

A Matter of Life and Death

Investigation into the direction provided by the Ministry of Community Safety and Correctional Services to Ontario's police services for de-escalation of conflict situations

OMBUDSMAN REPORT

Paul Dubé, Ombudsman of Ontario

June 2016

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A Matter of Life and Death

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Executive Summary

- 1 On July 27, 2013, 18-year-old Sammy Yatim was shot and killed by a member of the Toronto Police Service. The young man was alone on a Toronto streetcar, holding a small knife. The incident was captured on video and shared on social media, sparking an outpouring of public concern about when, why and how police in Ontario use lethal force.
- 2 The case was unusual in only two respects: First, the stunning video images – viewed half a million times in the first four days – made the incident real and immediate to a wide audience. Second, one of the officers involved was charged with second-degree murder and attempted murder¹ – an exceedingly rare occurrence in Ontario, where police are almost always cleared in such cases because their actions are considered a reasonable use of force.
- 3 In every other way, Sammy Yatim’s death was sadly familiar, reminiscent of too many similar incidents dating back too many years. It bore almost eerie similarities to an incident 16 years earlier, in 1997, when Toronto police shot and killed Edmond Yu, 35, as he brandished a small hammer, alone on a bus. Like Mr. Yatim, Mr. Yu was experiencing a crisis. As were so many others, such as:
 - Byron Debassige, 28, who had stolen some lemons and was armed with a three-inch knife when he was killed by Toronto police in February 2008;
 - Douglas Minty, 59, who was armed with a pocket knife when he was killed by the OPP in Elmvale in June 2009;
 - Michael Eligon, 29, who was still wearing the gown from the hospital he escaped from, carrying two pairs of scissors, when he was killed by Toronto police in February 2012; and
 - Michael Maclsaac, 47, who was running in the street naked, brandishing a table leg, when he was killed by Durham Regional Police in December 2013.

¹ On January 25, 2016, a jury found Constable James Forcillo not guilty of second-degree murder and manslaughter in Sammy Yatim’s death, but guilty of attempted murder. At the time this report was prepared, he had not yet been sentenced.

- 4 The shocking news and images of the Yatim case galvanized the public. Hundreds of people attended protest demonstrations in his honour, where he was referred to as “everyone’s son.” His family was joined at these events by their counterparts from so many earlier tragedies. Together, they brought new focus and urgency to a longstanding question about police behaviour and training: Were police doing enough to talk people down, so they don’t have to shoot them down?
- 5 This investigation was launched in an effort to answer that question. Police training is ultimately the responsibility of the Ontario government, and it is in the public interest to examine what direction, if any, it provides to police for de-escalating such situations and avoiding, where possible, the use of lethal force. To do so, our investigators reviewed the record of police-involved deaths in Ontario, provincial guidelines and directives on the use of force and police training, as well as de-escalation theories and best practices across Canada and abroad.
- 6 There have been scores of fatal police shootings in Ontario involving persons with mental illness in recent years – more than 40 just since 2000. They have sparked multiple probes and studies. Coroner’s inquests have returned more than **550** recommendations for improvement and change since 1989. In the wake of the Yatim shooting, retired Supreme Court Justice Frank Iacobucci published a report and recommendations for the Toronto Police Service.² As for Ontario’s Ministry of Community Safety and Correctional Services, which has statutory responsibility for policing under the *Police Services Act*, it began a study of police interactions with persons with mental illness a year before Sammy Yatim’s death, but it has produced little, more than four years later.
- 7 Over and over, dating back nearly three decades, these reports and recommendations have emphasized the importance of police using de-escalation techniques when dealing with people in crisis. They call for simple directions, such as calmly offering to help, instead of shouting, with guns drawn. Yet very little has been done to implement this advice.
- 8 Our investigation found that Ontario officers have plenty of training on how to use their guns, but not enough on how to use their mouths. Their “use

² *Police Encounters with People in Crisis: An Independent Review Conducted by The Honorable Frank Iacobucci for Chief of Police William Blair, Toronto Police Service* (July 2014) Available at: https://www.torontopolice.on.ca/publications/files/reports/police_encounters_with_people_in_crisis_2014.pdf

