase or physical confrontation.

In the case of positional asphyxia, the arrest or restraint of a violent and combative individual may inadvertently result in the compression of the trunk area of an individual’s body. This will serve to limit chest movement and may restrict the diaphragm area preventing effective breathing. In some instances, an individual being arrested by police personnel may die of asphyxiation because they are unable to breathe adequately.

In the case of cardiac arrest, an individual avoiding apprehension, or struggling with police personnel, may unexpectedly suffer a heart attack due to sudden exertion

and strain. The high level of exertion associated with a foot chase and subsequent struggle may cause respiratory strain and a dangerous heart-rhythm disturbance, ultimately resulting in cardiac arrest. This situation is more likely in those instances where the individual has pre-existing heart or respiratory disease and is under the influence of illicit drugs.

For example, during a police intervention or arrest procedure an individual may elect to flee on foot. The foot chase may be followed by a struggle in an attempt to avoid apprehension. This situation will result in increased demand being placed upon both the circulatory and respiratory systems of the individual police officer and, the escaping felon.

An additional factor that may compound this “flight and fight” situation is the application of less-lethal weaponry by police. These less-lethal weapons may include the Taser, pepper spray or empty hand compliance techniques. The application of less-lethal weapon upon the non-compliant fleeing felon may have a precarious impact upon vital organs that include the heart and lungs.

### ***Intervention Techniques: Minimizing the Risk of Death***

As a result of these complexities, it is important that police personnel recognize that some methods of less-lethal force and body restraint may increase the risk of death. For police personnel intervening during an incident of excited delirium, it is important that certain precautionary measures are followed during the arrest and restraining process. In this regard, it is paramount that police personnel are cognizant of issues that include;

- the amount of time during which the restraint is applied,
- the method of restraint, and

- the body position of the restrained individual during transport.

Continued struggling as well as prolonged restraint will likely cause in the violent individual to suffer severe exhaustion that may result in sudden death. As a result, it is necessary for police personnel to utilize the following intervention techniques when confronting an individual displaying characteristics associated with excited delirium:

- An ambulance should be summoned to the scene of all incidents involving individuals displaying signs of excited delirium in the event that the individual lapses into a sudden cardiac arrest.
- If the situation permits, arriving police personnel should contain the irrational individual until additional police and medical personnel are in attendance.
- The deployment of pepper spray will often have little effect on the individual and may only aggravate the situation that the officer is facing.
- Restraining methods such as hogtying should be considered as a last resort.
- The prone position should be avoided if at all possible. If the prone position is utilized as a means of taking down an armed individual, the duration of restraint in this position must be minimized. Importantly, the prone position may aggravate an individual's anxiety level as well as prevent the observation and monitoring of vital signs that include the level of consciousness.
- Upon achieving control and restraint, the individual should be transported in an ambulance, directly to a medical facility for diagnosis and treatment.
- The use of a police motor vehicle for the purpose of transport should be avoided until after the individual has been stabilized and released from a medical centre.

In relation to preventing incidents of positional asphyxia, it is important that police personnel avoid pressing down on the trunk portion of an individual's body during restraint. A safer method of achieving the control of a combative individual is by way of restraining individual limbs. Upon achieving control of an individual's arms and legs, it

becomes possible to bind and restrain the ankles and wrists. This method of restraint is considerably safer than alternatives that include kneeling on the back of the chest.

### ***The Recording of Data***

Cases attributed to excited delirium or positional asphyxia causing death were not recorded within the SPSS database of this dissertation, as they did not involve a police firearm discharge. However, it is interesting to note that in some instances these cases were part of official government data pertaining to “shots fired by police personnel.” During these instances, “deaths attributed to a police shooting”, occasionally documented incidents of excited delirium and death occurring by “other means” within Coroner reports, police investigations, and other government documents.

### **The Influence of a Mind-Altering Substance**

The influence of a mind-altering substance was a contributing factor in several incidents resulting in the police use of firearms (Canada n=18, USA n=13). During these instances, police personnel were summoned to situations involving a disturbance at a location. Upon attending the scene, or shortly after, police personnel were often required to utilize deadly force in order to resolve the situation. Later, a subsequent investigation that would include a toxicology report from the Coroner’s Office / Medical Examiner’s Office would frequently list the influence of a mind-altering substance as a significant contributor. However, as Table 2 notes, alcohol is the primary substance used by victims prior to a Canadian police shooting in those instances where a substance was recorded in a toxicology report.

**Table 2: Police Use of Deadly Force in Canada: Substance Usage by Victim**

**Indication of Substance Usage \* Victim Injury (Fatal 1 Non-Fatal 2)  
Crosstabulation**

			Victim Injury (Fatal 1 Non-Fatal 2)		Total
			1	2	
Substance Usage	1	Count	49	8	57
		% of Total	63.6%	10.4%	74.0%
1 = Alcohol	2	Count	2		2
		% of Total	2.6%		2.6%
2 = Marihuana	3	Count	15	3	18
		% of Total	19.5%	3.9%	23.4%
3 = Mind Altering		Count	66	11	77
		% of Total	85.7%	14.3%	100.0%

**Case #8**

In 1996, police personnel were requested to attend a 911 family disturbance call at a residence located in the west. When the lone officer responded to the residence he observed a male breaking a window and then climbing into the house. The officer and a cover unit then went inside the residence and located the 270 lb suspect in a bedroom, choking and beating a 6 year old child stating that he intended to kill the girl. The suspect refused police commands to release the child and was subsequently tackled by one of the officers. During the struggle, the suspect was shot and killed when batons and pepper spray failed to halt his attack.

It was later learned that the suspect was visiting a relative's home when he became enraged at his wife. The suspect was under the influence of PCP and responded to the domestic argument by assaulting his wife and two male relatives who had attempted to subdue him. Eventually the two male relatives forced the suspect out of the residence where he stripped off his clothes and began to smash windows in an attempt to regain entry into the house. One member of the family fired gunshots at the suspect in an attempt to keep him from re-entering the residence and resuming his attack. It is when all these attempts had failed to keep the suspect at bay that the police were eventually summoned.

## **The Issue of Suicide and Depression**

It was noted that in several incidents (Canada n=53, USA n=42), the police shooting encounter appeared to be a classic case of "suicide-by-cop." These are instances in which an individual confronted the police officers with the intent on being killed. This conclusion is based upon circumstances that indicate that the individual was attempting suicide prior to the police arrival. In some instances, the individual took their life during the police encounter resulting in an act of suicide during police intervention. The linkage between instances of the phenomenon of police assisted suicide and the phenomenon of suicide as a result of police intervention is discussed further in this chapter.

Typically, these individuals had cut their wrists and had made suicidal statements causing friends and family members to summon the police. Unfortunately, shortly after arriving at the scene of the distraught person, police personnel were attacked by the suicidal assailant in a kamikaze manner. The assailant, armed with a knife or other sharp object, would charge police personnel ultimately resulting in their death or wounding.

In other instances, the individual confronted the police with an imaginary or perceived deadly weapon. This would include placing a loaded weapon against their head and in some cases, making suicidal statements. At times, the despondent individual was heard by police and independent witnesses to state words to the effect of "Shoot me, Kill me, I wish to die" as they confronted the police. In all of these cases the individual displayed characteristics associated with suicidal ideation.

**Table 3: Classification of Shooting Incidents in Canada**

Shooting ruled as Criminal, Mental Illness, Suicide \* Fatal, Non-Fatal, Non-Injury Crosstabulation

Police Summary Shooting Ruled as:	Victim's Injury							Total
	1	2	3	4	5	6	7	
1. Criminal (count)	54	29	34	35	5	1	1	159
% of Total	15.1%	8.1%	9.5%	9.8%	1.4%	.3%	.3%	44.5%
2. Mental Illness (count)	18	2	7					27
% of Total	5.0%	.6%	2.0%					7.6%
3. Suicide (count)	27	6	3	1		3	13	53
% of Total	7.6%	1.7%	.8%	.3%				14.8%
4. Irrational Behaviour (count)	52	7	7	1				67
% of Total	14.6%	2.0%	2.0%	.3%				18.8%
5. Accidental Shooting (count)	16	3	14	2				35
% of Total	4.5%	.8%	3.9%	.6%				9.8%
6. Wrongful Shooting (count)	7	1	1	1				10
% of Total	2.0%	.3%	.3%	.3%				2.8%
7. Firearm taken away from police personnel (count)	5		1					6
% of Total	1.4%		.3%					1.7%
Total (count)	179	48	67	40	5	4	14	357
% of Total	50.1%	13.4%	18.8%	11.2%	1.4%	1.1%	3.9%	100.0%

- Note.
- 1 = Fatal
  - 2 = Non-fatal (serious)
  - 3 = Non-fatal (non-serious)
  - 4 = Non-injury
  - 5 = Injured but unknown degree of seriousness
  - 6 = Self-inflicted injury (non-fatal) upon police arrival
  - 7 = Self-inflicted fatal injury upon police arrival

**Case #9**

During one incident, a male suffering from depression and constant pain as a result of a motor vehicle accident five years previously had become very suicidal. He had been drinking heavily and fired three shots in his bedroom. When his wife attempted to intervene the subject tried to choke her stating that he intended to kill her and then himself.

The wife managed to break free from her husband and police personnel were summoned. Upon police attendance, the despondent subject pointed his gun at officers in attendance. The subject then went back into the house and later appeared firing a shot. Police personnel repeatedly ordered the male to drop his weapon but he refused. When the male turned and pointing his firearm towards the police he was fatally wounded. A subsequent autopsy revealed a blood alcohol level of 283 mg / 100 ml with therapeutic levels of other drugs.

#### **Case #10**

In another instance, a male became distressed and depressed about a broken relationship. The subject drove to his girlfriend's residence with the intent of harming himself and others. Upon entering the residence the subject began to destroy property. As a result, police personnel were summoned. Upon police arrival, the subject fired upon the attending officers with a gun battle ensuing. The subject was shot and fatally wounded.

#### **Case #11**

Police were alerted to a report of a man waving a gun on a street. As a result, two officers on foot were dispatched to the scene and located a 45-year-old male in the area. Upon approaching the individual, the male suddenly reached behind his coat and pointed a gun at the officers. The male refused police commands to drop the gun and was subsequently shot and killed by the police. It was later learned that the gun that the individual was reaching for was in fact only a replica gun. It was also discovered that the deceased was depressed over the recent break up of a relationship. He had told a friend that he was going to confront police in order to be shot. An autopsy revealed that the deceased had a high level of alcohol in his system at the time of his death.

#### **Case #12**

Police personnel responded to report of a man-with-a-gun call. Upon observing the police arrive at the scene the suspect pointed his handgun at the officers and then put the gun under his chin and pulled the trigger. However, the gun did not discharge. A foot pursuit ensued with the suspect disappearing into some nearby bushes. A police dog was deployed, locating the suspect hiding in the bushes. As the police dog confronted the suspect, he discharged his handgun wounding the police dog as well as a police officer. Police personnel returned fire, killing the suspect.



**Case #13**

In a similar case, a male subject was emotionally upset owing to marital difficulties and had talked with his family about dying. The subject then went to a convenience store and purchased a quantity of beer and wine, advising the clerk that it would be his last. The subject then became involved in a 25-mile police pursuit where his vehicle was stopped by way of a spike belt.

Upon exiting his vehicle, the subject produced a shotgun and placed it under his chin. He then told police personnel that if they did not kill him he would kill an officer. The subject then turned and pointed his shotgun at two police officers and began to approach them. In response, both officers discharged their weapons killing the subject. It was later learned that the shotgun was unloaded.

**Case #14**

In this case, a police officer pulled over a vehicle for a routine traffic check. As the officer approached the vehicle, it suddenly sped away and led officers on a lengthy high-speed pursuit. Eventually, the suspect vehicle came to a stop with the driver going to the rear of his vehicle, obtaining an unseen object from his trunk. As police personnel attempted to subdue the suspect, he struggled and ran away.

A foot chase ensued for roughly two blocks when the suspect fell to the ground. As police approached the suspect, he suddenly adopted a combat-style shooting stance, his hands together and outstretched as if he was preparing to fire a handgun. Police personnel responded to these observations by discharging their handguns and killing the suspect. Upon checking the deceased, no weapon was found.

**Case #15**

In two related cases, individuals indicated that they confronted police officers for the purpose of committing suicide. The first case occurred in 1997 when an individual confronted a lone police officer while being armed with a knife in each hand. The suspect refused repeated demands to drop the knives and instead charged at the police officer. In response, the officer discharged his firearm striking the assailant with five bullets.

The suspect recovered from his wounds and provided a statement indicating that he had confronted the officer with the hope that he would be killed. The suspect had wanted to die but was unable to take his own

life. In response, he intentionally set out upon a course of events that would result in a confrontation with police who in turn would kill him.

### **Case #16**

In the second case, from the same city in 1998, police received a report of a male throwing bottles at passing cars. Upon police arrival, the officer noted a male standing in the middle of the road with a knife in each of his hands. The lone officer waited for back up before approaching the suspect. When two other officers had arrived at the scene, the officers attempted to have the individual drop his knives. The individual refused and then suddenly charged at the officers who responded to the threat by discharging their firearms and killing the assailant.

It was later learned that the deceased had served time in prison along with the individual in case #15. The individual from case #15 later provided police with a statement that indicating that both of the individuals had discussed a plan of action that would involve police officers taking their lives. Interestingly, both incidents are very similar in detail and planning.

### ***Firearm Suicides: During Police Intervention***

As stated, another method of police-associated death that was noted as a result of this research are those instances of suicide that occur during police intervention. Typically, these are incidents in which on-duty police officers are pursuing, confronting or apprehending an individual who suddenly produces a firearm and takes his or her own life. While firearm suicides during police pursuits are infrequent, they are believed to occur at a rate that is roughly half the rate of police-related shootings (Harruff et al., 1993:409).

Harruff states that often the involved individual is emotionally distraught but not necessarily suicidal. However, the sudden presence of the police is believed to be a factor that precipitated the resulting suicide. Why this occurs is not clear. The emotionally disturbed and unpredictable individual may perceive that the option of

suicide is less painful than the possibility of incarceration or medical treatment. The individual may also be contemplating events that will lead to a “suicide-by-cop” shooting but at the last moment, for reasons unknown, decides to take his or her own life.

Typically, the suicidal individual is a white male aged 19 to 50 years who, in most cases, uses a handgun to fire a fatal wound to the head while being pursued or confronted by police officers. Often, the suicidal individual is involved in an emotional domestic dispute with a significant other resulting in the police being summoned. In other instances, the individual has committed a crime that has led the police to his or her location with the resulting confrontation.

For the police officers intervening in the domestic dispute, or proceeding in the apprehension of the alleged criminal, the circumstances may seem somewhat routine on the surface. However, the situation quickly deteriorates with the individual suddenly killing himself or herself for no apparent reason or motive.

A 34 year-old white male, with a history of drug problems, was arguing with his ex-wife in the parking lot when police were called to the scene. Officers arrived as he was attempting to leave the pickup truck and ordered him to show his hands. The individual refused. He then produced a .380 calibre semiautomatic pistol to the right side of his head and fired it. The individual died as a result of his self-inflicted wound. An autopsy later revealed that, at the time of his death, the individual had a blood-alcohol level of .142 mg. (Harruff et al., 1993:408).

The following cases were noted during the review of police shooting data (Canada n=16, USA n=6) and are typical examples of how a routine police call can suddenly erupt into a firearm suicide.

### **Case #17**

Police personnel were dispatched to a residence in relation to a report of a “man with a gun”. The individual involved had attended the residence of his former girlfriend and discharged a rifle. While he was at the residence

the subject handed one of the residents a suicide note stating that if the police were summoned he would shoot at them. As a result, a SWAT was deployed and the individual was confronted. Upon seeing police personnel, the subject pointed his rifle at the officers who responded by shooting and wounding the subject. Once wounded, the subject crawled with his rifle and positioned himself with the barrel towards his forehead. He then pulled the trigger and killed himself. It was later learned that the youth had lived a troubled life and had attempted suicide several times in the past.

### **Case #18**

A 39-year-old deceased male had a long history of difficulties with the police and behaviour problems over the years. The individual entered a taxi. When it arrived at his destination, he produced a shotgun and robbed the taxi driver. The taxi driver notified police and, when they arrived on the scene, they noticed a man running across the street carrying a white plastic bag and a green plastic bag and became suspicious and went after this person. The man spotted police and hid behind a car parked in a driveway. The police officer approached the car with his gun drawn and the deceased pointed his sawed-off shotgun at the police officer who ordered him to drop the gun. The deceased then ran behind another parked car when the police officers heard a shot. They proceeded to investigate and found the deceased had shot himself. The deceased had 265 mgs of alcohol in his system at the time of death.

### **Case #19**

Two 19 year-old male suspects were observed loading a pick-up truck with computer equipment and other belongings from a home that they were burglarizing. The homeowner had arrived home for lunch and unexpectedly confronted the two individuals during their crime. In response, one suspect produced a handgun and pointed it at the homeowner's head, ordering him back into his vehicle. The homeowner then drove off and alerted the police to the incident, providing a detailed description of the suspects and their vehicle.

Police responded and eventually spotted the suspect vehicle and occupants traveling on the interstate highway towards Seattle. Several police units became involved and the suspect vehicle was followed for a lengthy time, *without a chase occurring*. It was eventually stopped as a "high risk" takedown on the interstate highway. Police weapons were drawn and the suspects were ordered out of their vehicle with instructions to place their hands up and to lie face down on the ground. The passenger complied with the police commands and exited the vehicle as

instructed. As this was occurring, the driver produced a handgun as he sat in the driver seat. The driver then placed the gun against his head and pulled the trigger, killing himself. There was no explanation or reason for why the driver acted as he did.

Firearm suicides during police confrontations possess particular challenges for police agencies, as the media, family members and the public may be skeptical as to how the individual actually died. Did police attendance to the call serve as the catalyst in forcing the individual to commit suicide? What did the attending police officer(s) say or do that may have influenced the individual to take their own life? Was the incident in fact a suicide or were the police somehow responsible for the individual's death?

For police investigators and training personnel there are additional concerns surrounding firearm suicides. What, if anything, could have been done by attending police personnel to prevent the suicidal behaviour? Would the incident have evolved into a suicide-by-cop shooting had the sequence of events occurred differently?

### ***Suicide During a Motor Vehicle Pursuit***

This phenomenon can become even more complex with the added dimension of a motor vehicle pursuit. In these instances, the hazards associated with a moving motor vehicle can serve to disguise the suicidal intent of the driver (Murphy, 1989). For example, an individual's death can be initially assumed to be the result of severe trauma caused by a motor vehicle accident. However, subsequent autopsy results reveal that the individual in fact died as a result of a gunshot wound to the head. Due to the proximity of placing the handgun directly against the head, the fatal bullet may exit the body, never being located. If the individual is involved in a police pursuit, the evolving circumstances can place police agencies in a precarious situation.

The following case illustrates how police officers run the risk of being criticized for bringing about the death of an individual during a motor vehicle police pursuit.

A 50 year-old white male was wanted on outstanding warrants for forgery. Eventually police located the individual in his vehicle and a high-speed chase ensued on the highway. With the police in pursuit, the subject's car suddenly swerved off the roadway. The vehicle crossed the median and opposing lanes and then went down an embankment, eventually striking a tree where it came to a rest. When the police officers approached the car, they found the individual dead. Due to the severity of the crash, the officers assumed that the driver had died as a result of the blunt force injuries sustained. However, an autopsy was later performed which revealed that the individual had in fact died of a single gunshot wound to the head. As a result of the discovery, the police re-attended the wrecked vehicle and conducted a through search. Inside the vehicle the police located a .25 calibre semiautomatic pistol, a holster and one spent cartridge. Although the fatal bullet was never located, the coroner was able to conclude that both the muzzle imprint around the entrance wound, and the bullet hole in the skull, matched the gun found in the vehicle. (Harruff, 1993:407).

For police investigators, caution should be exercised in any incident involving a motor vehicle pursuit in which there is no reasonable explanation for the event. Firearm suicide may be an explanation for the event. In these cases, a thorough search of the deceased's vehicle must be made upon conclusion of the pursuit in an attempt to locate relevant evidence such as firearms, spent casings or suicidal notes. This may prove physically difficult to investigators depending upon the severity of the crash and the resulting damage to the vehicle.

Nonetheless, failure to do so can result in the police agency being suspected of directly or indirectly causing the death of the suicidal individual owing to the outcome of the pursuit. In addition, a routine pursuit resulting in death could later place the police officer(s) under suspicion if a subsequent autopsy revealed that the driver had died as a result of a gunshot wound and *not* as a result of the motor vehicle accident. The police agency would be placed in the difficult position of attempting to locate evidence that may

long be gone, in order to support evidence of death resulting from a self-inflicted gunshot wound.

The police agency could also be placed in the defensive, having to prove that the officers involved in the pursuit did not discharge their firearms, resulting in the fatal wound of the driver. The location of evidence absolving the police officers may be problematic if suicidal evidence was not obtained at the time of the vehicle crash or if bullet that resulted in the death is not located.

### ***Suicide During Police Intervention and Suicide-by-Cop***

It is unknown exactly how firearm suicides during police intervention are linked to suicide-by-cop shootings. However, the linkage between these two phenomena is illustrated in the following incidents.

A 21-year old male entered a small town police station with a loaded handgun. Upon entering the station, the male alternately pointed the loaded handgun at his head and then at the solitary police officer inside the police station, threatening to kill himself and the officer. The individual then fired two rounds in the office and warned officers who were positioned outside not to enter. The individual then opened the office door and fired at one officer who was outside, but missed. In response, two officers discharged their weapons and killed the individual.

It was later learned that the subject had a blood alcohol level of 0.22% with traces of methamphetamine and amphetamine in his system. He also had a history of major depression with previous suicide attempts. (Wilson, 1998).

#### **Case #20**

During the month of June, a police officer observed a vehicle being driven in an erratic driving. When the police officer attempted to stop the vehicle, the driver refused to pull over and continued driving on the highway until the vehicle suddenly went off the road and crashed into a steel fence post. Upon crashing, the tires of the vehicle continued to spin with a fire and an explosion resulting. A subsequent autopsy determined that the 25 year-old female driver had in fact shot herself in the chest

while being followed by the police and that she had died of a self-inflicted gunshot wound. The female driver's death was ruled as a suicide.

Noteworthy is that the deceased had a twin sister. The surviving sister was reported to be despondent about her twin sister's suicidal motor vehicle pursuit death. The depression appeared to be intensified on the anniversary of her sister's death and on their birthday, which was during the month of November. In addition, it was reported that that the surviving sister had stated "she wanted to go out like her sister. She wanted to die with the police chasing her."

Interestingly, some two years later and within days of their birthday, the surviving twin sister became involved in a police chase. The police chase would result in the surviving twin being shot and killed by police in an apparent suicide-by-cop incident.

### **Case #21**

During the month of November, a police officer noted a lone woman sitting in a parked vehicle during the afternoon at a neighbourhood park. The vehicle did not have a license plate so the officer decided to check the vehicle and the occupant. The 27 year-old female provided ID and upon running the female's name the officer discovered that she had been reported missing by a relative. When the officer went back to talk to the female, she suddenly sped off in her vehicle causing the officer to be struck in the leg as he attempted to jump out of the way.

Police units then pursued the female at high speeds through the thick afternoon traffic when the vehicle eventually became stuck in traffic and pulled over to the shoulder of the road. Police then ordered the female driver out of the car at gun point. When the female exited the vehicle, she was brandishing a handgun. She then began to point the handgun at the officers and motorists in nearby vehicles.

In response, police officers ordered the female to put the gun down. When she refused, the officers discharged their firearms and killed the female. It was later learned that the female was in possession of a non-lethal "BB pellet" gun.



As these cases and discussion illustrate, “police-assisted suicides” go beyond the boundaries that are typically associated with “suicide-by-cop” encounters. It is unclear as to how these suicidal phenomena relate and interact with police intervention. Nonetheless, it remains a significant issue for police personnel who may unknowingly serve as a catalyst in an individual’s sudden suicide. An individual act of suicide will at times result in a lethal threat to police personnel and innocent members of the public during intervention.

In this regard, this dissertation noted that one instance of suicide during police intervention resulted in the murder of a police officer. In this case, the suicidal individual first killed the arresting police officer and then, took his own life.

### **Case #22**

Three police officers responded to a routine domestic dispute. The male subject of the domestic dispute was arrested and placed in the rear of a police vehicle by the senior officer on the scene. The police officer then sat in the front driver’s portion of the vehicle and was preparing to return to the police station when the arrested male suddenly produced a handgun. The subject then fatally shot the police officer in the back of the head, from the back seat through the Plexiglas protective barrier. The subject then exited the police vehicle and began discharging his weapon at the two nearby police officers. The subject then turned the gun upon himself, inflicting a fatal head wound.

Interestingly, the very next day, two police officers who had attended the scene of the fatal shooting of their colleague would attend an incident where they would utilize potentially deadly force. During this incident, the same two officers would confront a male armed with a knife. In response the officers discharged their firearms causing a serious head wound to their assailant. Allegations would later be made during a lawsuit that the two police officers had utilized excessive force and had over-reacted during the shooting as a direct result of the fatality that they had witnessed the day before.

### ***Irrational Behaviour and Mental Illness***

As noted in Table 3, in several incidents (Canada n=67, USA n=71), the shooting encounter was attributed to an individual displaying “irrational behaviour” and acting in a life-threatening manner. In a number of cases, police personnel were requested by members of the public to respond to reported observations of irrational behaviour. In these incidents, individuals were observed by the public to be acting in an irrational and often dangerous manner, threatening the lives or property of others. In most of these incidents, it is uncertain as to why the individual was behaving in this manner. In some cases, the individual was under the influence of alcohol or a drug.

During the shooting incident, the individual would typically confront the police officer with a weapon in a threatening manner, refusing commands to disarm. At times, the weapon used by the assailant was a “non-firearm,” and inferior to the issued firearm that was in possession of the attending police officer(s). Why these individuals confronted police personnel in a threatening manner is unclear. As noted in Table 3, in other instances, (Canada n=27, USA n=13), the police shooting encounter was attributed to an individual suffering from some type of mental illness. Interestingly, many of these cases occurred in a prominent public place.

#### **Case #23**

In 1993, an individual entered the central library and went to the information counter on the third floor. The suspect then produced a semi-automatic handgun and shot and killed two library employees. The emergency response unit of the police department was summoned to the scene. The suspect was located sitting on the roof ledge of the building. Eventually the suspect was shot and killed by police, falling to the street below.

**Case #24**

In 1998, city police received a call from the campus police of the state university requesting their assistance in dealing with an armed subject. A university bicycle officer reported: *"He was standing at the base of the storm drain in the creek and appeared to be talking to himself. He was switching the gun from his right hand to his left hand. Then he put it in his pocket and lit a cigarette. Then he took the gun out again and he was waving it around. The entire time he was talking to himself."* When the city police units arrived at the campus, they observed the subject to be in possession of a handgun. In response, officers repeatedly commanded the subject to drop his weapon. The subject would not comply with the commands and instead turned and pointed his handgun towards the officers. Upon observing the potentially lethal threat, the officers discharged their firearms killing the subject. Upon checking the deceased it was learned that the individual was in possession of a "replica" semi-automatic handgun. No explanation was given for the subject's behaviour.

**Case #25**

During an afternoon in 1998, a 50-year-old male entered a local police station equipped with a gun and a small taped box advising police personnel that he intended to blow up the building. During the negotiation process, the individual made statements to the effect that he was aware that a police sniper had been deployed and that this would likely be the best way to resolve the stand-off situation. The individual then pointed his gun at nearby police personnel causing them to shoot the suspect. It was later learned that box did not contain a bomb. A subsequent investigation revealed that the suspect was suffering from heart disease and was a heavy marijuana user. The individual was also taking medication for depression and other ailments.

***Suicidal "Off Duty" Personnel***

In two of the more unusual cases, an off-duty female soldier and an off-duty female police officer confronted police personnel with the intention of being shot. In both of these instances, the individual was despondent and suicidal.

**Case #26**

A 44 year-old off-duty female soldier confronted military police personnel and later members of the RCMP while in possession of a handgun. A one-hour stand-off ended when the female military Sgt. was shot and wounded by a member of the RCMP after she pointed her weapon at the police officer. A subsequent investigation revealed that the female soldier was despondent and desired to end her life. In response she deliberately confronted police personnel, discharging her pistol, with the hope that the responding police personnel would end her life. At trial, the female plead guilty to charges that included weapon offences. She was sentenced to one year in prison.

**Case #27**

A 34 year-old off-duty female police officer confronted police personnel with a knife when personnel from her own police agency forcibly entered her residence to check on her welfare. At the time of the incident, the off-duty officer was on medical leave in relation to mental illness and had become despondent and suicidal. A psychiatric worker summoned the police to her residence based upon the belief that the off-duty female officer had consumed a potentially lethal amount of pills. Attending police personnel were able to wrestle the knife away from the female without incident. At trial, the female's lawyer stated that the incident was in part an attempt at "suicide-by-cop."

### **Accidental and Mistaken Firearm Discharges**

In several instances, this research project has documented incidents where police have either accidentally or mistakenly, discharged their firearm (see *Table 3*). In eleven percent of the Canadian cases examined (n=45) and in six percent of the U.S. cases examined (n=24), police personnel either accidentally discharged their firearm, or mistakenly discharged their firearm at an individual who was unarmed. In many of these instances, innocent individuals died. In a smaller number of cases the individual survived the shooting incident.

During four of these cases, the police officer was convicted of a criminal offence. In three cases, the police officer was convicted of lesser, non-criminal, firearms offences for their action. In five incidents, an innocent bystander was either killed or wounded as a result of the wrongful police firearm discharge.

In some instances, police personnel became involved in situations in which it would later be determined that they should not have discharged their firearm. However, based upon the known facts and circumstances at the time of the shooting, police personnel responded to the perceived lethal threat in accordance with departmental training and policies.

- During one incident, police personnel “accidentally” shot and killed the passenger of a motor vehicle after a high-speed chase. Upon conclusion of the chase, police personnel approached the motor vehicle. As one officer approached the stopped vehicle, he took the revolver out of his holster. For unknown reasons, the revolver accidentally discharged and shot the passenger in the face, killing him instantly.
- During two incidents, police personnel were considered to have “accidentally” discharged their weapons with tragic consequences. In one incident, a police officer quickly exited his police vehicle at a stoplight in order to apprehend a suspect in a stolen vehicle. As the officer did so, he accidentally discharged his firearm causing the bullet to go through the neck of the seated driver. Although the driver did not die, he received serious crippling injuries. In another incident, a police officer was checking a suspected drug dealer who was seated in his car. As the officer went to open the car door, he placed his finger upon the trigger of his semi automatic handgun causing it to discharge and kill the seated passenger of the car.
- In other instances, police personnel “mistakenly” discharged their weapons, resulting in death or serious injury. During one incident, police personnel were dispatched to a report of a 19-year-old suicidal male who had consumed prescription drugs and was in possession of a 12-gauge shotgun. Upon checking the individual’s residence, a suicide note was discovered but the individual had left his home and was believed to be hiding out in the surrounding area. As a result, the police Emergency Response Team was deployed in the area in an attempt to locate the suicidal male. While this was occurring, a neighbour overheard the activity and suggested to her son that he attend the neighbour’s residence to investigate the disturbance. In response to his mother’s

request, the young male obtained a shotgun and began walking towards the neighbour's house, where unbeknownst to him, the police Emergency Response Team had been deployed. From the police perspective, the officers suddenly observed an unknown young male with a shotgun appear. *Police personnel mistakenly perceived the approaching neighbour to be the despondent male whom they were attempting to locate. As a result police personnel commanded the individual to drop his weapon, while referring him by the name of the despondent youth.* The approaching neighbour did not obey the police commands to disarm, possibly because of the use of the incorrect name. In response, police personnel discharged their weapons and killed the approaching neighbour. As this interaction occurred, the victim exchanged gunfire with the police, wounding one of the tactical officers. It was only upon conclusion of the gun battle that police realized that they had shot and killed the wrong individual.

- In another instance, a 49-year-old deceased male was shot and killed by a police officer during a drug raid at a residence. The male was visiting the house where the raid took place, sitting in a dimly lit room, playing a bass guitar. When the officer shouted "Police" and the male turned towards him pointing the object towards the officer. The officer mistook it for a double-barrelled shotgun and shot the male. Unfortunately, the male was severely ill at the time of the shooting. Upon being shot he was rushed to hospital where he endured three operations. After the third operation, the victim succumbed to his injuries and illnesses and died.
- A 38-year-old aboriginal male died as a result of a single gunshot wound during a skirmish with police officers. The deceased was unarmed and part of a protest group contesting government control of land having aboriginal significance. During the heated protest dispute on of the attending police officers perceived that he saw a muzzle flash from the area of the deceased. Believing that a shot had been fired, the Caucasian police officer discharged his weapon and killed the aboriginal male. A weapon was never found. As a result the police officer was charged and convicted of criminal negligence causing death in the shooting. (*Regina v. Deane*, (2000)).
- In 1994, two police officers observed a male matching the description of a suspect involved in two robberies. The two officers confronted the suspect at gunpoint, ordering him to place his hands in the air and assume a prone position on the ground. One officer removed his handcuffs and began to approach the individual, while the second officer stood watch over the suspect with his service gun drawn. Suddenly the suspect began to move his right hand slowly towards his chest area. Fearing that the suspect was armed and reaching for a handgun the officer discharged one round, missing the suspect. Upon questioning the individual, it was learned that he was not the robbery suspect and that he

was wearing a Walkman type recorder positioned on his waist belt with earplugs as speakers. The individual was unable to clearly hear all of the police officer's commands and was simply reaching inside his jacket to remove the wire connection for the earplug speakers when the officer discharged his weapon.

- Narcotics officers were executing a search warrant in an apartment complex and had requested the assistance of SWAT personnel in order to make the entry and secure the occupants of the residence. Upon entering the apartment, the SWAT entry team observed a white male enter the bathroom and close the door. Attempts to kick in the door failed with the subject refusing to exit the bathroom. In response, one of the SWAT team members discharged a 12 gauge Shoc-Loc weapon in order to blow the lock off the bathroom door. Upon opening the bathroom door, police personnel noted that the subject had sustained injuries to his buttocks while standing on the other side of the door, attempting to block it from opening.
- Police personnel responded to a 911 call reporting that a juvenile male was seen walking near a highway overpass with a rifle. Operational patrol officers responded to the scene as well as school liaison police personnel who had been monitoring the call on their radio. A patrol officer eventually located the suspect near a shopping center in possession of a rifle. The lone officer began to issue commands to the youth when a school liaison officer suddenly arrived at the scene and took a position of cover. The school liaison officer observed the armed youth from the rear, now walking towards the patrol officer in possession of a rifle. Fearing that the youth was going to shoot the patrol officer the school liaison officer discharged his weapon wounding the youth. The school liaison officer then learned that the youth was born with Down syndrome and was severely handicapped. The rifle that he was holding was a non-lethal Daisy BB rifle.

### ***Firearm Discharges Resulting in the Death of Police Personnel***

This dissertation also documented two incidents where police personnel have been accidentally shot and killed by their colleagues. In both of these incidents, the accidents occurred during routine training sessions conducted by elite Emergency Response Personnel.

In another instance, a member of an Emergency Response Team accidentally killed a prison guard during a hostage rescue at a Federal Penitentiary. Finally, in an

unusual set of circumstances, an on-duty, uniformed police officer from a neighbouring jurisdiction shot and killed two police officers when they responded to an alarm. Unbeknownst to the two officers, their colleague was in the progress of committing a burglary when he was surprised by their attendance. The officer panicked, discharging his firearm and killing the two attending officers.

- In this instance, a police officer accidentally shot and killed his police partner during an Emergency Response Team firearms training exercise. The team of officers were training with “simulated ammunition” and then stopped for a luncheon break. Upon returning from lunch, one of the officers failed to eliminate a live round from his pistol. When training resumed, the officer discharged his firearm at his partner believing that his pistol contained simulated ammunition resulting in fatal consequences.
- During a training session of Emergency Response Team personnel, police officers attended a firearms range for the purpose of practicing to shoot their newly-issued weapons. Two officers were practicing quick-draw methods and after doing this one of the officers left the area. The officer who was left in the room decided to continue practicing quick-draw methods. The officer who left was unloading his weapon in another room and the other officer came up behind him with a baseball bat over his head. This startled the officer and he shot at the officer wounding him in the abdomen. The officer was taken to hospital where he succumbed to his injuries and died.
- Police personnel responded to a Federal Penitentiary during a prison riot where two guards were taken hostage. The hostage taking incident occurred over two intense days involving a negotiation process. However, during the second day the police Emergency Response Team heard screams for help from one of the hostages. A decision was then made to forcibly enter the contained area for the purpose of a rescue. One of the police officers discharged his firearm as a diversionary technique, while another officer discharged gas into the cellblock area. Unfortunately, one of the hostages, a prison guard, was accidentally struck in the groin area by one of the police firearm rounds. The prison guard later died as a result of his injuries.
- In an unusual set of circumstances, an on-duty police officer shot and killed two fellow officers during a crime spree. During this incident, two City police officers responded to an audible alarm at a premise. Upon arriving at the scene, they noted that another police officer, from a neighbouring jurisdiction, was also in attendance. As the two officers approached the third officer, they were shot and killed. It was later



learned that the police officer from the neighbouring jurisdiction was on a crime spree, committing break and enters while he was “on duty.” Upon being discovered by the two attending City police officers, the third officer panicked, shooting and killing them.