- of force” training is largely focused on the use of weapons, with very little on verbal tools that can help them calm down someone who is armed with a weapon and experiencing a crisis.
- 9 The problem is not that police officers aren’t following their training. They are. The problem is the training itself. When facing a person armed with a knife, they are taught to pull their guns and loudly command the person to drop it. Although that tactic might prove effective with rational people, a person waving a weapon at armed police is irrational by definition. Too often, the command only escalates the situation. It can exacerbate the mental state of a person who is already irrational and in a state of crisis. And once police have drawn their guns, using them is often the only tactic they have left.
 - 10 Our investigation found problems with both the type and the amount of training that Ontario police officers receive. Constables get only 12 weeks of basic training, far less than those elsewhere in Canada. De-escalation and communications techniques are only explicitly addressed in five 90-minute sessions. Their final pass/fail test on the use of force is largely about using force, not using judgment to de-escalate – and after that, their training is left to the discretion of their individual police services, with no monitoring by the province to ensure it is consistent from service to service.
 - 11 Every police service requires officers to undergo annual requalification training in the use of firearms and batons, but there is no such specification for the de-escalation skills they can use on the job every day. They have a one-day “refresher” course on the use of force each year, but whether or not it covers de-escalation is left up to each police service.
 - 12 Compounding these shortcomings in the training program is the broader issue of police culture. When de-escalation training is limited at the police college level and discretionary on the job, it is no match for a culture that, in some quarters, perpetuates the notion that fatal shootings of persons with mental illness are simply inevitable.
 - 13 The Ministry of Community Safety and Correctional Services has the power, opportunity and duty to address these problems. Yet thus far, it has mostly taken a hands-off approach. It has not even defined what de-escalation means, much less set out clear expectations for our police services. It runs the Ontario Police College, but it has not acted to beef up

de-escalation training there, or called for more de-escalation training for officers already on the job.

- 14 The only real action taken by the Ministry on this front has been to expand the use of conducted energy weapons – Tasers. These might be alternative to lethal force in limited circumstances, but Tasers are still weapons, not de-escalation tactics. At a time when other jurisdictions in Canada and elsewhere have made progress in implementing new policing techniques, Ontario has neglected and, at times, even cut back on de-escalation training to save money. This, even as the costs of inquests, investigations by the Special Investigations Unit (SIU) and all the court proceedings that can flow from police shootings continue to mount, to say nothing of the cost in human terms, not only for the victims but the officers involved, and all their loved ones.
- 15 Many of the previous examinations of this issue, including Justice Iacobucci's 2014 report, have been about deaths in Toronto and the city's police. But this is by no means just a Toronto problem. It is an Ontario problem, and it requires provincewide action before more lives are lost unnecessarily. The provincial government needs to exercise its legal responsibility to direct how police services deal with persons with mental illness or who are otherwise in crisis.
- 16 This report makes **22** recommendations to the Ministry of Community Safety and Correctional Services, addressing everything from its legislative guidelines and models, to training at all levels, to better tracking and assessment of police interactions with people in crisis.
- 17 The goal of these recommendations, on a systemic level, is not merely to expand training, but to change police culture. We trust police officers to use their judgment in dangerous situations to protect our lives and their own. They should have better tools to deal with people in crisis, to better determine when to use force and when to de-escalate; to preserve lives.
- 18 Public sensitivity to police-involved deaths has only continued to build since Sammy Yatim's death, as we have seen across the United States, from Ferguson, Missouri to New York City to North Charleston, South Carolina, and here at home. There have been 35 police-involved shootings in Ontario since then, 18 of which were fatal. One of those – that of Andrew Loku, 45, who was holding a hammer when Toronto Police shot him in the hallway of his apartment building in July 2015 – sparked several weeks of protests and calls for greater transparency relating to

investigations by the SIU, which laid no charges.³ It will also mean yet another inquest, announced in April 2016.⁴

- 19 The government has demonstrated that it is willing and able to respond to urgent public concerns about policing and police culture, and to set provincewide rules in the public interest. It did so in 1992 with its original guideline for the use of force. It did so in 1999 to end dangerous high-speed police pursuits. Just last year, the Ministry not only held several public consultations about the controversial practice of street checks, or “carding” – it drafted (and the government passed) a new regulation in the space of a few months. The time is ripe to address de-escalation – specifically the training gaps and culture issues that have left too many officers ill-equipped to use de-escalation techniques and cost too many lives. It is a literal matter of life and death.