## **Police Firearm Discharges at Motor Vehicles**

In several of the cases examined (Canada n=110, U.S. n=132), a motor vehicle was utilized by the suspect sometime during an incident involving the police use of deadly force. In many of these cases, the suspect had initiated a police pursuit. Interestingly, in some instances, the motor vehicle was used by a fleeing suspect in a threatening manner, attempting to kill or injure police personnel.

In response to the lethal threat, police personnel would typically discharge their firearm at the driver’s portion of the motor vehicle windshield in an attempt to prevent the vehicle from striking the officer(s) who were typically on foot at the time. In most of these instances, the suspect driver and occupants of the charging motor vehicle would not receive any injuries as a direct result of the police firearms discharge.

It was more common for police personnel to be wounded or injured during these instances. This dissertation also noted ten incidents where a police-firearm error occurred. During these incidents, the police officer either wounded him-or-her self, other police personnel or an innocent victim. One of the more frequent police injuries appears to be caused when officers attempt to “shoot out the tires” of suspect vehicles.

The automobile, and the wheels that it rests upon, are largely made of steel. The concrete or asphalt roadway that the vehicle rests upon serve to further compound the situation. When a high-speed lead bullet is discharged in the general area of a vehicle,

ricochets and metal fragments abound. Unlike the scenes depicted by “Hollywood,” the “shooting out of a tire” can be a precarious and dangerous event.

**Table 4: Use of Motor Vehicle by Suspect Resulting in Injury: Canada**

Use of Motor Vehicle by Suspect \* Resulting in Injury (Fatal, Non-Fatal, Non-Injury) Crosstabulation

Motor Vehicle	Victim's Injury							Total
	1	2	3	4	5	6	7	
1. Initiate Police Pursuit (count)	17	8	12	12	2			51
% of Total	15.5%	7.3%	10.9%	10.9%	1.8%			46.4%
2. Firearms Suicide (count)	1					1	3	5
% of Total	.9%					.9%	2.7%	4.5%
3. Used as a Shield (count)	4	2		3				9
% of Total	3.6%	1.8%		2.7%				8.2%
4. Used as a Weapon (count)	3	5	5	10	2			25
% of Total	2.7%	4.5%	4.5%	9.1%	1.8%			22.7%
5. Street Check (count)	7	3	5	2			3	20
% of Total	6.4%	2.7%	4.5%	1.8%			2.7%	18.2%
Total (count)	32	18	22	27	4	1	6	110
% of Total	29.1%	16.4%	20.0%	24.5%	3.6%	.9%	5.5%	100.0%

Note. 1 = Fatal  
 2 = Non-fatal (serious)  
 3 = Non-fatal (non-serious)  
 4 = Non-injury  
 5 = Injured but unknown degree of seriousness  
 6 = Self-inflicted injury (non-fatal) upon police arrival  
 7 = Self-inflicted fatal injury upon police arrival

Nonetheless, in a number of cases, police personnel became engulfed in a life-or-death situation that had originated as a routine check of a motor vehicle. In many instances, the officer had simply reached in to the driver's window in an attempt to turn off the engine of the suspect vehicle. As the police officer was leaning into the vehicle, the driver would speed off, placing the officer in the precarious position of being half inside and half outside of the vehicle. In other instances, a suspect fleeing from

apprehension would attempt to run over the officer. Often, the police officer was faced with few options owing to the deadly threat.

### **Case #28**

In 1995, a lone traffic officer stopped a motor vehicle with two male occupants during a routine check. The officer noted that the vehicle was a rental car with out-of-state registration. Upon speaking with the occupants, the officer noted that the two individuals presented conflicting statements. With his suspicion now aroused, the officer asked the driver to turn off the engine of the vehicle. When the driver hesitated, the officer reached into the vehicle to turn off the engine and take the keys.

As the officer leaned in the driver caused the vehicle to speed off, leaving the officer hanging on the outside of the vehicle. The officer responded by discharging two shots from his service weapon, seriously wounding the driver. It was later learned that both occupants had previous criminal records and that the motor vehicle was stolen.

### **Case #29**

In 1996, a lone traffic officer stopped a motor vehicle with two occupants for a speeding offence. Upon speaking to the driver of the vehicle, the officer noted that he had been drinking and arrested him for impaired driving. The driver was subsequently handcuffed with his hands behind his back and placed in the front seat of the police vehicle, seat belted into place.

The officer then approached the subject's vehicle and began speaking to passenger. Suddenly, as the officer was standing beside the stopped suspect vehicle, the officer's police vehicle started up. The arrested and handcuffed driver was now behind the driver's seat of the police vehicle. The police vehicle then accelerated forward towards the standing officer. In response, the officer discharged his firearm killing the driver of the vehicle. It was later learned that the deceased had a blood alcohol level of 0.18% at the time of his death and outstanding warrants for a parole violation.

## Fleeing from the Scene of a Crime: Resisting Arrest

In several instances (Canada n=210, USA n=218) police personnel were responding to a routine or possible crime occurrence call when they suddenly and unexpectedly encountered a criminal who was in the process of committing a serious crime or attempting to flee the scene. As Table 5 notes, in the majority of instances that resulted in a police shooting, the initial police response was in regards to a “crime in progress”. Upon seeing police personnel arrive at the scene of their crime, the suspect typically confronted the officer(s) with lethal force or grievous bodily harm causing the officer to respond to the threat with their issued service firearm.

**Table 5: Initial Police Response to Call: Canada**

Initial Response To Call \* Resulting in Injury (Fatal, Non-Fatal) Crosstabulation

Initial Response	Victim's Injury		Total
	Fatal	Non-fatal	
1. Routine Check (count)	33	16	49
% of Total	10.9%	5.3%	16.1%
2. Crime in Progress (count)	121	89	210
% of Total	39.8%	29.3%	69.1%
3. Person with Weapon (count)	25	20	45
% of Total	8.2%	6.6%	14.8%
Total (count)	179	125	304
% of Total	58.9%	41.1%	100.0%

### Case #30

During the afternoon of July 1998, a lone police dog handler responded to a report of a robbery in progress. Upon searching the general area for

the suspect, the dog handler noted an individual matching the suspect's description. Upon questioning the individual a struggle ensued between the officer and the suspect. The individual produced a handgun and fired it several times, striking the dog handler. A firefight ensued with the dog handler returning fire and striking the suspect. Both the suspect and the dog handler were transported to a nearby hospital.

### **Case #31**

In the fall of 1998 at 4 am in the morning, police were alerted to a report of a silent burglar alarm at a business premise. A lone officer arrived at the scene and went to the rear of the premise where he noted that the rear door had been pried open. As the officer was examining the door, the suspect suddenly exited the premise and attacked the officer with a crowbar. The officer responded to the attack by discharging his firearm and wounding the assailant.

### **Case #32**

In 1998, three plain-clothed officers were assigned to an area with the purpose of detecting individuals who had been stealing from parked motor vehicles. Eventually, they located a male suspect who had broken into a parked car on the shoulder of the roadway. When the officers went to arrest the individual, a struggle ensued with the suspect removing the police officer's supplemental handgun. The suspect then shot the second officer and ran across the roadway where he attempted to drive off in a marked police vehicle. The suspect was unable to start the police vehicle and a "shoot out" developed that resulted in the suspect being wounded and subdued. The suspect later recovered from his wounds.

### **Case #33**

A suspect entered a bank and brandished a firearm demanding money from the teller while threatening them with the weapon. The teller gave the suspect the money and he exited the bank onto the street where he was located by attending police personnel. Officers challenged the individual and demanded that he drop his weapon and surrender. The commands were ignored and the individual continued to brandish his weapon while walking away from police personnel towards an occupied vehicle on the street. It appeared that the suspect was about to "car jack" the vehicle. As a result, police personnel discharged their weapons and killed the suspect.

## Additional Issues Surrounding the Police Use of Deadly Force

In addition to the findings that have been discussed, this dissertation noted a variety of additional issues surrounding the police use of deadly force. These issues included the physical setting where the police shooting occurred, the *perceived* lethal threat by the police officer and, the involvement of female police officers in a shooting incident. In most instances, the police shooting occurred on the street, within a residence, or a business premise (i.e. bank or restaurant). In some instances, more than one individual was shot and killed by the police.

**Table 6: Location of Police Shooting Incident: Canada**

**Location of Police Shooting \* Victim Injury (Fatal 1 Non-Fatal 2)  
Crosstabulation**

			Victim Injury (Fatal 1 Non-Fatal 2)		Total	
			1	2		
Location	1	Count	72	30	102	
		% of Total	24.7%	10.3%	35.1%	
1 = Residence	2	Count	42	27	69	
		% of Total	14.4%	9.3%	23.7%	
2 = Business	3	Count	66	54	120	
		% of Total	22.7%	18.6%	41.2%	
3 = Street	Total		Count	180	111	291
			% of Total	61.9%	38.1%	100.0%

### ***Deadly Force within Unique Settings: The Perception of a Lethal Threat***

This dissertation noted that two of the more unusual locations for a fatal police shooting occurred within the emergency ward of a hospital, and within police

headquarters. Hospital settings are typically associated as a place of healing and care and not the use of deadly force. However, this dissertation has recorded two incidents where police personnel were confronted by a despondent individual threatening the officer with death or grievous bodily harm. Often the attending officer(s) were left with few, if any, options but to discharge their firearms in order to protect their lives or the lives of others within the hospital setting.

During one instance, an individual was shot and killed in the emergency ward of a suburban hospital while waiting for psychiatric treatment. The despondent / suicidal individual was waiting for care and became aggressive towards hospital staff who summoned the police. Upon police arrival, the subject attacked the police officers with a pair of scissors and was shot.

In three separate incidents, prisoners in the cellblock area of the police station attacked armed police personnel while they were being booked into the jail area. In each instance, the police officer was alone but in the possession of his firearm. A "hand to hand" combat battle ensued where the assailant either disarmed the police officer or attempted to disarm the police officer. As a result, the police officer shot and killed their assailant. Interestingly, in one of these cases, the police officer was charged with second-degree murder.

In other instances, it was later determined that the individual shot by the police was in possession of a replica firearm, non-lethal pellet gun or often had simulated a weapon causing the police officer to perceive a lethal threat (Canada n=34, USA n=46).

**Table 7: Lethal Threat Perceived by Canadian Police****Lethal Threat \* Victim Injury (Fatal 1 Non-Fatal 2) Crosstabulation**

			Victim Injury (Fatal 1 Non-Fatal 2)		Total
			1	2	
Lethal Threat 1 = Firearm	1	Count	83	44	127
		% of Total	31.0%	16.4%	47.4%
2 = Weapon 3 = Perceived Weapon	2	Count	70	37	107
		% of Total	26.1%	13.8%	39.9%
	3	Count	19	15	34
		% of Total	7.1%	5.6%	12.7%
Total		Count	172	96	268
		% of Total	64.2%	35.8%	100.0%

***The Use of Deadly Force by Female Police Officers***

Throughout Canada, it is estimated that female police officers account for roughly 15% of all police personnel (Statistics Canada, 2003). However, “front line” operational female police officers have traditionally formed an even smaller number of female personnel. This situation was especially true in the 1980’s and into the mid-1990’s, when their male counterparts vastly outnumbered operational female police officers within Canada (Griffiths, et al., 1999).

This dissertation noted that in only 2% of the Canadian cases examined (n=8) was a female police officer involved in a deadly force encounter, owing to their operational role. During these incidents, the female officer was typically assigned to patrol duties when they were suddenly confronted by a lethal threat. In most instances, the female officer was in the company of a male partner.



During one incident, a lone female police officer stopped a motor vehicle on the roadside. While checking the occupants of the motor vehicle, the male driver overpowered the officer and began to inflict grievous bodily harm upon her. Fearing for her life, the female officer removed her firearm from her holster and shot and killed the male suspect.

In another instance, a female police officer utilized deadly force, discharging her firearm when her male partner discharged his firearm as they were confronting a suicidal male during a domestic dispute. The distraught male had confronted the two officers with a handgun, threatening to kill the officers. When the subject would not drop his weapon, he was shot and killed.

### ***The Police Killing of More than One Individual***

In 90% of the Canadian cases examined (n=367), (USA n=390), it was noted that only one subject was involved in the police shooting incident. However, in 9 % of the Canadian cases examined (n=39), (USA n=22), this dissertation noted police shooting incidents where more than one individual was wounded or killed. In the vast majority of these 39 cases, police typically wounded both individuals, or one individual was wounded and the other killed. Although somewhat rare, this dissertation recorded two incidents in which a lone police officer utilized deadly force, killing two individuals.

- During one fatal shooting incident, a lone police officer shot and killed two individuals, a father and a son. The lone officer was responding to a report of a disturbance involving drunken males. The officer confronted one individual on the street who began to fight with the officer. A second male joined in the fight causing the officer to perceive that he was in imminent danger of grievous bodily harm or death. In response, the

officer discharged his firearm killing both individuals during the physical fight on the street.

- In another incident, a lone police officer shot and killed two individuals, a mother and her 9-year-old son. The officer was responding to a request for assistance from a tribal police officer on an Aboriginal Reserve. Upon attending the scene, the deceased female began to fire at the officer with a high-powered rifle. In an attempt to maintain cover, the officer returned fire by discharging one round from his shotgun. Unfortunately, the pellets from the single shotgun blast simultaneously killed the female and her son who, unbeknownst to the officer, was standing beside his mother. Media reports exacerbated the incident by initially reporting that the female was pregnant at the time of her death. Also of media interest was the fact that the officer was Caucasian and the deceased's were Aboriginal.

### ***Domestic Violence***

In other instances, police personnel were summoned to a residence to deal with a situation involving domestic violence (Canada n=31, USA n=49). Upon attending the scene, or shortly after, police personnel were often required to utilize deadly force in order to resolve the domestic conflict that had developed.

#### **Case #34**

A lone police officer responded to a domestic violence situation involving the destruction of personal property. Upon confronting the male responsible for the damage, a physical altercation developed between the officer and the suspect. Pepper spray was deployed but it had little effect. Citizens came to the aid of the officer and the suspect fled. However, the suspect later returned and once again physically confronted the officer. During this altercation, the suspect's girlfriend joined in with the struggle and removed the officer's baton. As the officer was distracted, the suspect was able to remove the officer's gun from his holster. The two individuals now fought over possession of the weapon. During the struggle the suspect pointed the handgun at the officer's stomach. However, the officer was able to turn the weapon towards the suspect as it discharged causing a fatal wound to the suspect's chest.

### ***Racism and Police Shootings***

This dissertation noted that, in several instances, individuals of Aboriginal background became severely intoxicated (e.g. 200 mgs of ethyl alcohol per 100mls) with a disturbance developing. These intoxicated individuals would then arm themselves with a weapon such a rifle or knife. Police officers (typically Caucasian) were subsequently summoned to deal with the drunken-irrational-armed individuals owing to their violent and threatening behaviour. A police shooting incident would result with often-fatal consequences. During other instances, individuals of African-Canadian background were shot and killed by Caucasian police officers. This situation was further confounded when controversy surrounded the shooting incident. For example, in the City of Toronto, police personnel within the policing unit known as the “Black Organized Crime Squad” committed many of the shooting incidents and were subsequently labelled as “racist.” This specialized police unit was tasked with the goal of targeting organized crimes that were committed by members of the Black Community. The name of the unit was considered controversial and as a result was not openly disclosed to the media or public.

It is within this setting that several members of Jamaican or Haitian decent were typically shot and wounded or killed, by police personnel who were typically Caucasian. This situation was followed by protests from special interest groups that included the “Black Action Defence Committee” stating that the police shootings were nothing less than systemic racism on the part of the police agency.

**Table 8: Police Shooting and Victims Race: Canada****Police Shooting and Victims Race \* Victim Injury (Fatal 1 Non-Fatal 2)  
Crosstabulation**

			Victim Injury (Fatal 1 Non-Fatal 2)		Total
			1	2	
Victims Race 1 = Caucasian	1	Count	105	27	132
		% of Total	60.0%	15.4%	75.4%
2 = Black	2	Count	15	2	17
		% of Total	8.6%	1.1%	9.7%
3 = Aboriginal	3	Count	22	4	26
		% of Total	12.6%	2.3%	14.9%
Total		Count	142	33	175
		% of Total	81.1%	18.9%	100.0%

In another instance, a member of a First Nation's police service shot and wounded an aboriginal male who had earlier escaped from a courthouse. When the escapee was later located and confronted, he charged at the First Nations' police officer while in possession of a bush axe. The officer responded by discharging his firearm and wounding the escapee. However, the vast majority of individuals shot by police were Caucasian, as illustrated in Table 8 (Canada n=132, USA n=114).

**Canadian Research Regarding Racism and the Police Use of Deadly Force**

Roughly two million people reside within the racially diverse area of greater Vancouver, British Columbia. Policing within the city is divided between municipal police agencies and members of the Royal Canadian Mounted Police. A recent study (Parent, 1996) revealed that eleven of the fourteen individuals (78%) shot and killed by members

of municipal police agencies during a fifteen-year period between 1980–1994 were Caucasian males. All of the police officers involved in these eleven fatal shootings were also Caucasian males. In only three instances (22% of the fatal police shootings) were visible minorities shot and killed by members of municipal police agencies.

In the first incident, an African-Canadian male was shot and killed during an attempted jewellery-store robbery. The suspect was committing a serious criminal offence and fled upon police arrival. An attending male Caucasian police officer perceived that a hostage-taking incident was about to occur. In response, the officer discharged his firearm and killed the fleeing suspect.

### **Case C**

In September 1982, an African-Canadian male attempted to rob a jewellery store when police were summoned to the scene. Two Caucasian police officers attended the scene and were over powered with the suspect fleeing on foot. However, one of the two officers pursued the suspect out of the store and into a back alley. While being pursued on foot by the police officer, the suspect was observed by a third Caucasian police officer.

The third police officer observed what appeared to be a weapon in the possession of the fleeing suspect. This officer perceived that the fleeing suspect was about to take a hostage. In response, the officer discharged his firearm owing to the perception that an innocent bystander was about to face a lethal-threat. The officer's shot hit the suspect in the waist area where it was initially perceived that a minor wounding had resulted. However, within an hour, the suspect would be dead. The suspect was immediately transported to a nearby hospital but died shortly upon admission owing to severe internal bleeding. (Parent, 1996).