Investigative Process

- 20 Immediately after Sammy Yatim was shot on July 27, 2013, an investigation by the province’s Special Investigations Unit was underway, bystander videos of the incident were being viewed thousands of times on YouTube, and public discussion raged about how and why such incidents happen.
- 21 Four days later, on July 31, 2013, my Office announced that the Ombudsman’s Office would conduct a case assessment – the precursor to an investigation – to look at how police are trained to de-escalate situations of conflict before they lead to the use of lethal force. Investigators examined the direction and guidelines provided to police by the Ministry of Community Safety and Correctional Services, and whether it should use its authority to set provincewide standards for such training.⁵
- 22 The assessment included a preliminary review of provincial guidelines, police practices and training, as well as cases similar to the Yatim shooting, in Ontario and elsewhere. It looked at recommendations from many Ontario coroner’s inquests into similar deaths, and the experience in other jurisdictions, such as British Columbia, where the provincial

³ http://www.siu.on.ca/en/news_template.php?nrid=2578

⁴ <https://news.ontario.ca/mcscs/en/2016/04/inquest-into-the-death-of-andrew-loku.html>

⁵ <https://www.ombudsman.on.ca/Newsroom/Press-Release/2013/Ontario-Ombudsman-to-do-case-assessment-on-police-.aspx>

- government set standards for police de-escalation training after the police-involved death of Robert Dziekanski at Vancouver's airport in 2007.
- 23 The Ministry was notified on August 7, 2013 and the investigation publicly announced the next day.⁶ At that time, our Office had already received **60** complaints, submissions and inquiries from a wide range of concerned citizens, including members of the law enforcement community. In total, we received **176** complaints and submissions in connection with this investigation.
- 24 A team of three SORT investigators, one Early Resolution Officer and a legal advisor was assigned to carry out the investigation, with assistance as needed from the Director of SORT. In addition, two distinguished former police chiefs were asked to serve as special advisors to the investigation: Senator Vern White, former chief of the Ottawa Police Service, Durham Regional Police Service and former assistant commissioner of the Royal Canadian Mounted Police; and Mike Boyd, former chief of the Edmonton Police Service and former deputy chief and interim chief of the Toronto Police Service. Both of them generously offered their services pro bono. They shared their expertise and advice on best practices, and provided valuable assistance in drafting the recommendations.
- 25 The team conducted **95** interviews, including with instructors at the Ontario Police College and officials in the Ministry's Policing Standards Section and Operations Unit, retired chiefs of police, use-of-force trainers, academics with policing experience, psychiatrists and psychologists with experience in crisis resolution and police training, interest groups, and mental health service and advocacy organizations. They also spoke with family members of **13** people who died as a result of interactions with police, to hear their concerns and recommendations for change.
- 26 As well, investigators spoke with trainers from several Ontario police services and observed training sessions at the Ontario Police College, the Justice Institute of British Columbia and at some regional police services in Ontario.
- 27 They also canvassed other jurisdictions across Canada, the United States, the United Kingdom and Australia on how the topic of de-escalation has

⁶ <https://www.ombudsman.on.ca/Newsroom/Press-Release/2013/Ombudsman-to-investigate-Ontario-direction-to-poli.aspx>

- been handled there. Of particular note, investigators spoke with officials from British Columbia who were involved in the development and delivery of that province's mandatory Crisis Intervention and De-escalation (CID) training, Canada's only provincially standardized de-escalation training for police officers.⁷
- 28 The team also reviewed extensive documentation, including training materials from the Ontario Police College dating back to 2003, training materials from the Canadian Police Knowledge Network⁸ and the Ontario Police Video Training Alliance. From the Ministry, we reviewed emails, memos and research projects on issues related to the investigation, and the Ministry's inspection reports on Ontario's **52** municipal police services and the OPP, for their adherence to training requirements.
- 29 Academic studies on de-escalation, use-of-force training and police response to persons with mental illness were also reviewed, and investigators attended conferences, including the Canadian Association of Chiefs of Police and the Mental Health Commission of Canada joint conference on police interactions with persons with mental illness.⁹
- 30 Our Office received excellent co-operation from the Ministry and the Ontario Police College throughout the investigation. We also reached out to the Police Association of Ontario, the Ontario Association of Police Educators, the Ontario Association of Police Services Boards and the Ontario Association of Chiefs of Police. We received co-operation from all except the latter. Co-operation from the rest of the policing community was mixed. We sent out **173** letters to municipal and regional police chiefs, police services boards and police associations, seeking their co-operation and advice – and received **33** responses, only **15** of which provided substantive information.
- 31 That said, the Durham Regional Police Service, the Peel Regional Police Service, the Ontario Provincial Police and the Greater Sudbury Police Service are to be commended for their co-operation, including granting