In the second incident, a Vietnamese-Canadian male was shot and killed by the police during a hostage-taking incident. During this particular shooting, one of the three

police officers involved in this fatal event was also an oriental male. This police officer was the only non-Caucasian “shooter” identified during the course of this study.

### **Case D**

During June 1990, a hostage-taking situation occurred in the law courts of a municipality. The incident resulted soon after a 38-year-old Vietnamese male had been charged and convicted of violations pursuant to the *Federal Fisheries Act*. The accused had appealed his conviction and a new trial was granted. A condition set by the court was that the accused was to surrender himself to the court Sheriff's Services on the morning of the new trial.

On the date of the new trial, the accused attended the courthouse and surrendered himself to one of the court sheriffs. The sheriff escorted the subject to the third floor of the courthouse and was about to conduct a physical search of the individual when the accused suddenly produced a loaded .357 magnum revolver. With his gun pointed in a threatening manner, the accused took three sheriff personnel and a Vietnamese interpreter as hostages.

With his hostages fully secured, the accused demanded (through the interpreter) that he wished \$485,000.00 as compensation for lost wages. However, central to his demands, the accused desired to speak to the federal Fisheries officer who had initially charged him. The accused stated that the Fisheries officer was to come to the Sheriff's booking area and to speak to him face-to-face.

However, police intelligence believed that the accused intended to murder the Fisheries officer at the first opportunity in revenge for the disgrace and humiliation of being charged and convicted. As a result, the Fisheries officer refused to meet with the accused until he first surrendered his weapon and released his hostages. The accused did not agree to this arrangement.

The Emergency Response Team was summoned and negotiations were commenced. During negotiations, the accused displayed erratic emotional behaviour and on several occasions stated, “there will be no tomorrow” for either himself or his hostages if his demands were not met. Owing to the accused's statements and actions, police negotiators felt that the accused was prepared to die and possibly kill the hostages and any intervening police officers.

Facing this precarious situation, a police-emergency-response rescue was attempted by a tactical police unit entering the booking room

area. Upon seeing the police officers, the accused started to level his handgun at the intervening officers. He was ordered to drop his gun, but refused. The accused instead levelled his weapon at the three police officers. The three police officers responded to the threat by discharging their guns at the accused.

While falling, the accused managed to discharge all six rounds in his weapon, at the general direction of the police officers. Three police officers received minor wounds from flying cement particles and bullet fragments. The nearby hostages did not receive any injuries although they were nearby when the shooting incident unfolded. In total, nine police bullets struck the suspect. He was rushed to the hospital, where he remained in critical condition for 13 days before dying from multiple-organ failure. (Parent, 1996)

The third fatal shooting of a non-Caucasian occurred when an Aboriginal male was killed as he adopted a "combat shooting position" upon being chased by the police. A male Caucasian police officer was conducting a routine patrol of the area when a motel clerk flagged him down. The clerk advised that the aboriginal male had just assaulted him. Upon seeing the arrival of the police, the suspect fled and a foot chase ensued.

### **Case E**

During March 1992, four individuals had checked into a motel. Prior to checking into the motel, the group had consumed between one-half and three-quarters of a forty-ounce bottle of vodka. Upon arrival at the motel, there was a loud verbal altercation between the individual and his three friends. As a result, the motel clerk approached the 21 year-old Aboriginal male and requested that the individual and his friends refrain from making undue noise. The male responded to the request by physically assaulting the desk clerk. The desk clerk, looking for help, noticed a marked police vehicle patrolling in the area and flagged the uniformed officer down.

Upon seeing the police officer, the suspect fled on foot. The police officer responded by advising police dispatch of the incident and pursued the suspect. The foot chase progressed down several lane ways and was joined by another police officer. The lighting in the area was artificial and

inconsistent at best. Nonetheless, the two police officers pursued the suspect until he was finally cornered in a parking lot.

Upon being cornered, the suspect suddenly stopped and turned towards one of the officers. He then reached into the front of his pants and pulled out a black object. The suspect then adopted a combat shooting stance. This stance is known to frequently occur when individuals, using a handgun, are about to shoot at close range.

The initial pursuing police officer responded to the actions of the individual by ordering him to “freeze” and “drop it”. These commands were stated several times. The suspect did not comply to the police demands. He appeared to be angry and agitated and responded to the police demands by stating, “Fuck-you; Fuck-you!” The suspect then suddenly swung around and pointed his hands, while grasping the black object, directly at one of the police officers. Both police officers believed that the suspect had a firearm in his hand due to his actions, behaviour and statements.

The initial foot-pursuing officer now believed that his life was in imminent danger. The police officer responded to the perceived threat by firing four rounds from his revolver. The second officer also discharged one round from his firearm. Five shots were fired by the two officers in attendance. The suspect fell to the ground and died. Less than three minutes had elapsed from the time that the initial officer was flagged down until the time that an ambulance was summoned for the deceased male.

It was later learned that the black object in the suspect’s hand was in fact a black portable radio. There was no evidence presented at the subsequent Coroner’s Inquest that would indicate what motivated the suspect to become aggressive and threaten the police. (Parent, 1996)

### ***Summary***

In all three of these documented cases, members of visible minorities were shot and killed by the police during the commission of a criminal offence. A total of six police officers were involved in the three fatal shooting incidents. Five of these six officers were Caucasian males. All of the incidents occurred within the greater Vancouver area, after members of the public had summoned the police for assistance.



Upon conducting a case-by-case examination, the facts and circumstances surrounding each of the fatal shootings are not indicative of an act of racism by police officers. Significantly, the officers interviewed in the three shooting incidents stated that they were exonerated for their actions in dealing with the lethal-threat. The officers stated that they were not charged under the *Criminal Code*, nor did they face a disciplinary action as a result of their shooting incident. The police officers involved in the fatal shootings were quick to add that, as a result of the Coroner's Inquest, their actions were vindicated within a public forum.

However, initial media reporting emphasized the fact that a member of a visible ethnic minority had been shot and killed by the police. Other media reports insinuated police "wrong-doings" reporting that criminal or disciplinary actions were imminent against the police officers involved. Nonetheless, all of the officers who were interviewed denied any formal repercussions as a result of their shooting incident.

It is also significant that, in general terms, the frequency rate of the three visible minority police shootings are consistent with the recorded visible minority population rate for the greater Vancouver geographic area. The statistics regarding population demographics within British Columbia indicate that the visible minority population for the province is roughly 14.2 percent, based upon a 1991 census (Statistics Canada, 1991). The period of this census is roughly the same as the period in which the police shootings of the three visible minorities occurred.

Importantly, this same census also revealed that, within the greater Vancouver area, the visible minority population is roughly 24 percent of the general population. Visible minorities within this classification are generally described as individuals whose

ethnic origin is South Asian, East and South East Asian, African, Pacific Islands, Caribbean, Black and Aboriginal (Statistics Canada, 1991).

As this study has documented, in 78% of the fatal police shootings, male Caucasian police officers have shot and killed male Caucasian individuals. Although visible minorities have been shot and killed by police personnel, the frequency rate of 22% is within the parameters of the 24% visible minority population within the Vancouver area.

### **Perspectives of a Police Shooting**

As stated, this dissertation involved the interviewing of prison inmates who had utilized firearms in the commission of their crime and often, had been in a “shoot-out” with the police. In the majority of the instances, the individual was in possession of a firearm during the commission of a crime often causing the police officer to perceive a lethal-threat. Police personnel typically responded to the perceived lethal-threat by arresting the individual at gunpoint, with intent to kill. In some instances, the police officer discharged their firearm at the suspect wounding the individual.

One of the interesting aspects of this dissertation is that, in three separate instances, it was possible to interview both the police officer and the inmate of a shooting that had previously occurred. The police officer and the inmate had never spoken to one another after the incident, and neither had shared their perception of the event with the other. However, by speaking with both the police officer and the assailant it became possible to understand the differing motivations, goals and perceptions that occur during a police shooting incident.

### ***Case #35: The Police Perspective***

This incident occurred in less than one minute in a major city in the west when a lone police officer was driving a police supervisor's vehicle, a large van, working the north part of the city late at night. The veteran officer with 10 years of experience had responded to a report of two suspects, who were believed to be prowling in an unlit parking lot, attempting to steal cars.

A police helicopter had attended the area, illuminating the parking lot for the responding patrol units. One police unit had passed by and noted that two individuals in the area matched the description of the suspects. This unit had left the immediate scene to check the possible suspects.

Unknown to the police, the incident was actually a dispute between organized criminals concerning drugs and money. The criminals were armed, under the influence of drugs, and were attempting to resolve their dispute with deadly force when the police suddenly and unexpectedly attend the scene.

It is at this point that the lone police officer in the van arrived at the scene, attempting to obtain more information from witnesses and passers by in the area. The officer was somewhat relaxed as he was seated in his police vehicle, questioning a pedestrian whom was walking along the sidewalk in the area.

I'm driving the police supervisor's van, by myself, in the north end of town. I hear this call of car prowling and I drive to the scene. The police helicopter is overhead and shining its light onto the area. Suddenly, the helicopter backs off and the two guys just disappear into the darkness. I see this other guy standing there, on the street. I pull up beside this guy, while sitting in the van and asked him if he knew what was going on.

So as I'm dealing with this one guy I turned towards my keyboard on the console (in the center of the police vehicle) to check for information. When I turn my head back to the window this guy has a shotgun shoved in my face, against the left side of my head.

So while my right hand is still down there, I hit the police emergency button. He didn't know that's what I was doing with my right hand. I hit it seven times. He's yelling and screaming at me and trying to open the driver's door. He's swearing and saying, "Get out of the vehicle," "Get out of the fucking vehicle" as he's trying to open the door of the police vehicle. There is no doubt in my mind, he is gonna kill me. You could see it in his face, he was gonna killed me.

Suddenly he looks to his left as this cop car passes by. So as he turns, that's when I pulled my gun out of my holster and started firing (while I'm seated in the police van and he's standing outside of my police vehicle). I leaned back as far as I could and just let go. I just unloaded.

I see the first round hit his head and his head splits open. Then I see my second or third round as his head turns. I see his hair blow apart to the back of his head. As he hits the ground, he was in a sitting position. Still holding onto his shotgun. I wasn't sure if he was alive or not. Then he fell down and hit the ground, flat out.

The whole thing took fifty-seven seconds; from the time that I hit the emergency button, when he put the gun to my head, until the time that I'm on the radio requesting emergency backup. Calmly, I got on the radio and said I need an ambulance, I need back up, get me a supervisor. As I am doing this he is lying there and I think he's dead. Twice I thought that he had packed in but he never died.

In reflecting upon the incident and the thoughts that were racing inside the officer's head at the time of the incident, he stated:

If you're gonna die, you're gonna die. He was gonna kill me so you gotta take your opportunity. I figured I was gonna take him with me. If I'm going down then he's going down too. As I'm saying this . . . that I'm gonna die. I hear this voice inside my head, the Holy Spirit is saying: "No you're not. You're not going to die. No." I kid you not! Just as I am hearing this voice in my head, that's when he suddenly turned to the left and was distracted. That's when I knew it was time to do something.

After it was all over I lost it! I couldn't sleep. I couldn't even close my eyes for 48 hours afterwards. I never testified and I never saw the guy again. I think they dealt off the charges from attempted murder to a simple possession of weapons offence.

It became a real religious event. Since then I've gone onto speak to youth about the power of God, leadership and making a difference whenever you work. I think this incident was in God's plan. It changed my life and was a real humbling experience. I learned that I'm not the be

all end all. There's more meaning to life than just being a cool cop. To this day I sit to the rear of my seat, with the seat all the way pushed back. I keep my head tucked in when I'm driving a police vehicle.

### ***Case #35: The Inmate's Perspective***

Prior to speaking to the police officer, this inmate was located in prison, serving a federal sentence on another matter. At the time of the interview, the details of the incident involving the inmate's previous firearm offence were unknown. However, during the course of the interview, it readily became apparent that the subject had been involved in a police shooting that narrowly missed taking his life and, in the killing of a police officer. Only by chance and several months later was the involved police officer located.

As the interview progressed, the 35-year-old Caucasian male displayed the scars that resulted from his police shooting incident. Almost proudly, he displayed his left glass eye and the noticeable scar that ran from the center of his eyes, down his face and below the neckline to his upper chest area. The extensive length of scarring was a visible reminder of the traumatic injuries that he had sustained during his shooting encounter.

The inmate was upbeat and positive throughout the interview. He spoke of the police shooting incident with a degree of pride and excitement. However, he did appear somewhat regretful that the incident could have easily resulted in his death or the death of a police officer. Although the incident was an eventful moment resulting in negative consequences, it could have been far worse.

It had nothing to do with the cops, they just showed up at a wrong place at wrong time. I was working for a biker gang at the time. It was shortly after midnight and I was the hit man who was gonna settle a rip off that

had happened. I had a shotgun and one guy had an automatic. I had actually fired a couple of shots that evening, before the cops arrived. That is likely why they showed up. I was on Heroin at the time. I also did a quarter gram of cocaine just before all this happened.

What happened was the cop pulled up in a paddy wagon and I've got this 12 gauge shotgun. The cop passed us and then pulled up beside me (as I was on the sidewalk and he was in his vehicle). So I stuck the shotgun in his face. He's seated in his van and I'm standing there.

Suddenly I hear this sound. I turned and looked away from the cop and it's this helicopter! I thought it was a bike! While I'm looking at the helicopter this cop reaches his gun and shoot me with his Glock. The cop pulled out his gun and fired twice through the door of the police vehicle. Once through the window.

When I get shot, everything went black. It was peaceful but then I hit the ground. I thought I was dead. I later found out that the cop had hit me with a 40 cal. Glock, the bullets had split me from eye down to my neck. I lost my left eye and my right face was reconstructed . . . like the six million dollar man!

In reflecting upon the incident and the thoughts that he has had since the incident occurred, the inmate stated:

The cop is lucky that I accidentally didn't shoot him with my shotgun (as he was firing at me through the door and open window). I spent a lot of time in the hospital after the incident and I got 18 months in jail for that. I never saw the cop again. I'm in jail now for something else. Now I'm doing four years.

In summary, both the inmate and the police officer provided similar factual details of the event even though each experienced individual factors that impacted upon them emotionally, psychologically and physically.

### ***Case #36: The Police Perspective***

This incident occurred during the summer in a built-up, urban area of a major city in the west. At approximately 8 pm in the evening, two uniformed police officer riding bicycles noted two suspicious individuals in the area of a small shopping area. As the police officers were checking the two individuals, one male suddenly ran away.

This was immediately followed by a foot chase by one of the police officers. When the police officer confronted the fleeing individual, a handgun was produced. While shooting over his shoulder, the subject once again began to run away from the police officer. Firing six rounds as he ran down the street, nearby a crowded sidewalk, the suspect gained distance from the officer.

The suspect then disappeared around the corner, into the courtyard of a nearby apartment complex. Suddenly, the pursuing bicycle patrol officer found himself looking down the end of a 25 cal. semi-automatic handgun. The suspect, less than three feet away, had the gun aimed at the officer's head and then pulled the trigger, clicking on an empty chamber.

Fortunately, the gun wielded by the suspect was out of bullets as a result of the suspect emptying his gun just seconds earlier when being chased by the officer. Unaware of the situation surrounding the suspect's handgun, both the pursuing officer and his partner discharged their firearms, wounding the suspect.

Police later found two balaclavas and a knife in a nearby vehicle that was being operated by the suspects. It was believed that the two suspects had intended to commit a robbery when they were unexpectedly checked by the bicycle patrol. In explaining how the incident unfolded, the pursuing officer stated:

My partner and myself were on duty riding our bikes, bicycle patrol, we were looking for "scroates". The weather was nice, there was a beautiful sunset. We had ridden up to a strip mall where a Mac's milk was located (in the eastern part of the city).

As we are riding we see these two suspicious guys hanging around the strip mall so we ride up to these two guys. We begin to check them and run their names (to see if there are any outstanding warrants). I am dealing with this guy's friend and I checked his name. I knew something was off as he didn't have any I.D. and his information didn't match. I knew he was lying, something wasn't right. So I asked him his zodiac sign and he didn't know it.

We were 3ft. to 4 ft. away from them, checking their names, when this guy burst off and ran across the street. I ran after him and caught up with him. I was able to reach out and give him one shot in the side of the face. He then started to reach towards his waist and I saw him grab something. He started yelling "Stay back! Stay back!" while swearing at me. He then started shooting over his shoulder, with his handgun, as he began to run away.

I could see all the pedestrians on the street so I decided to hold fire. People are just a scattering as this is happening. I'd then yelled out to my partner, "Where did he go? Where did he go?"

I thought he went inside this apartment complex. I thought it he was in the courtyard of the complex. However, as I came around the corner, I could see this peripheral silver object pointed towards my head. I fired a couple of shots and my partner fired a few shots.

That's when we then heard him crying "I'm hit! I'm hit!" I think he also got hit from fragments from our rounds. Then, after he was on the ground, he gave us his real name and said he was an escapee from prison.

The first time I fired my gun was when he was tucked behind the brick wall of the apartment building. Even though it was dry he had the gun pointed at my head. To take flight from police officer is one thing, but to try to kill a police officer is another thing!

When it went to trial he received a 14 year sentence. I've never ever talk to him about what happened that night or seen him since the trial.



In reflecting upon the incident and the thoughts that were racing inside the officer's head at the time of the incident, he stated:

After we fired the rounds, I felt a rush through my body and I started having the shakes. Then I was crying right away. Off and on again I began crying. I called my wife right away and talked to her.

I like what I'm doing now. However from the time that that incident happened until now I could leave the job . . . for anything. As a result of this incident, policing is now the fourth or fifth thing in my life. I've prioritized my life and policing is a lot lower than it was before this incident happened. To have some one dry fire at your head . . . it's a terrible experience.

I wish it had never happened. Sure I got a Chief Constable's award and later, I was honoured at our Honours night, but...those things really don't mean anything. I wish I had never checked him, I wish that we had just carried on and never seen him. It's just not worth it.

The biggest thing that I've learned from this is the priorities in your life. I have a wife and two kids and right after that night, policing dropped right down in my priorities of life. If I could find a comparable job right now that paid the same amount of money I'd be gone.

### ***Case #36: The Inmate's Perspective***

Prior to speaking to the police officer, the inmate was located in prison, serving a lengthy federal sentence for the attempted murder (of a police officer) and for possession of a firearm. At the time of the interview, the details of the incident involving the police shooting were unknown. However, during the course of the interview, it readily became apparent that the subject had been involved in a police shooting that had resulted in his wounding and subsequent imprisonment.