⁷ We were given access to the lesson plans, course training standards and observed in-class instruction for this training.

⁸ This included the online component of British Columbia's Ministry of Justice *Crisis Intervention and De-escalation (CID)* training course and Dalhousie University's Department of Psychiatry *Recognition of Emotionally Disturbed Persons* training course.

⁹ "Balancing Individual Safety, Community Safety and Quality of Life: A Conference to Improve Interactions with Persons with Mental Illness" – Mar. 24-26, 2014 – Fairmont Royal York, Toronto.

investigators access to lesson plans and permitting them to sit in on lectures and training sessions.

- 32 In March 2015, my predecessor sent a draft of this report to the Ministry for feedback, as is our Office’s normal process under the *Ombudsman Act*. The Ministry responded in April 2015, noting that it had several initiatives under way that would address the recommendations, but that these were “in various stages of development” – including the rollout of its “Strategy for a Safer Ontario” (on which it announced public consultations in August 2015).¹⁰
- 33 My predecessor elected not to finalize this report before his term ended in September 2015, at which time the trial of the officer charged in Sammy Yatim’s death was under way. Investigators continued to follow up with the Ontario Police College and the Ministry in November 2015, requesting information on any developments. The Ministry provided a response in April 2016, stating that although there had been some adjustments to training in de-escalation, communication and mental health, the written curriculum remained unchanged. I was briefed on the status of this investigation in early April 2016 shortly after taking office and asked the investigation team to update the report to incorporate new information as soon as possible.
- 34 I met with the then-Minister of Community Safety and Correctional Services, Yasir Naqvi, on May 18, 2016, and provided an updated draft of this report to him and the Ministry. On June 3, the Director of SORT, the Deputy Ombudsman, the lead investigator on this case and I met with senior Ministry officials to hear their presentation on their Strategy for a Safer Ontario. On June 10, we received the Ministry’s response to the recommendations in this report. Regrettably, the Ministry has still not made any substantive commitment to implement my recommendations. (For more detail, please see the Response section and Appendix at the end of this report).

¹⁰ <https://news.ontario.ca/mcscs/en/2015/8/province-developing-a-new-strategy-for-a-safer-ontario.html>

Terminology

35 Here is a clarification of some of the terms used in this report:

36 **Use of force:** Police are authorized to use force, to a reasonable degree depending on the situation, to prevent the commission of certain offences and/or to protect their lives or those of others. The term refers to a range of tactics, from **physical control** to the use of **intermediate weapons**, to **lethal force**.

- **Intermediate weapons:** Refers to police **batons**, **conducted energy weapons** (more commonly known by the brand name **Taser**, which is used in this report) and **aerosol weapons** (oleoresin capsicum spray, commonly known as pepper or **O/C spray**).
- **Lethal force:** Refers to tactics that can cause death or serious bodily harm; most commonly means the use of police firearms.

37 **De-escalation:** In situations where police have been called to intervene and are interacting with the public, this refers to the act of moving from a state of high tension to a state of reduced tension.¹¹

38 **Police challenge:** Refers to the standard police warning – “Police! Don’t move!” – that is to be issued loudly in a life-threatening situation where police draw their firearms.

39 Persons with a mental illness/persons in crisis/emotionally disturbed persons: These three terms are often used in literature on police crisis intervention.

- **Person with a mental illness** is used by The Canadian Association of Chiefs of Police (CACP) to describe anyone whose behaviour at the time of interaction is influenced by significant mental stress or illness.¹²

¹¹ K.J. Richards, (2007) De-escalation Techniques. In M. T. Compton and R. J. Kotwicki (Eds.), *Responding to Individuals with Mental Illnesses* (pp. 160 – 174). Sudbury, MA: Jones and Bartlett Publishers, Inc.