Several months later, the police officer who was involved in the incident was located and interviewed. The incident had received extensive media coverage at the time, and afterwards upon the conviction of the inmate. In addition, the police officer

was awarded the prestigious Governor General's medal at Police Honours night for the bravery that he displayed while under fire.

During the course of the interview, the inmate spoke calmly and mechanically of his police shooting incident. The inmate, who had recently left the eastern seaboard for the west coast, had been previously convicted of a firearms offence.

The Nova Scotia court had imposed a life-time ban regarding the possession of firearms by the subject. Ten years prior to the incident on the west coast, the subject had been convicted of an armed robbery in Halifax. At the time of the police shooting, the subject was considered "unlawfully at large" from a work release program at a minimum security prison located on the west coast. The inmate explained the police shooting incident that had resulted in his imprisonment, stating:

I went to the XX Hotel and bought a 25 cal handgun. I bought the gun for \$50.00, a 25 cal with 6 rounds. I was flipping it. Bought the gun 30 hours before the incident and I had plans to sell it for \$300.00. I wasn't on any cocaine that night, just drinking coca-cola at the pub.

I could have shot the fucker in the head (police officer) but I didn't – I could have killed him. I didn't want to hurt no body – I never have hurt anyone in my life. What happened is that I was in the area of XX and XX when these two guys (police officers) on bikes see buddy and me and decide to check us.

One cop asks for identification and gets him, my buddy, to call a friend, to verify who we are. I'm out on a work release but packing this handgun on my right side. Then this cop says that he is gonna detain me until he finds out who I am. He checked my name and my buddy's name but it didn't come through. While we were waiting, we started a good conversation with the white guy cop, talking about the pussy in the area.

Suddenly, I ran, I took off running. This XX cop wants to play super cop, he begins chasing me, and I threw a plastic bottle of pop at him to break his stride. However, he caught me and punched me in the right side of the face. That's when I could have shot him but I didn't.

We both fell down and when I got back up I pulled the gun out . . . he was about 10 feet away. I aimed it over to the right and said "Stay

away, I don't want to hurt anyone." I then took off running again. As I was running, I fired my gun over my shoulder (at the police officer). I also fired the gun from behind a car. I didn't want to hit the cop. I just wanted to scare him so I could get the fuck away.

Once he came around the corner he started firing his gun – I'm hit, I'm hit! I went down. When he fired his gun, it went into slow motion – I saw the muzzle face. The whole thing took only 10 seconds, max, but it seemed like 10 minutes. I was hit, I felt a burning. As I hit the ground I threw my handgun away.

In reflecting upon the incident and the thoughts that he has had since the incident occurred, the inmate stated:

I'm glad I never shot him, I just wanted to scare him. I was hoping he would have hit the ground and waited for cover. Then, I could have run off and ditched my gun. Instead he comes after me – who would believe a cop would run after a guy who's shooting at him!

As a result of the incident I got 12 years for attempted murder and 2 years for possession of a handgun. It was a stupid incident, 10 minutes either way and it would never have happened. It was the first time that I've been shot at or had shot at someone.

### ***Case #37: The Police Perspective***

This incident occurred in a restaurant of a major city involving a lone male police officer. The officer was "off-duty" and unarmed while out on a date with a female companion. The two individuals decided to attend a popular restaurant and enjoy a meal. However, while the two individuals were partaking in their meal, the officer was alerted to a disturbance that was occurring within the restaurant. In explaining the event, the police officer stated:

I had gone out for dinner, it was a day off and I had a date. I decided to take her somewhere nice and quiet – the XX Restaurant. Since it was my day off, I was not packing my police service handgun. We decided to go to this restaurant, as it was a nice place. We were sitting upstairs in the

restaurant, having dinner, when I thought I heard someone drop a pile of plates. It was a loud noise.

Later I found out that the noise that I heard was in fact a round being shot off shortly after the trio came into the restaurant to do the robbery. Also, a third individual fired a round towards the waiters and hit the manager in the head. But I didn't know that at the time. It was when I heard someone say, "Drop to the ground! Drop to the ground!" That is when I knew something was wrong, downstairs in the restaurant.

At first I figured it was a domestic dispute and that a couple was having an argument in the restaurant. So I got up out of my seat and decided to check it out. As I got to the bottom of the stairs I saw this female facing away from me, holding a handgun. She appeared to be a doing a robbery of the restaurant. So the first thing that I did was to grab her and then I choked her out. I then had her handgun. That's when I noticed that there was another guy involved in this robbery.

In my mind I'm thinking, it's a revolver – lets go! So I decided to go after this guy with the shotgun cause now I'm armed with the female's handgun and she's out of the picture. I then take off after this guy in the restaurant and he runs to the top of the stairs, up from where I had come from.

I see him get to the top of the stairs and he's by a wall with no where to go. I guess he is about 20 ft. away from me when he fires his shotgun at me. I just heard a round go off. So I aimed and pulled the trigger on my handgun but nothing happened! I thinking I'm a yelling liar! He doesn't know that my handgun doesn't work so I keep it pointed at him and tell him to drop his shotgun. Drop it I'm a police officer.

He then threw his shotgun down on the table and said, "I give up." I put my handgun behind my back and then I took him down. The next thing I know I looked up and I saw a uniformed female police officer dropping a set of handcuffs beside me. It was all over!

It was when it was all over that I learned that there were actually four individuals involved in the robbery. There was a driver outside, the two males inside and the female. Yeah, and about the handgun that I had taken away from the female robber, it was a 45 Webby. The reason why it didn't fire when I pointed it at the guy on the stairs is that it wouldn't cycle. In fact, I was later told that if a round had gone off it would have exploded. "

From the time I first saw the female near the stairs until the time that I got the handcuffs on the guy with the shotgun . . . I had tunnel vision. It all took about two minutes but it seemed like seconds. I don't

remember everything that happened. Some things went very slow, some things were very fast like when I ran up the stairs.

In reflecting upon the incident and the thoughts that he has had since the incident occurred, the police officer stated:

After the police arrived, I walked through the whole thing again. I took my date home and then I came back to the scene. When I got back to the restaurant I got really cold and had the shakes... when we did the re-enactment. The other thing that happened, regarding critical incident stress is that for the next two days I was regular.

I guess the other unusual thing is that before the restaurant shooting I had a dream that I would be in this incident, on the street, where my gun wouldn't work. It's funny because after the incident in the restaurant...the dream went away.

The entire incident was all positive for me. The court stuff was brief, I was only on the stand for an hour. They got seven year sentences, except for one of them who died before the trial. They were all heroin addicts.

I later went on to get the Governor General's Award in Ottawa. It was a good weekend!" I got the Star of Courage. The second highest award for bravery, only 19 were in existence at the time.

### ***Case #37: The Inmate's Perspective***

Prior to speaking to the police officer, this inmate was located in prison, serving a lengthy federal sentence for attempted murder and other serious offences. At the time of the interview, the details of incident involving the police shooting were unknown. However, during the course of the interview, it readily became apparent that the subject had been involved in a police shooting. This incident occurred during an evening in December when two males and one female decided to rob a frequented restaurant. The 38-year-old male stated:

I had never used a shotgun before; I like to think that t.v. played a large role in using a gun. We had a 44 Webley, a 10-gauge shotgun and a 22-colt auto. I remember turning to one of my partners and both of us thinking; why are we doing this? I was in a group and at that time in my life I was pressured into it. There was a woman involved in making this happen. . . if you know what I mean?

So what happened was that the three of us went into this big restaurant around Christmas time. I had the 10-gauge shotgun, loaded. My partner (female) had the 44 Webley. The other guy had the 22-colt auto. The place was packed and we expected a good haul. However, things didn't go well. My partner got jumped shortly after we got inside the restaurant and started the take down.

I fired into the crowd and told them to get off her (my partner). Then this guy picked up the handgun, her handgun, and came after me. I didn't know where this guy got the handgun – I remember thinking – Is somebody else trying to rob this place? So I fired a round at this guy with my shotgun. I didn't know who he was but he was coming after me with a gun!

So this guy is coming at me so I fired at him cause I felt I was in trouble. I would have cut him in half if I had hit him – he was less than 7 feet away. He saw me and leaned back but I shot anyway. He would have been dead had it connected.

The adrenaline is just rocking and rolling – you're just soaking it up. Everything slows down into slow motion – I had tunnel vision to a degree. Then as he comes around the stairs he states "I'm a XX Police Officer – I got a wife and kids". In my mind I'm thinking holly fuck, I was rocked! I remember thinking I don't want to kill – this is over, enough is enough. I never went into there to hurt anyone.

The guy keeps coming at me so I put my weapon down. I still had one round in the chamber but that was it. It was over. However, I had 11 rounds of ammunition in my pocket. I put my gun down and grabbed his. We fought for a minute but he over powered me. Next thing I know, people from the restaurant are involved and I'm getting kicked in the head. They held me down and tied me up. Then the cops came and took me away.

In reflecting upon the incident and the thoughts that he has had since the incident occurred, the inmate stated:

Up until the time this guy told me he was a cop I would have shot him and yeah...killed him. The incident is not bothering me now but it did for a long time. It was an eye opener about me as a person – I didn't know that I had it in me.

### ***The Issue of Police-Assisted Suicide***

During one of the prison inmate interviews, the inmate described the crime spree that he and his friends had embarked upon. Unfortunately, the crime spree concluded with his best friend being shot and killed by the police in an apparent “suicide-by-cop” incident. This incident occurred when three armed masked males entered a business premise in a suburb of Vancouver. The suspects proceeded to rob the owner when police were alerted to the “in-progress” situation.

Members of the local R.C.M.P. detachment responded and shortly thereafter a vehicle pursuit began. During the vehicle chase, the suspects were observed to lean out of their vehicle and shoot at the pursuing police. As this was occurring, one of the police officers concluded that someone was going to get seriously hurt from either the offending vehicle's dangerous driving or the bullets being discharged from the suspect's gun. In response, the police officer made the decision to ram his police vehicle into the offending vehicle in order to end the pursuit.

While these events unfolded, the various vehicles came to a crashing stop with all of the suspects bailing out and fleeing on foot. The police eventually apprehended two of the fleeing individuals. However, the third suspect who had been discharging his firearm at the pursuing police vehicle had now fled on foot to a local pub. Once inside the patron-filled pub, the fleeing suspect was soon confronted by a pursuing uniformed R.C.M.P. member who ordered the suspect to drop his gun. The suspect responded by initially

pointing his gun at the police officer and then he began waving it around. As the standoff continued, the suspect approached the bar and picked-up a glass of beer in his left hand and had a drink. The R.C.M.P. officer, with his handgun drawn and pointed at the suspect, continued to order the individual to drop his weapon. The suspect did not comply but now indicated that he had taken two hostages whom he had ordered at gunpoint to remain seated at the bar.

A second police officer, to the rear of the suspect, felt that the situation was deteriorating and either the first attending officer or the hostages were about to be killed. As a result, the second officer ordered the suspect to drop his gun. The suspect responded by turning and pointing his firearm at the second officer. Upon seeing the suspect's weapon levelled at him, the police officer fired two shots from a distance of approximately ten feet away. Two additional shots were fired when the suspect continued to raise his weapon and level it towards the police officers. In total, four shots were fired by one police officer. The suspect received fatal wounds and died shortly after being shot. An examination of the suspect's weapon revealed it to be a 9-millimetre Luger pistol with one bullet in the breach and four in the clip.

The actions of the suspect, in waving his gun around and in having a drink of beer during a standoff situation with armed police, are not consistent with that of a desperate and fleeing criminal. It is interesting to note that this same individual had just two years previously been involved in a shooting incident with a neighbouring municipal police department (Parent, 1996).

During the previous incident, *this same suspect* had levelled a loaded handgun at the pursuing police officers and was subsequently shot and wounded by the police. Although loaded and operable, the individual did not use his weapon but only pointed it



at the police. However, upon realizing that he was wounded, the suspect stated to the attending police officers, "Shoot me, shoot me, ...finish me off." The attending officers were shocked by the suspect's statements and immediately rushed him to hospital. The individual recovered from his gun shot wounds and was later sentenced to a brief incarceration period. Interestingly, the statements and behaviour exhibited by the suspect create the distinct possibility that he may have wanted to die and that his selected actions were that of victim-precipitated homicide.

Shortly after being released from prison and some two years later, this same individual has once again placed himself in a confrontation with police. During a standoff situation, he refuses to comply with repeated requests to drop his weapon. Once again he does not use the weapon but continues to brandish it about, pointing his gun directly at the police. However, in this second incident, the individual escalates the incident by implying that he has hostages and now once again levels his loaded weapon at the police. It is only after an accumulation of these threats and taunting actions that the police officers felt they had no other option but to use deadly force.

### ***The Perspective of the Accomplice Inmate***

In describing his perception of the robbery incident and the tragic fatal outcome to his friend, the inmate stated:

We had known each for all of our lives. We were good friends. Just before the robbery I'd been out of prison for a while. He had got out four months ago. We both had 9 mm Luger's. It was easy to get a gun. We had them just so that there was no problems. We had no money . . . we need to do a robbery . . . so we could get started and get a grow-op going.

Everything was going well but just as we got into this car the cops showed up, the chase was on, my friend "X" was driving . . . they were determined so we started shooting. I was trying to hit the tires and rad (of

the police cars) but I was probably hitting the road! During the police pursuit I was shooting at the cops who were roughly 50 feet or so away at times. I was thinking. . I ain't going down for killing a cop, it ain't worth it.

We then got rammed by a police car and the pursuit ended. I ran and they were shooting at me as I was running away from the car. I ran and made it home via the bus. The cops eventually found me a few days later and arrested me. They kicked in the door and said, "So.. you like shooting at the cops do ya? They stuck a gun in my mouth and roughed me up."

However, my partner, "X", he made the decision that he wasn't going back to prison. He told me it was either get away or get killed. He was a little bit out there, he was crazy. Especially when you've been shooting at them (the police). I was on cocaine on the time and so was "X". I think about him once in a while, I wish I could have save him from getting killed. He was my best friend.

In summary, the inmate concurred with the speculation that his friend had, to some degree, orchestrated his own death at the hands of the police. While it is impossible to know the exact mind-set of the deceased at the time of his death, both the circumstances and the insight of his accomplice tend to indicate that the actions were indicative of a suicide-by-cop event. When confronted with the option of incarceration or possible death, the individual chose to confront the police.

### **Critical-Incident Stress: The Personal Impact**

As this chapter has illustrated, there is a need for police to be aware of the dynamics associated with a police shooting and the tragic consequences that occur to both the deceased and the surviving officer. Often, the police officer and his or her family are left alone to understand and come to terms with a police shooting incident that may include a controversial death (Sheehan and Warren, 2001).

Interviews with police officers who had been involved in a fatal shooting have revealed the personal impact that the event has had on their lives and their families (Parent, 1996; Klinger, 2001). Without exception, all of the officers involved in a fatal shooting indicated that they had, to some degree, been subject to the physiological, psychological, physical, and emotional factors associated with critical incident stress.

The most commonly cited physiological factors experienced by these officers included perception of time, visual and auditory distortions. As the incident unfolded, individual officers noted that their deadly-force encounter appeared to occur in slow motion. Often their vision was focused upon the perceived threat with minimal awareness of the events taking place around them. Finally, when shots were fired, they were generally heard as muffled sounds, even though the officers were not wearing ear-protection devices (Parent, 1996; Klinger, 2001).

We stopped the car and got out. A couple of seconds later a shot rang out. My focus was on the threat. I fired three rounds off at the silhouette and hit the target, one fatal at the head. It was like a scene in a bad movie. It all happened in slow motion. I just knew I got him . . . it all happened in less than ten seconds. "X" was lucky not to be killed.

In addition to perception distortions, the majority of these police officers stated that they experienced a loss of fine motor co-ordination upon conclusion of their deadly encounter. Typically their hands would begin to shake or their legs would go into uncontrollable spasms. After the fatal-shooting incident concluded, the majority of officers interviewed stated that they faced a wide variety of psychological and physical effects associated with critical incident stress. The physical effects included a loss in appetite, sleeping pattern changes, and a marked decrease in their sex drive resulting in an absence of sexual relations with their spouse or partner. One officer stated:

Your mind says 'You can't cope with this.' Sleep? I'd wake up every night for several months. I would never re-live the incident but my mind would focus on the incident.

The psychological effects reported included depression, guilt, nightmares, flashbacks, and a heightened sense of danger and fear. One of the officers related the flashbacks as a "video going on in your head that you can't control; it just keeps playing the video over and over and over again and you've got no control to turn it off." Another officer reported an overwhelming and uncontrollable emotional state that caused him to suddenly weep and cry for days on end (Parent, 1996).

In some instances, the factors associated with critical incident stress are further intensified when the shooting incident is a suicide-by-cop. In these particular cases, the officer is faced with the additional impact of killing an individual who is, in essence, seeking help from the police in doing something that he or she could not do – the taking of his or her own life. For some officers, this situation results in the additional impact of feelings that include anger and confusion for "being set up," manipulated, and tricked into using deadly force.

I was angry, there was no reason for him to kill me. He was gonna shoot me, he would have killed me. If anything, I waited too long (before I shot and killed him). I was lucky.

In other instances, the officer felt responsible for the surviving members of the deceased as the officer had taken away the life of their loved one. In this regard, one officer stated:

No matter what I think about this guy and what he did, I can't help but feel responsible to his mother and father. I know that every Christmas, for the rest of their lives, it will never be the same for them because of me. I took away their son's life, and they will never have Christmas with him again. It will never be the same for them. No matter what you think, he is still a person.

Another officer who was involved in a suicide-by-cop shooting incident added:

From the decent people, I got a lot of support. Generally supportive and understanding. However. . . some, the shit heads, they're critical. Sure he was a shit-head, a 99 percent shit head and I shouldn't feel sorry (re: shooting him) but . . . it's that one percent of him . . . it's tough for me to not think of him as a person.

The media frequently intensified this situation and was cited by most of the police officers as one of the greatest sources of stress immediately after their fatal shooting incidents. This was a consequence of the continual coverage that surrounds many of the fatal shooting incidents. Particularly painful was the speculation and supposition taken by many journalists who were impatient regarding the release of the official police investigation (Sheehan and Warren, 2001).

These journalists often produce media articles that are written in a negative or distorted manner towards the actions of the shooting officer or the police agency. Issues such as racism, inadequate training or improper police procedure were often cited as explanations for the shooting incident, particularly during suicide-by-cop incidents where the deceased was later found to have an inoperable or imaginary weapon (Parent, 1996).

These officers stated that the negative slant portrayed in many of the media articles served to further intensify their emotional and psychological state in regards to the fatal shooting incident.

The media; I've never had a problem with what we did. We're the good guys and out here to help the public and did a good thing; what we're suppose to do; and now we're getting fucked. I couldn't watch the television or read the papers; [they were] obvious examples of distortion.

One of the police officers related to the event as to the "death of a child," an event in his life that he described as painful and sad, something that he wished had

never happened, something that he has obviously tried to put behind him. When the officer was interviewed he produced a file containing more than 50 separate newsprint articles surrounding his fatal suicide-by-cop shooting incident (Parent, 1996).

The police officer's mother had followed the shooting incident through the local print media. She had clipped and saved all of the print articles that were related to her son's fatal shooting incident. In conjunction with the 50 plus newsprint articles, the officer kept a "scrap book" regarding the legal, union and departmental correspondence that were related specifically to his shooting incident. The officer stated that he has never been able to bring himself to read most of the print articles within the file. Many of the articles that were first published, initially after the shooting, indicate inappropriate action by the officer. Some of these headlines are as follows:

"Relatives Want Police Charged In Shooting," "Were Four Bullets The Only Answer?" "Police Procedures Deficient," "Mayor Queries Police Policy," "Police Training Called Flawed," "Slain Man's Mother Asks For Probe," "Police Stay Silent Until Inquiry Done."

However, months later when a public inquest into the shooting was held and independent evidence presented, the police were exonerated for their actions. During the Public Inquest, the media coverage was less frequent and inflammatory but continued to be sensational in nature. Some of these newsprint headlines include:

"Said 'Stay Back,' Then He Died," "I Would Have Shot Him Too," "Cops Off Hook In Fatal Shooting," "Officer Sorry, But Says Forced To Shoot."

Only upon the conclusion of this public disclosure of evidence were many of the officers able to get on with life and leave the tragedy of the shooting incident behind them. Even years after the fatal-shooting incident had taken place, all of the officers reported that they considered it a significant event in their life, one that they will never forget. In this regard, one police officer stated:

This guy is not gonna fuck-up my life forever. It's completely up to me whether I cope with this and get on with life. I'm sure I drank too much several times. I think about it every day.

### ***Post-Shooting Effects and Deadly Force***

In the months and years since their fatal-shooting incidents occurred, many of the police officers interviewed reported a variety of personal life changes, attributing these changes to their fatal shooting.

Several of the police officers who were involved in a fatal shooting reported marital or relationship breakdowns shortly after the incident. Often these individuals stated that their relationship with their significant other was "o.k." prior to the shooting. However, when faced with the pressures and stresses that accompanied a fatal shooting, the relationship often crumbled. One officer stated, "I went through two marriages after the shooting incident." Another officer reported, "My marriage ended within a year or two after the shooting. I became distant from my wife and I didn't talk about the shooting incident with her."

However, there was an equal number of police officers who spoke highly of their spouses or significant others, intimate relationships that served to support the police officer during a time of personal crisis. Often these established relationships were strengthened as a result of the shooting incident. One officer in a smaller agency stated:

The Chief said to me – You should leave town because I'm gonna release your name. So the wife and I took off in a car and drove 4 hours away to a cabin and stayed there. We were there for a week. It gave me time to be with my wife, as a sounding board, with what happened. It took about a year for all of it to blow over.

Unfortunately, several of the officers stated that their spouses, significant others or their children suffered as a result of their shooting incident. The police officer's fatal

shooting frequently became a “family crisis.” One officer stated, “My wife needed help [psychological] after what happened to me.”

Finally, in a small number of instances, individual officers had suffered post-traumatic stress to such a degree that they required extensive counselling and a lengthy time away from the work site. For these individuals, their personal goal was to come to terms with an incident that has had a profound impact upon their lives, an incident that they will never forget. One officer described the impact of the suicide-by-cop shooting by stating:

I really look forward to retiring. I've got nine years to go. My wife has noted a change in me. I've noted a change in me. If I had known the shooting incident was gonna happen, I would have taken a sick day. I wish it would never had happened.

### **Findings Unique to the United States of America**

Significantly, this dissertation noted that there were very few differences in relation to the dynamics and circumstances of the police use of deadly force in Canada and the United States. The issues pertaining to the police use of deadly force are for the most part very similar. *However it must be emphasized that issues surrounding research, recruiting, training and the deployment of police personnel are for the most part identical between the two nations.*

As stated, the major difference that was noted between the two nations was in relation to the frequencies of incidents and not the individual characteristics of a police shooting. In the United States, instances of extreme violence tended to be three to four times greater, per capita, than instances of extreme violence in Canada. For the purpose of this dissertation, extreme violence includes the police use of deadly force, the



murder of police officers by an assailant and, the homicide rate of the general population.

However, there were a few minor exceptions to the similarities between Canada and the United States in regards to the police use of deadly force. The findings that are unique to the United States of America are outlined in the following discussion.

### ***The Justifiable Use of Deadly Force by the Public***

This dissertation noted that government statistics in the United States documented the use of deadly force by non-law enforcement personnel. In some instances, cases of justifiable use of deadly force by non-law enforcement personnel were tabulated along with cases of justifiable use of deadly force by police personnel. These cases were not recorded within the SPSS data base of this dissertation but are reflected in the following incidents:

- In December 14, 1994 the owner of a watch and jewellery store shot and killed a potential robber in Eastern Washington area after they fell to the floor and struggled over a handgun. The 24-year-old robber who had placed a gun to his head during the attempted robbery threatened the 50-year-old owner. Believing that he was going to be shot, the owner reached for the gun and the two men struggled on the floor. The owner eventually grabbed his own gun from the desk and shot the would-be robber dead.
- In another incident on December 18, 1997, two males in their late teens went on a crime spree in Western Washington, conducting eight armed robberies in a 90-minute period. They had stolen a vehicle and robbed several individuals at gunpoint before embarking upon what would be their final robbery, a 7- Eleven convenience store. Upon entering the store, one of the suspects aimed his 9 mm handgun at the clerk and demanded money. The storeowner, who was in the back of the store heard the altercation and obtained his own firearm. The storeowner then confronted the suspect, firing two shots and killing the would-be robber. In both of these cases the storeowners were exonerated with the shooting incidents ruled as “justified killings.”

### ***The Use of Deadly Force by “Off Duty” Police Officers***

In addition, it was noted that, in some instances, off-duty police officers in their civilian attire were alerted to shots fired outside of their personal residence, or at the location that they happened to be at, while away from their place of work. Although the individuals were off-duty, they remained armed with their issued police service weapon. In contrast, Canadian police officers rarely, if ever, carry their issued police service firearm on their days off. Most Canadian police agencies encourage police personnel to leave their firearm at work, or secured at the police officer’s residence.

However in the U.S., when the lone officers off-duty officers were alerted to a shooting or altercation they were often the first to attend the scene and the first to confront an assailant. These officers were not in uniform but were wearing casual plain clothing, further adding to the dynamics of the shooting incident.

### ***The Attempted Escape of Handcuffed Prisoners***

Unique to the United States, this dissertation noted two instances where handcuffed prisoners attempted to escape in a police vehicle. In both instances, a lone police officer had stopped a vehicle and arrested the driver. In each instance, the arrested driver was handcuffed (hands behind back) and then seat-belted in the front passenger seat of the police vehicle. The police officer then walked back to the suspect’s vehicle and began to check the arrested individual’s vehicle. As this was occurring, the suspect managed to free himself from the seat-belt and then slid over to the driver’s side of the police vehicle. The suspect then placed the vehicle in drive and began to operate the police vehicle. In both instances, police personnel responded to the situation by discharging their service pistol. In one incident, a single discharged

bullet killed the suspect, striking him in the head. In the second incident, the suspect was wounded when he was hit in the upper torso.

In Canada, although most police officers tend to work alone, the police vehicles that they operate are typically equipped with a secure rear seat compartment for prisoner transport. Also known as the “silent partner”, the caged rear seat compartment provides police officer safety and reduces opportunities for prisoner escapes.

### ***“Three Strikes” – Returning to Prison***

As stated in Chapter Three of this dissertation, the federal law, “Three-Strikes-You’re-Out” law, officially known as the *Persistent Offender Accountability Act*, became effective in the U.S. on December 02, 1993. Under this law, anyone who is convicted three separate times of a “most serious offence” is considered to be a “persistent offender.” Persistent offenders will be sentenced to life without parole.

In regards to this legislative provision, it was noted that individuals with a criminal record at times confronted police while committing a crime. In some instances, these individuals displayed “stand-off” behaviour, refusing to surrender to the police. One of the reasons for this extreme behaviour appears to be the U.S. policy that “three strikes” of crime dictate a lengthy prison term.

Typically, these individuals had been released from prison and had committed yet another crime. Upon conviction, they would be returned to prison to face a lengthy term of imprisonment for their recent crimes. In these cases, the individual resorted to extreme behaviour in order to avoid being apprehended by the police.

**Case #38**

Police attended a residence for the purpose of arresting an individual for a parole violation. The suspect had stated that he had no intention of returning to prison and had armed himself with an AK-47 assault rifle. When police attended the residence, a “stand-off” situation occurred involving the male suspect and two women that were also in the residence. One of the women was the suspect’s wife.

Over a 22-hour period, police negotiators attempted to have the suspect surrender in a peaceful manner. The suspect eventually released one woman in the morning. However, during the afternoon, the suspect suddenly exited the residence with his wife, placing the rifle at her head. Presented with few options, police authorized the use of deadly force by an emergency response team “sniper.” The officer fired one round striking the male suspect just in front of his ear. Upon being hit, the suspect discharged one round from his assault rifle causing a neck injury to his wife. The suspect was apprehended and both individuals recovered from their wounds.

**Case #39**

A lone patrol officer had stopped a vehicle with two occupants, detaining the driver on an outstanding felony narcotics warrant. Both occupants were searched and taken to the front of the officer’s patrol vehicle. While waiting for backup to arrive, the driver became very agitated and walked away from the patrol vehicle towards his car. When the officer commanded him to stop, the suspect stated “Go ahead, shoot, kill me!”

The officer then observed the suspect reach into the passenger area of his car and retrieve a handgun. The officer repeatedly warned the suspect to drop the weapon and cease his actions. The suspect responded by placing his handgun to the left side of his head and firing one fatal shot. It was later determined that the suspect committed suicide rather than face the consequences associated with being taken into custody on felony charges.

**An International Comparison: The Pacific Northwest**

The Pacific Northwest consists of Washington, Oregon, and British Columbia. Washington serves as a center-point located in the northwest corner of the contiguous forty-eight United States between 49 and 46 degrees North Latitude. Washington State

is bounded on the north by the Canadian province of British Columbia, to the south by the state of Oregon, to the west by the Pacific Ocean, and to the east by the state of Idaho (E.B., 1995).

Within these three western pacific regions, Washington, Oregon and British Columbia, there is a combined population of roughly 14 million people, policed by roughly 22,000 full-time sworn, police officers. The major urban areas within the Pacific Northwest include Seattle (2.3 million residents), Portland (1.8 million residents) and Vancouver, British Columbia (2 million residents) (Savageau, 2000).

One of the findings of this dissertation concerns the frequency and degree of victim-precipitated acts that have constituted lethal threats to police personnel in the United States and Canada. Through the examination of official police investigations, coroner inquests, media reports, and interviews with police officers, the characteristics associated with victim-precipitated homicide appear to be a significant factor in police shooting incidents that have occurred in these two nations within the Pacific Northwest.

During these police shooting incidents, the victim caused or contributed to the lethal-threat of a police officer by intentionally provoking the officer to use deadly force. In several of these cases, the individual's statements and actions clearly reflect his or her intent to commit suicide at the hands of the police.

In addition to these cases, it is important to emphasize that there are numerous other instances of attempted "suicide-by-cop" which *do not* result in death. In these cases, the suspect was wounded and survived, or alternative non-lethal means were used. Nonetheless, in all of these instances, the subject posed a lethal or perceived lethal threat to police personnel. The nature and scope of this phenomenon are

delineated in the following description of a fatal police shooting, occurring in the Pacific Northwest.

#### **Case #40**

Police officers were summoned to an apartment complex in response to a male vs. male domestic incident involving a knife. The first officer to arrive was met by the suspect's father. He advised the officer that his son, the suspect, was inside the residence holding an adult male (the suspect's cousin) at knifepoint.

The necessity of the situation required that the officer act immediately, rather than wait for other units to arrive. As a result, the officer went to the doorway of the apartment and looked inside. When the officer glanced inside the apartment, a 22-year-old male was observed standing at the opposite end of the apartment, holding a knife.

Upon seeing the police officer the suspect said, "I'm glad you are here." The suspect then raised the knife above his head and began to advance at a fast pace towards the officer. In response, the officer began retreating with his gun drawn, ordering the suspect to drop his knife. As the officer repeated his commands several times, the suspect replied, "Shoot me. Shoot me."

When the officer was in immediate danger, he fired one shot, striking the suspect fatally in the chest. As the suspect lay dying on the floor, he looked up and smiled at the officer who had just shot him. He then stated, "Thank you, you did just what I wanted you to do. You killed me."

It was later discovered that from the time that the officer first made visual contact with the suspect until he fired the fatal shot, a total of five seconds had elapsed. It was also learned that the suspect had been drinking prior to the incident and was intoxicated. Family members later told the police that the suspect had talked of suicide on prior occasions (Washington State).

#### ***Mental Illness, Substance Abuse and Irrational Behaviour***

At times, an individual's statements and actions *clearly* reflect his or her intent to commit "suicide-by-cop", however, it is important to emphasize that each case is unique and that there are *varying means* of suicidal documentation. For example, in *many* of

the cases examined, the individual did not make a clear suicidal statement at the time of his or her death, nor was an explicit “police-assisted suicide” note left behind.

In these cases, the conclusion is drawn that the individual was suicidal, on the basis of analyzing a wide range of his or her actions and bizarre behaviours in order to determine whether these actions and behaviours are consistent with those most frequently associated with suicide.

In several of the cases examined, the perpetrator of the lethal threat had a documented history of mental disorder and/or suicidal tendencies. In addition, documentation in several of the cases indicated that the victim had a high blood-alcohol reading at the time of his or her death. In some instances, alcohol, substance abuse, mental disorder and suicidal tendencies were added to the complex picture of irrational behaviour. This is illustrated in the following two cases.

#### **Case #41**

Two police officers were dispatched to a ‘man-with-a-knife’ complaint after a woman reported that a male brandishing a large knife had chased her down the street. Upon police arrival, witnesses indicated that the suspect was inside his apartment, located within a large rooming house.

Upon entering the common hallway of the rooming house, the officers were suddenly confronted by a male with a blood-stained, eight-inch butcher knife in his left hand. The two officers immediately commanded the subject to drop his knife, because he was only a few feet away from them.

In response, the subject stepped back into the doorway of his apartment for a few seconds and then suddenly re-appeared in the doorway, clutching his bloodied knife in a downward position. Upon reappearing, the subject looked at the two police officers and stated, “Go ahead, shoot me, shoot me, shoot me.”

Upon stating these words, the subject then turned his knife upwards into the air in a striking motion and pointed it towards the officers. In response, the officers once again ordered the individual to

drop his knife, but to no avail. Fearing for their lives, one officer discharged his handgun killing the suspect.

The entire incident had occurred in less than one minute, from the time of the police arrival until the discharge of the police firearm. Upon checking the suspect's residence, the officers found a dead body. A subsequent police investigation revealed that just prior to confronting the two police officers, the suspect had fatally stabbed another individual inside his bedroom.

During the Coroner's Inquest, it was also learned that the suspect was suffering from some unknown form of mental illness, which caused him to be violent at times. Two days prior to the police shooting, the suspect had been admitted to a nearby hospital due to his violent behaviour. On the day before the shooting, the suspect had left the hospital against medical advice.

Also during the Coroner's Inquest, expert witnesses testified that within a 30-foot radius, a police officer is in imminent danger from a person in possession of a knife. Within this radius, an individual in possession of a knife can seriously wound or kill. The Coroner stated that, as the police officers were only three feet away from the suspect (when he initially confronted them with his knife), they were in "grave danger from the outset" of being approached by the assailant (British Columbia).

#### **Case #42**

In a case from eastern Washington, police officers were summoned to deal with a 38-year-old suicidal male who was attempting to kill himself. The subject was diagnosed with paranoid schizophrenia, who had spent years in a state hospital and had a history of drug and alcohol abuse. Psychologists had stated that the individual was given to hallucinations, hostility and belligerent behaviour.

During this instance, the subject had locked himself in the bathroom of his mother's residence where he began smashing things. The subject's mother called the police, as she feared that her son would kill himself or hurt her.

After arriving, the police spent a half-hour negotiating with the subject through the bathroom door, but to no avail. The subject would not come out of the bathroom. The police then heard glass breaking from inside. As a result, the officers deployed pepper spray under the door in an attempt to force the subject out of the bathroom.



Unfortunately, the pepper spray had no effect as the subject could be heard breaking more glass from within the locked bathroom. Fearing that the subject would commit suicide if the police *did not* intervene, a decision was made to kick-in the bathroom door in an attempt to apprehend the distraught male.

Upon kicking the bathroom door open the police officers once again sprayed the chemical, this time directly into the subject's face. The subject did not react to the sprayed substance and instead lunged at the officers with a jagged 9-inch piece of mirror.

As the officers were confined to a short, narrow hallway, there was no possibility of retreat. When the subject continued to approach the officers in his threatening manner, he was shot and killed at a distance of roughly eight feet. An autopsy later revealed that the subject had ingested razor blades and had sliced his wrists while in the bathroom (Washington State).

### ***The Perception of a Lethal Threat***

For law enforcement personnel intervening in a domestic dispute or proceeding in the apprehension of an alleged criminal, the circumstances may seem somewhat routine on the surface. However, the situation may quickly deteriorate with the individual suddenly posing a perceived lethal threat to the police officer for no apparent reason or motive.

A significant finding of this dissertation is that indicators associated with "suicide-by-cop" are not readily detected in all fatal police shootings. At times, a holistic investigative approach must be taken in order to make some sense of the perceived lethal threat faced by the police officer.

In these instances, it is unclear why the deceased suspects confronted the police officer with a perceived lethal threat and why they continue in their behaviour, ignoring police commands for compliance. During these cases, they are clearly confrontational in

their behaviour, acting in a reckless and suicidal manner. For what purpose or means remains unclear. This is illustrated in the following case.

### **Case #43**

Shortly after one Christmas, police were alerted to a despondent male who drove to a parking lot of a police sub-station, requesting to speak to a police officer as he was “going to kill somebody.” Attending police units quickly located the 6-foot-8, 300-pound, 25-year-old former football player who had returned to his vehicle and was inside his truck, “crying.”