¹² “Contemporary Policing Guidelines for Working with the Mental Health System.” (2006).

Prepared by the Police/Mental Health Sub Committee of the Canadian Association of Chiefs of

- **Person in crisis** is the term preferred by Justice Frank Iacobucci in his 2014 report arising from the Sammy Yatim case, and in this report as well. It is not restricted to people with mental illness; rather, it focuses on the person and his/her behaviour and experience, without making assumptions about the reason for it.
- **Emotionally disturbed person** is widely used by police organizations to describe someone in an agitated state due mental illness, stress or other reasons. This term has been criticized, by, among others, the Ontario Human Rights Commission.¹³

The Human Toll

40 It was just after the first anniversary of Sammy Yatim’s death when our Office interviewed his father, Nabil (Bill) Yatim. The devastation and pain of Mr. Yatim’s loss was still acute. He was unable to comprehend how the police – “the people who are in charge of protecting you and serving you” – could have done such a thing. He said he kept thinking that if only officers had been properly trained to respond to someone experiencing an emotional crisis, Sammy Yatim would still be alive:

What [Sammy] needed that night was someone to wrap him up with a blanket and take him home, instead of someone shooting him nine times.

41 In meetings with the families and close friends of 13 people who died as a result of similar police interventions, all told our team the same thing: Their loved ones were in crisis and needed help. Mr. Yatim acknowledged that his son had a weapon, which increased the tension of the situation. But in his view, police should have been able to determine that the small knife in

Police Human Resources Committee. Available at:
<http://www.pmhl.ca/webpages/reports/Guidelines%20for%20Police.pdf>

¹³ In its submission to our Office, the Ontario Human Rights Commission noted the stigma associated with the label “emotionally disturbed person,” a term that is widely used by police services and in provincial policing guidelines. According to the Commission, in the context of disability it is always preferable to refer to the person before the disability, i.e., it is preferable to refer to a “person with a mental health disability” rather than an “emotionally disturbed person.” The Commission has recommended that the term “EDP” be abandoned and replaced by one that focuses on behaviour, not on the person, and avoids using stigmatizing language like “disturbed.”

Sammy's hand posed little risk. They should have seen that he was in emotional crisis and not responding to their commands. As he said:

The person in crisis cannot even fathom or understand what you're talking about. He cannot even take a simple verbal order and process it normally. That doesn't mean he's disobeying the order. That doesn't mean that you have to discharge your gun.

- 42 Overwhelmingly, these bereaved souls said they struggled to understand how police officers, who should have been there to help, ended up using lethal force. Most of them believed the police were too quick to use lethal force instead of attempting to de-escalate the situation. Many had lost faith in the role of police to serve and protect the public, after witnessing what they described as an "us-versus-them" mentality on the part of police.
- 43 Still, their grief and frustration also gave rise to pointed questions about the amount of de-escalation training provided to police officers. They asked: Are officers trained to recognize when someone is experiencing a crisis, as opposed to committing a crime? Are they trained to try to help the person, rather than yelling "Drop the weapon!" with their firearms pointed?
- 44 As these families know only too well, there have been far too many cases like these, and far too many coroner's inquests, recommendations, reviews and reports, stretching back for decades, to no avail. They said they came forward to us in the hope of making a lasting and meaningful change: To make it routine for police to seek de-escalation **first** in cases where people are in emotional crisis, and avoid the use of lethal force as much as possible. Their hope is that no other family has to endure what they went through.
- 45 It is also important to note that the human toll in these cases also extends to police. No police officer starts his or her shift with the expectation of killing someone. When that happens, it is not just the victims and their families who pay the price; the officers involved, and their families, suffer trauma too.¹⁴

¹⁴ Our Office has previously examined the effects of operational stress injury on Ontario police officers and made recommendations to the Ministry to track their needs and improve supports for them and their families. See the 2012 report *In the Line of Duty*: <https://www.ombudsman.on.ca/Investigations/SORT-Investigations/Completed/In-the-Line-of-Duty.aspx>

In quest of change: A 25-year call to action

46 These families represented just a fraction of those touched by police-involved deaths of persons in crisis over the past quarter-century in Ontario. Normally in such cases, an inquest is held and a coroner's jury makes recommendations. Our investigation reviewed the recommendations of these juries – hundreds in all. Over and over, they called for improvements in police de-escalation training, but few were acted upon. The following summaries underline the message of the families who lost loved ones as a result of a fatal interaction with police, and the long-overdue need for changes at the provincial level.