Two officers attempted to communicate with the despondent individual who stated that he was armed with a handgun, and that he was “going to shoot someone.” The two officers, with their handguns now drawn, took a defensive-position requesting backup from neighbouring police agencies.

As the situation developed, a 95-minute “stand off” occurred in the parking lot of the police sub-station. Several police officers were in attendance with additional support from crisis negotiators and mental health professionals. Police personnel also deployed spike strips and less-lethal weaponry in an attempt to safely resolve the situation.

After roughly 90 minutes from the onset, a decision was made to utilize a “flash-bang” device by throwing it into the bed of the truck. As this diversionary device explodes, police personnel rushed the driver’s door attempting to extract the subject.

Unfortunately, the subject resisted the tactic and accelerated his vehicle, managing to hit several police cars before coming to a stop. The subject then quickly exited his truck, approaching the surrounding police officers while screaming that he was going to kill them.

Police personnel responded by authorizing beanbag rounds to be fired. As this is occurring, the subject reaches into his coat and pulled out an unidentified object. Fearing that the subject was about to produce a gun several officers discharge their firearms, killed the approaching subject. It is later learned that the subject was holding an empty razor case and that he was in fact unarmed (Oregon State).

### ***Why Death at the Hands of the Police?***

In many instances, it is not clear why the subject confronted the police. Was mental illness and resulting delusions of paranoia, persecution or grandeur the catalyst resulting in the confrontation? Did the victim actually believe that they were confronting the police, or did they perceive that they were simply protecting themselves from a *distorted* threat?

In other cases, alcohol or drugs appear to have influenced and shaped the suicidal behaviour leading to a confrontation with the police. Did alcohol and drugs impair the ability to think, to such an extent, that they failed to recognize the identity of a police officer or that they failed to readily obey the police officers' commands?

Finally, in other documented instances, the individual adopted a confrontational and macho position that posed a lethal threat to the police officer. In these cases, the behaviour by the deceased was clearly reckless and self-destructive. His or her motivation for this behaviour remains unclear. Did the individual challenge the police officer so that he or she could simply "get a reaction?" Was the "flash" of a toy or simulated weapon only meant as a hoax that went terribly wrong? These complex questions remain unanswered.

### **Summary**

As this chapter has illustrated, it remains unclear why some individuals confront police with a lethal or perceived lethal threat. However, the findings of this dissertation indicate that suicidal ideation and the phenomenon of "suicide-by-cop" are *significant* factors in the lethal threats that law enforcement personnel within Canada and the United

States face. Individuals predisposed to suicide have, in many instances, confronted armed police in an attempt to escalate the situation in which they have placed themselves.

In other instances, this dissertation has noted that alcohol, substance abuse, mental disorder and *suicidal tendencies* were added to a complex picture of irrational behaviour. Individuals acting in a bizarre or irrational manner have confronted armed police with either inferior or imaginary weaponry resulting in their death. These victims have often precipitated their own demise.

Regardless of the subject's motivation or mind-set, it remains that these individuals chose to pose a perceived lethal threat to law enforcement personnel. In this regard, the so-called *victims* must share some of the responsibility during a police shooting, as it is *their actions* that often precipitate the final outcome. An outcome that tragically has resulted in a "lose – lose situation", often having negative consequences for the victims, their family, the police agency, and the police officer involved. These findings illustrate the complexities that surround lethal threats to police personnel and how individual officers are often given seconds to decide how to resolve a potentially lethal conflict. In many instances, police officers have no other option, but to use deadly force.

This chapter has illustrated that there are few differences between Canada and the United States of America in regards to the police use of deadly force. While the sheer number of incidents is greater in the United States, the characteristics and dynamics of police shooting incidents are often identical.

## CHAPTER 5: CONCLUSIONS AND IMPLICATIONS

From the outset, this dissertation has attempted to uncover why deadly force in Canada and the United States occurs. In identifying the issues surrounding police shootings in Canada and the United States, this dissertation has provided data that may be utilized so that police officers can be trained to reduce the likelihood that an encounter will lead to death by legal intervention.

As stated, in over 20 years, there has been minimal research regarding this issue of concern within Canada. In this regard, this dissertation is the first research document to compile and analyze data surrounding the police use of deadly force in Canada since 1980. In addition, this dissertation is also the first research document to compile and analyze data surrounding those police shootings within Canada during which no individual was killed but, nonetheless, the *potential* for a fatal outcome was possible. These two categories of resolution have been examined in an attempt to determine the specific factors that lead to the escalation of violence.

One of the findings of this dissertation concerns the frequencies of victim-precipitated police shootings that are attributed to suicidal ideation, mental illness and irrational behaviour. In many instances, the police shooting would not likely have occurred except for the precipitate actions of the victim. These factors appear to have significantly influenced and directed the police use of deadly force within Canada and within the United States. In addition, this dissertation has revealed the link between the phenomenon of police-assisted suicide and the phenomenon of suicide *as a result of police intervention*. The latter refers to instances in which an individual predisposed to suicide has suddenly taken his or her own life upon the intervention by police.

This dissertation also represents the first research document to compare and contrast the police use of deadly force within Canada and the United States. One of the findings of this international comparison is that, for the most part, the dynamics surrounding a police shooting are identical within these two nations. Interestingly, upon adjusting for population differences, the police use of deadly force within the United States remains to be roughly three times greater than in Canada.

However, as stated in Chapter Three, one of the limitations of this dissertation is in regards to the non-representative sample of U.S. police shootings. In addition, missing data points were commonplace with respect to several variables surrounding Canadian data thereby limiting the findings of this dissertation. As a result, issues that include the relationship between suicide, mental illness and police shootings may be underrepresented.

Finally, this dissertation has also presented the role of the victim during a lethal and a potentially lethal encounter with the police. Unique to this research, the survivors of police shootings incidents have been approached and interviewed. In three instances, that both the inmate and the police officer of a shooting encounter were interviewed. It is noteworthy that both individuals provided similar factual details of the shooting-event even though each experienced individual factors that impacted upon them emotionally, psychologically and physically.

In this regard, this dissertation has noted the physiological, psychological, physical and emotional consequences that have occurred to many of the police officers who have taken the life of another or who have faced a lethal-threat during the course of their duties. Police personnel must be made aware of these dynamics, prior to encountering a lethal-threat. Further training in this area may reduce the effects of

stress when facing a life-threatening situation allowing the officer to seek alternatives to deadly force. It was also discovered that many of the police officers interviewed reported personal upheaval and tragedy that they continue to carry with them, several years after the shooting incident. The vast majority of these officers have been exonerated for their actions but, unfortunately, many will continue to pay the price for their life-threatening encounter.

## **The Reporting of Police Shootings**

Ironically, although North American's live in the information age, when daily or even second-by-second accurate statistics are available on a variety of subjects, the precise number of individuals annually shot and killed by the police is left to guesswork. In Chapter Three of this dissertation, the complexities and difficulties that surround researching the police use of deadly force have been discussed. One of the findings of this dissertation is the need for accurate, detailed and publicly accessed information in regards to the police use of deadly force.

### ***Reporting Incidents of Police Use of Deadly Force: Canada***

In Chapter Three, it was revealed that what public information in Canada does exist in relation to police shootings, is typically vague and inaccurate. The recording and reporting of the police use of deadly force by Canada's official record keepers, Statistics Canada, is difficult to locate within their publications, and significantly, is inaccurate and mixed in with other non-relevant information such as military and prison shootings. In addition, this dissertation has illustrated the wide range of resources that are necessary when researching this topic in Canada. In many instances, the data obtained for this

dissertation would not have been provided had it not been for a variety of factors that include letters of introduction by high-ranking police officials and the Chief Coroner of B.C., “inside contacts” with serving police personnel, personal visits to police agencies in Canada, and the fact that the researcher is a serving police officer.

Clearly, this is an unacceptable situation. The Canadian public has a right to know when-and-why a police officer has taken the life of another, and of those instances where a police officer discharged their firearm but death did not result. In addition, it is equally important for police agencies to share their experiences and knowledge surrounding a police shooting incident so that Canadian police personnel can be trained to reduce the likelihood that an encounter will lead to death by legal intervention. A national database surrounding the police use of deadly force would benefit both the public and the police.

This dissertation has revealed the deficient state of affairs that currently exists regarding this topic of concern and importance. As stated, in Canada there are only two comprehensive provincial databases that exist in regards to police shootings. The police shooting database maintained by the B.C. Police Services / Commission is considered confidential and typically contains no more than one or two sentences in describing municipal police incidents of firearm discharges. In those instances involving members of the R.C.M.P., the data is vague and inaccurate. This situation is clearly unacceptable as the bulk of policing within the province of British Columbia is conducted by the R.C.M.P.

In contrast, the police shooting database maintained by Ontario’s Special Investigations Unit includes an occurrence chart as well as detailed intake forms pertaining to firearm deaths and firearm injuries caused by police personnel. This



information is disseminated to the public by way of a document entitled, "SIU Occurrence Chart" and is published on the SIU web site, and within an annual SIU report. The occurrence chart provides aggregate numbers of occurrences that include firearm deaths and injuries, and the number of cases in which charges have been laid against police personnel (SIU, 2003).

### ***Reporting Incidents of Police Use of Deadly Force: United States***

Although the reporting of the police use of deadly force in the United States is somewhat addressed within documents published by the U.S. Department of Justice, there is still a lack of comprehensive accounting for all of the police agencies within the nation. Unlike Canada, within the U.S. a provision in the 1994 *Crime Control Act* requires the Attorney General to collect data surrounding the police use of deadly force and to publish an annual report. *However, the statistics on police shootings within the U.S. remains to be series of piecemeal attempts for data collection and are largely dependent on the cooperation of local police departments and individual states.*

The only comprehensive government document pertaining to the police use of deadly force in the U.S. emphasizes this situation in the methodology section of the report entitled *Policing and Homicide, 1976-98: Justifiable Homicide by Police, Police Officers Murdered by Felons* in stating:

Ideally, every-time police kill a felon in a justifiable homicide, a record of the event is sent to the FBI in Washington. Each record of justifiable homicide received by the FBI is then entered into the Supplemental Homicide Reports (SHR) database. Published counts found in Crime in the United States do not agree precisely with the number of justifiable homicides by police found in the database. Moreover, in certain years there are police justifiable homicides that are unaccounted for either in the annual publication or in the SHR database.

Justifiable homicides by police for an entire State are sometimes missing from the SHR database. For example, in a large State such as Florida, there is at least one justifiable homicide by police each year. Yet none are recorded in the SHR database for Florida for certain years. The number of missing justifiable homicides is unknown. For 1976 to 1998, the results are summarized below:

<b>Year</b>	<b>States With No Record of Justifiable Homicide in SHR</b>
1988	Florida, Kentucky
1989	Florida
1990	Florida
1991	Florida
1993	Kansas
1994	Kansas
1995	Illinois, Kansas
1996	District of Columbia, Kansas
1997	Florida, Kansas
1998	District of Columbia, Florida, Kansas and Wisconsin

(Bureau of Justice Statistics, 2001:28-29)

Ironically, although the 1994 *Crime Control Act* required the Justice Department to collect and publish data pertaining to the police use of deadly force, there is no law within the U.S. that requires local police agencies to provide it. The BJS document also fails to break down the number of police shootings by city, unlike other Justice Department reports on crime, making it impossible to compare a particular police agencies performance. As a result, there no comprehensive accounting for the nation's 17,000 police departments in regards to the police use of deadly force.

In addition to these inherent weaknesses within the BJS publication, the title of the document itself is questionable in that the report refers to all the victims of police shootings as "felons justifiably killed by police." This is incorrect. As this dissertation has documented, in many instances, the police use of deadly force occurred due to factors that include accidental or mistaken shootings. In some instances, police

personnel have wrongfully shot and killed individuals. The BJS publication addresses this situation in the methodology section by reporting:

### **Nonjustifiable Homicides by Police**

While the database has primarily a statistical purpose, one statistic that is impossible to obtain from it (or from any currently existing database) is the number of murders by police. Murder is a type of nonjustifiable homicide. If a police officer deliberately kills someone and the homicide is not justified, that type of nonjustifiable homicide is supposed to go into the database as "murder". Undoubtedly some of the "murders" in the SHR database are murders by police officers, but their number is unknown because nothing in the database distinguishes murders by police officers from murders committed by others. Consequently the annual number of nonjustifiable homicides by police in the United States is unknown. (Bureau of Justice Statistics, 2001:28-29)

In summary, the lack of accurate statistics and information pertaining to the police use of deadly force in Canada and the United States creates difficulty in drawing meaningful conclusions of the deadly encounters between the police and members of the public. Without an accurate national record-keeping and reporting system, there is no conclusive way to determine many of the issues that surround a police shooting.

As this dissertation has demonstrated, there is also a lack of political will on the part of legislatures to compel police agencies to report this information. In Canada, there is a need for government record keepers, including Statistics Canada and provincial and territorial Vital Statistic Registrars, to maintain and provide comprehensive and meaningful reports on the police use of deadly force. The federal governments of Canada and the United States must recognize the importance of the police use of deadly force by setting into motion regulatory bodies that will gather, research, and publish those incidents and trends related to police use of force. Wide-reaching enforceable legislation is required on the part of government if police agencies within both nations are to provide reliable and valid data on police shootings.

## Theoretical Implications

### ***Danger-Perception and the Police Use of Deadly Force***

Fyfe (1980), Matulia (1985) and other researchers have suggested that police personnel are more likely to shoot and kill individuals who are disproportionately involved in violent crimes. The police use of deadly force is best explained by the exposure of police personnel to dangerous persons and places. Jacobs and O'Brien (1998) refer to this concept as the "reactive hypothesis" while MacDonald et al. (2001) refers to this concept as the "danger-perception" theory. It is suggested that the number of criminal homicides and extreme violence is correlated with the police use of deadly force.

MacDonald et al. furthered this perspective in their 2001 research, arguing that police officers are more likely to utilize deadly force during situations when they encounter increased levels of violence or, when they perceive their duties to be particularly dangerous. These authors note that the "perceived threat" in terms of homicide directly applies to police work compared with other occupations, as there is a *calculated risk* associate with policing. This is unlike other occupations where workplace homicide is accidental or self-inflicted. The issue of perceived threat and calculated risk for police officers is the foundation of their research.

Therefore, one major explanation for the police use of deadly force is that the frequency of police shootings will be contingent on the danger police officers experience, whether real or perceived. MacDonald et al. (2001) utilize a "ratio-threat" model to explain the police use of deadly force as a fixed ratio or function of the level of violence (real or perceived) in society. The ratio-threat represents police officers' defensive stance toward

the danger of their work. Therefore, this model predicts that as the frequency of particularly dangerous criminal incidents increases, police killings of civilians increase proportionally. .

MacDonald et al. (2001) suggest that, on a national level, there exists a temporal relationship between the police use of deadly force and the types of criminal homicide that involve the greatest perceived risk to society. It is also argued that during periods when the incidents of these particular types of homicides are at their highest levels, police will be more likely to use deadly force.

The analysis and results of MacDonald et al. (2001) support the ratio-threat hypothesis suggesting that future research should examine issues that include the role that felonious killings of police play in this model. However, the authors note that the felonious killings of U.S. police personnel are too rare to provide a national test of the ratio-threat model. In this regard, this dissertation has utilized the conceptual framework espoused by MacDonald et al., examining the danger-perception theory from an international perspective, providing a comparison of Canadian and U.S. incidents of the police use of deadly force.

In Chapter Three of this dissertation it was noted that crime rates between Canada and the United States, for the year 2000, depict that the U.S. has much higher rates of violent crime, while Canada generally has higher rates of property crime. Despite differences in rates, trends in crime between the two countries have been quite similar over the past twenty years (Statistics Canada, 2001). For example, in Canada there were 542 homicides in 2000 resulting in a national rate of 1.8 homicides per 100,000 population. *In comparison, there were 15,517 homicides in the U.S. resulting in a national rate of 5.5 per 100,000 population – a figure that is roughly three times higher than Canada's.*

Similarly, the aggravated assault rate in the United States for the year 2000 was more than double the Canadian rate. The U.S. also showed a higher rate of robbery (65% higher) than Canada and roughly 41% of the robberies in the U.S. involved a firearm, compared to 16% in Canada. This translates into 60 firearm robberies per 100,000 U.S. population, which is over four times the Canadian rate of 14 per 100,000. Also significant is that over the past 20 years, Canada has recorded much lower rates of violent crime than rates within the United States (Statistics Canada, 2001).

It was also noted that the number of police per 100,000 in Canada is almost 25% lower than the United States (2002 data). Canada and the United States had very similar rates of police officers until the late 1980's. However, while the number of police officers per capita increased in the U.S. from 1989 to 1999, Canada experienced declines from 1991 to 1998 (Statistics Canada, 2003).

In Chapter Four of this dissertation it was noted that, on average, approximately 70 police officers are murdered each year within the United States (B.J.S., 2001). In Canada, during the period from 1980 through to 2000, an assailant has murdered a total of 47 police officers, reflecting a rate of roughly 2 police murders per year (O.D.M.P., 2004). *These figures illustrate that the risk of a police officer being murdered by an assailant is roughly three times greater in the United States than in Canada.*

In regards to accidental deaths in the line of duty, it was noted that approximately 60 police officers will accidentally be killed each year in the United States due to mishaps such as automobile and aircraft accidents (B.J.S., 2001). In Canada, roughly 5 police officers will die each year, accidentally in the line of duty (O.D.M.P., 2004). *These figures illustrate that the risk of accidental death for a police officer in both the United States and Canada is relatively similar.*

Interestingly, this dissertation noted that there were very few differences in relation to the dynamics and circumstances of the police use of deadly force in Canada and the United States. The issues pertaining to the police use of deadly force are for the most part very similar. The major difference that was noted between the two nations was in relation to the frequencies of incidents and not the individual characteristics of a police shooting. As stated, roughly 300 individuals are shot and killed by U.S. law enforcement personnel each year (UCR, 2001), in contrast to the findings of this dissertation that reveal roughly 10 fatal police shootings per year in Canada.

These figures represent a frequency of fatal police shootings that are roughly three to four times greater in the United States than in Canada. *Significantly, instances of extreme violence in the United States tend to be three to four times greater, per capita, than instances of extreme violence in Canada.* For the purpose of this dissertation, extreme violence includes the police use of deadly force, the murder of police officers by an assailant, the homicide rate of the general population and violent crime such as firearm robberies.

In summary, the findings of this dissertation provide support and further explain the ratio-threat hypothesis and danger-perception theory presented by MacDonald et al (2001). The issue of perceived threat and calculated risk for police officers in the United States is substantially higher than for police officers in Canada. As a result, police officers in the United States utilize deadly force in greater frequency than in Canada. Further research of extreme violence and risk of violence perceived by police personnel may assist in understanding the patterns of police shootings from both a national and international perspective.

### ***Victim-Precipitated Homicide: Vulnerable Individuals***

In addition to support of the ratio-threat hypothesis and the danger-perception theory, one of the major findings of this dissertation is in regards to the number of police shootings that have involved incidents of victim-precipitated homicide. In roughly one third of the cases examined (n=273), police officers reacted to a perceived lethal threat involving individuals rendered vulnerable by factors that include suicidal ideation, mental illness, emotional stress and the influence of a substance. In 92 percent of the Canadian shootings and in 94 percent of the shootings in the U.S.A., the police response was one of presumed normality and rationality on the part of the victim. Unfortunately, the false presumption on the part of the police often resulted in the wounding or death of the vulnerable individual.

In this regard, Fridell and Binder (1992) noted that a police shooting was more likely to occur during situations that were characterized by ambiguity and surprise. The police officers utilizing deadly force were less likely to know the victim and were also less likely to make a judgement in regards to the victim's emotional state. Significantly, Fridell and Binder suggest that the "information exchange" phase of an encounter between the police officer and the victim may be critical in determining whether deadly force will be used or averted.

White (1999) adds to this perspective, emphasizing the importance of internal and external working environments and situational variables resulting in whether the police shooting is elective or non-elective. A non-elective police shooting is characterized by the use of deadly force to protect the officer, or another individual, from the threat of imminent death or bodily harm. In non-elective incidents, situational factors will primarily influence the police officers decision-making in the application of deadly force. However, as the



perceived risk of danger decreases, White argues that decision-making in the application of deadly force becomes more elective with the working environment having a greater influence.

During his analysis of the police use of deadly force in Philadelphia, White (2001) noted that the administrative policy and organizational culture were significant in determining the rates of police shootings. White adds that the mechanisms available to control the discretion of individual police officers are critical in minimizing the number of police shootings. White suggests that formalized policies and operational practice can be effective methods of controlling the exercise of police discretion in relation to the use of deadly force in elective encounters.

Building upon this theoretical perspective, this dissertation argues that factors, that include training, tactics and policy, guide a police officer's behaviour in the early stages of potentially violent encounters and may minimize the likelihood of a non-elective deadly force decision. The findings of this dissertation emphasize the need to develop operational practices and formalized policies in dealing with individuals who are vulnerable owing to their emotional, mental or physical state. As this dissertation demonstrates, the manner of police response is based on their perception of the level of threat presented by individuals who are often *pre-conceived* as being a "suspect, felon or an assailant".

It is argued that police officers who perceive that they are less threatened will be less likely to spontaneously resort to the use of deadly force. These officers are more likely to resort to alternate tactics that include disengagement and containment. The elements of distance, time, dialogue and tactics may provide a peaceful resolution to an otherwise fatal encounter. These initiatives will also facilitate the use of skilled

negotiators and highly trained tactical units that have the capability to effectively deploy less-lethal weaponry in a controlled and prolonged manner.

However, it is important to emphasize that in the majority of these incidents, police officers will have mere seconds to react to a perceived lethal threat. An individual predisposed to suicide, suffering from mental illness or acting in an irrational manner may suddenly confront the police with a knife or other weapon, advancing upon and *forcing* the officer to utilize lethal force. An extreme individual may even confront the police with a loaded firearm or discharge their weapon at the police. These situations would provide few, if any, options for the attending officers except to respond with deadly force.

### ***Interactional Violence: The Role of the Victim***

This dissertation also emphasizes the importance of interactional violence and the role of the victim in a police shooting. It has been presented that the actions of a victim frequently precipitate the acts of the police officer, ultimately escalating the conflict until a police shooting occurs. Specifically, this dissertation argues that the victim must share some of the responsibility in police shootings, regardless of their vulnerable state. The shooting incident may not have occurred except for the precipitating actions of the victim. In some instances, police officers are “baited” into situations that are escalated by the participant, in an attempt to have the police officer take his or her life. In other instances, the irrational behaviour and / or delusional thought process of the victim is a significant contributing factor resulting in the police use of deadly force.

In this regard, the role of the so-called “victim” of a police shooting has been brought under scrutiny. The findings of this dissertation illustrate the complexities that

surround the police use of deadly force and how individual officers are given seconds to decide in resolving a potentially lethal conflict. As a result, there is a limit to the expectations that can be placed upon street-level police personnel when confronting an assailant. There is a need to look beyond the operational expectations of the police and to examine complex social issues that include suicide prevention, the deinstitutionalization of the mentally ill and the proliferation of mind-altering drugs such as methamphetamine. Government agencies mandated to provide suicide prevention, mental health and, drug treatment share a partnership role with the police in reducing the likelihood of the police use of deadly force.

### **Training and Tactical Implications**

There is also a need for a greater degree of emphasis to be placed upon the training of both police recruits and in-service personnel in relation to those verbal and tactical skills associated with suicide intervention and dealing with the mentally ill. In addition to this training, police personnel must be made aware of the dynamics associated with victim-precipitated homicide with a particular emphasis on the phenomenon of suicide-by-cop. Police training should also give serious consideration to establishing rigorous training in relation to dealing with irrational individuals who are vulnerable owing to factors that may include suicidal ideation, psychosis, emotional upheaval and the influence of a substance. Police officers require training that will allow them to identify suicidal and psychotic cues when confronting an individual who is violent and dangerous. By identifying these cues, the police officer may be able to assess which use of force option is appropriate for the circumstances at hand.

Within this framework, police agencies need to address the wide variations that exist within individual police officers in relation to their age, cultural background, maturity, experience and attitudes towards those who are despondent, irrational or suffering from mental illness. There is a need to inform police personnel of the perspective of the individual being confronted. These individuals will also have wide variations in background, attitudes and assumptions of the police. They may also have varying capacities to understand and assimilate police commands and to bring themselves under self-control (P.A.R.C., 2003).

Police training must additionally emphasize the importance of information gathering, *prior to police personnel attending a call for service*. Within the findings of this dissertation it was noted that, in many instances, members of the public had summoned the police in response to observations of an individual displaying irrational and violent behaviour. In some instances, members of the public were aware that the irrational individual was under the influence of a substance, was suffering from mental illness or expressing thoughts of suicide.

Call-takers and dispatch personnel within police agencies must be aware of the dynamics associated with a victim-precipitated police shooting. It is essential that call-takers and dispatch personnel solicit pertinent information from members of the public who summon the police. Dispatch personnel must then relay this information to the attending police units, prior to their arrival, to allow for a planned response.

### ***A Specialized Response: Crisis Intervention Teams***

The findings of this dissertation emphasize that police agencies need to develop a *specialized response* to incidents involving individuals that are knowingly suicidal,

mentally ill or acting in an irrational manner. For example, in Memphis, Tennessee and in Portland, Oregon police utilize a Crisis Intervention Team (CIT) composed of police officers who have received specialized training in dealing with individuals with mental illness or suicidal ideation. These officers are trained to slow down and de-escalate crisis incidents by the use of negotiation and flexible tactics (P.A.R.C., 2003).

CIT training involves 40 hours of scenario-based training that is developed from actual incidents. The scenarios allow for the illustration of crisis de-escalation principles and include intensive feedback from fellow officers and mental health professionals. In Memphis, over 25% of all uniformed patrol officers have received this specialized training. As a result, at least one CIT-trained officer is available on every shift and in every precinct (P.A.R.C., 2003). This important aspect of the CIT model provides for the application of crisis intervention, throughout the jurisdiction of the police service, at a moment's notice.

Some of the highlights of the Memphis CIT experience include:

- Timely response. In 100 randomly selected cases, a Memphis CIT officer arrived in fewer than ten minutes, "with the great majority of those calls responded to in under five minutes."
- The decreased need for emergency response team deployment. The de-escalation training allowed for positive results by CIT personnel, decreasing the need to call out a specialized emergency response team.
- A decrease in injuries. It was noted that police officer injuries, resulting from encounters with persons with mental illness, dropped by more than half following the implementation of Crisis Intervention Teams. Based upon anecdotal evidence, so did injuries to the involved individuals with mental illness.
- Reduced criminalization of mental illness events. The arrest rate of persons with mental illness dropped after introduction of CIT to approximately two percent contrasted to the U.S. national average of 20 percent. In this regard, it was noted:

The Memphis CIT officers have increased their department's involvement in mental illness events and referrals to the health care system. This

increase has happened while they have maintained an extremely low rate of arrest for those with mental illness, while at the same time significantly reducing their own injury rate (P.A.R.C., 2003:204-206).

In addition to Crisis Intervention Teams, the option of containment and “tactical withdrawal” must be included within the police response. If possible, police officers should physically distance themselves and take cover from individuals who are bent on forcing a victim-precipitated homicide. A tactical withdrawal and containment by police personnel may serve to neutralize the actions and intentions of the suicidal or psychotic individual. The police tactic of “time and distance” may also allow an emotionally charged individual an opportunity to calm down or, an individual in a drug/alcohol-induced state an opportunity to regain perspective. Containment will also allow the police to formulate a plan of action involving a calculated and prolonged response, one that may include the deployment of less-lethal force.

### ***Less-Lethal Weaponry***

As this dissertation has demonstrated, operational police officers require alternatives to the traditional firearm. Less-lethal weaponry may allow the assailant to live while incapacitating the lethal-threat to the police officer. It is important to emphasize that when dealing with vulnerable groups, the threat of using a firearm is frequently ineffective. Less-lethal weapons provide police personnel with additional force options that can be utilized to subdue these irrational individuals, providing less severe injuries to both the suspect and the police officers.

While most police personnel in Canada and the U.S. have immediate access to *close range*, less-lethal force options that include pepper spray and batons, there is a need for access to additional forms of less-lethal weaponry. Pepper spray and batons

are severely limited owing to the requirement of close proximity for application thereby placing the police officer and the vulnerable person at risk. In this regard, police agencies need to provide street-level police personnel with *immediate access* to mid-range, less-lethal force options that include the Taser and beanbag shotgun.

As stated in Chapter Two of this dissertation, the hand-held Taser is a less-lethal weapon that is deployed at a distance of up to 20 feet and allows for easy carrying and concealment on a police duty-belt. These features provide operational police officers with a mid-range, less-lethal force option that is accessible wherever the police officer goes.

However, the deployment of the Taser requires further research as the application of high voltage electricity may have a more serious impact upon individuals that are rendered vulnerable by the influence of hallucinogenic drugs or poor health. In these instances, the application of the Taser may result in the death of an individual rendered vulnerable due to their fragile physical state.

In contrast, the beanbag shotgun is a less-lethal impact weapon that is designed to control subjects within a range of 30 to 60 feet and can be stored within the trunk of the police vehicle. When discharged at an individual, the 12-gauge beanbag delivers approximately 120 pounds of kinetic energy to the target area, causing temporary motor dysfunction.

Significantly, the Taser and beanbag shotgun are effective less-lethal weapons that bridge the gap between the police issued firearm and close range compliance tools that include the baton and pepper spray. By having immediate access to these mid-range weapons, police officers will be better equipped when confronting vulnerable individuals allowing the discharge of less-lethal force at a moment's notice.

While less-lethal weapons provide alternatives to deadly force, it is important to emphasize that they are not intended to replace an officer's firearm. As this dissertation has shown, police officers are at times confronted with life-threatening situations that require them to make split second decisions. Many of the potentially deadly attacks on police officers are dynamic, occurring spontaneously and cannot be anticipated by the officer. In this regard, Geller and Scott (1992) state:

It was tempting then, and remains so now, to hope for technological and scientific solutions to human problems, whether hunger, poverty, disease, or violence. Technology and science may eventually provide police with a tool that non-violently and instantly immobilizes adversaries-like the "phasers" or ray guns of science fiction fame. In the near term, however, less-than-lethal devices clearly have been conceived as *supplements* to, rather than substitutes for, firearms. The hope is that, in the "force continuum" of options considered during any potentially violent encounter, less-than-lethal tools (and tactics) will suffice to accomplish the police objective. At the same time, all who advocate the merits of less-than-lethal weapons readily acknowledge that some encounters are life-and-death-struggles calling for the prompt and decisive use of deadly force. (Geller and Scott, 1992:358)

It is important to emphasize that a specialized response of crisis intervention teams and less-lethal weaponry will likely have a marginal impact upon reducing the number of police shootings. This is due to factors that include the rapid sequence of events that typically surround a police shooting and, the fact that many of the general categories associated with victim-precipitated behaviour overlap making diagnosis and intervention difficult.

### ***Accidental and Mistaken Firearm Discharges***

Another important finding of this dissertation concerns to the frequency of accidental and mistaken firearm discharges that have occurred by police personnel. In eleven percent of the Canadian cases examined (n=45) and in six percent of the U.S.



cases examined (n=24), police personnel either accidentally discharged their firearm, or mistakenly discharged their firearm at an individual who was typically unarmed. During the majority of these incidents, innocent individuals died.

These accidental incidents emphasize the need for safe and competent handling of firearms at all times and in all situations. This dissertation noted that in several instances, Canadian police personnel failed to keep their trigger finger outside of the trigger guard of their weapon until they intended to fire. Tragically, this resulted in the accidental deaths of two individuals and in the serious injury to several others. In other instances, police officers mistakenly discharged their firearm unaware or ill informed of the intended target. This finding emphasizes the need for police personnel to be sufficiently trained and to possess sufficient competency in the practice of safe firearm handling.

### ***The Discharge of Firearms at Moving Vehicles***

The findings of this dissertation also noted the frequency of firearm discharges at moving vehicles by police personnel. This often occurred in an attempt to prevent the motor vehicle from striking the officer(s) who were typically on foot at the time. In most of these instances, the suspect driver and occupants of the charging motor vehicle would not receive any injuries as a direct result of the police firearms discharge. It was more common for police personnel to be wounded or injured during these instances. This dissertation also noted ten incidents where a police-firearm error occurred. During these incidents, the police officer either wounded self, other police personnel or an innocent victim. As stated in Chapter Four, one of the more frequent police injuries

appears to be caused when officers attempt to “shoot out the tires” of suspect vehicles, a precarious and dangerous event.

In this regard, police training and departmental policies should narrowly restrict the practice of discharging a firearm at a moving vehicle, as it is dangerous and generally ineffective. Departmental policy and training must emphasize officers-safety issues that include:

- Police officers should not place themselves, or remain, in the path of a moving vehicle.
- Police officers should only discharge their firearm at a moving vehicle as a means of last resort, when no other means of avoiding or eliminating the danger exists.
- Police officers must take into account the risks to vehicle occupants, bystanders, pedestrians and other vehicular traffic before discharging their firearm at a moving vehicle.

## **Policy Implications**

There is a need to acknowledge, and include, the dynamics of victim-precipitated homicide within departmental policies that pertain to the deployment of force. It is equally important that this phenomenon be acknowledged within the departmental policies and guidelines that pertain to the investigation of use of force incidents. Victim-precipitated homicides should be investigated as both a homicide and a suicide with emphasis of a psychological autopsy pertaining to the mindset of the assailant. In addition to those aspects of a homicide investigation, the clinical considerations and dynamics of suicide need to be addressed within the context of police shootings.

There is also a need for a co-ordinated approach to understanding and controlling police use-of-force. Police departments require a co-ordinated approach to all use of force incidents. This will assist in accurately defining policy, procedures, training

and the actual deployment of force. Police agencies cannot be expected to individually co-ordinate their own use of force incidents in any cohesive manner. The federal governments of Canada and the U.S. have an obligation to analyse and minimize, in so far as is reasonably possible, all degrees of force used by police.

In this regard, there is a need for a coordinated approach by government agencies in dealing with individuals rendered vulnerable by factors that include suicidal ideation, mental illness, emotional stress and the influence of a substance. Wide-reaching social policies are needed to address the complexities that are associated with vulnerable individuals, *prior to their contact with the police*.

Finally, there is also the need for a mandatory and consistent review of all police shooting incidents in Canada by Crown Counsel and additionally by the Coroner's Office in those instances resulting in death. Presently, most police agencies within Canada are afforded the discretion to decide which investigations will be sent to Crown Counsel for review and which will not. As stated, the province of Ontario is the only province with an independent civilian agency that has the power and authority to investigate all firearm discharges by police personnel outside of training.

In the case of a police shooting, federal legislation should be drafted requiring all police agencies to submit a detailed investigative report to Regional Crown Counsel whenever a police officer discharges his or her firearm. This process would ensure that all police firearm discharges are reviewed by an external agency that is both independent and empowered to bring the matter to trial, if need be.

## Future Research

While there is no single theory to explain the police use of deadly force, the findings of this dissertation add insight to the methods to reduce the police use of deadly force and to the list of factors towards building a grand theory of police shootings. The findings of this dissertation also suggest important analytical tools for police administrators and researchers in the assessment of police shootings and trends of those shootings.

This dissertation has also identified the need for future research to explore issues that include the danger-perception theory and the effect of administrative policy and organizational culture on the police use of deadly force. In this regard, future research should examine issues that include:

- The recruit and in-service training pertaining to the use of force and the use of the police issued firearm.
- The departmental policies pertaining to the application of force, including deadly force and the deployment of less-lethal weaponry.
- The relationship between violent crime patterns and the police use of deadly force, over time and within specific geographic areas.

There is also a need for further research regarding the study of how the internal “working environment” influences nonelective police shootings. Can the internal working environment of a police agency alter the influence of situational factors in the police use of deadly force? What of the environmental influences of nonelective police shootings such as the perception of danger and violent crime? Can factors that include personnel selection, recruit and in-service training, and departmental policies direct and guide police personnel in minimizing the likelihood of a police shooting? To what degree is it possible for organizational policies to direct police behaviour in defusing a violent encounter, without the use of deadly force?

Finally, there is also a need to understand and identify the systematic differences in subjects' motivations that result in a police shooting. By identifying these differences, police personnel will be better equipped in responding to incidents of a potential lethal threat. In this regard, the survivors of victim-precipitated police shootings must be approached and interviewed. Why did these vulnerable individuals elect to confront the police? What frame of mind did they have at the time of their lethal-threat? Is there anything that the police officer could have done or said that would have caused the individual to comply and relinquish his or her lethal-threat?

Within this context, future research must seek out the suicidal and the mentally ill in an effort to understand why they sought out the police during their time of emotional upheaval. Owing to the confines of this study and the difficulties that were identified, these issues were not thoroughly addressed. Future research regarding the police use of deadly force and the role of individuals rendered vulnerable due to their emotional, mental and physical state will hopefully provide additional insight and solutions to a complex social problem.

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## **APPENDIX A: ETHICS APPROVAL**





**APPENDIX B: PERMISSION TO CONDUCT  
PRISON RESEARCH**