Lester Donaldson – Toronto, 1988 (inquest 1994)

47 Mr. Donaldson was 45 and already known to Toronto Police when they confronted him at his home in August 1988. He suffered from paranoid schizophrenia and delusions, and had previously attempted to stab a police officer and attacked another officer with a shovel. This time, when he produced a knife, an officer shot and killed him.

48 The coroner's inquest into his death was not completed until 1994, but the recommendations led to significant changes in police procedures and training, including crisis resolution courses for officers.¹⁵ According to *Saving Lives*, a 2002 report by the Urban Alliance on Race Relations and Queen Street Patient's Council, these courses were implemented by Toronto Police, but abandoned within three years, due to budget restrictions.¹⁶

49 Other recommendations from the Donaldson inquest jury included getting mental health professionals and psychiatric survivors involved in training police to respond to persons in psychological distress, and addressing police attitudes and stereotypes against persons with mental illness.

¹⁵ *Saving Lives: Alternatives to the Use of Lethal Force by Police – Report of a Conference Held in Toronto, June 23-24, 2000.* (2002). Urban Alliance on Race Relations. Accessible at:

<http://urbanalliance.files.wordpress.com/2012/05/savinglivesreport.pdf>

¹⁶ *Ibid* at p. 24.

50 As well, the Ontario Police College developed a manual for police dealing with persons with mental illness as a result of this inquest.¹⁷ It is published by the Centre for Addiction and Mental Health and is provided freely to each of Ontario’s police services for use in training frontline officers.

Edmond Yu – Toronto, 1997 (inquest 1999)

51 Mr. Yu had been a medical student prior to being diagnosed with paranoid schizophrenia. By February 1997, at age 35, he had been in and out of psychiatric institutions and lived on the streets of Toronto, before settling into a “safe house.” Toronto Police were called when he assaulted a woman while waiting for a bus. When they arrived, the bus was empty and he was sitting inside, at the back.

52 After some interaction with the officers, Mr. Yu became agitated and stood up, raising a small steel hammer above his head. Police drew their guns and challenged him to stop and drop the weapon. One fired on Mr. Yu, striking him three times, killing him.

53 The coroner’s jury made 24 recommendations, including that the *Police Services Act* be amended to require police to undergo at least one day of additional annual training, focusing on crisis resolution. The jury noted that including this requirement in the legislation would ensure the training was carried out (the inquest heard that none of the officers in the Yu case had undergone the crisis resolution training that was briefly implemented as a result of the Donaldson inquest). The jury further recommended that the crisis resolution course should include, amongst other things, the following:

- De-escalation and the resolution of situations without physical force;
- The ‘first contact’ and ‘time, talk and tactics’ approach be used by police officers whenever possible and that ‘active listening’ be stressed as a skill that officers must develop; and

¹⁷ Ron Hoffman and Laurel Putnam. “Not just another call...police response to people with mental illnesses in Ontario.” (London: Centre for Addiction and Mental Health, 2004). Available at http://www.pmhl.ca/webpages/reports/Not_Just_Another_Call.pdf

- Police officers should, whenever possible, maintain a sufficient reactionary gap to give them time to disengage, tactically reposition themselves and/or react in such a way that prevents a situation from escalating from the verbal to the violent.

54 The *Saving Lives* report noted that the Solicitor General (Ministry of Community Safety and Correctional Services today) had not acted on the recommendation of the Yu jury to include crisis resolution training in the *Police Services Act*, noting “police services implement a patchwork of training initiatives that change at such a frequency that it becomes impossible to track performance.”¹⁸ Although the Toronto Police Service introduced a crisis resolution course in 1999 that included de-escalation and crisis resolution,¹⁹ it seems that by 2001, the 50-hour course had been integrated with annual firearms requalification training.²⁰

Otto Vass – Toronto, 2000 (inquest 2006)

55 Mr. Vass, 55, a married father of five, had a history of mental health issues and depression. In August 2000 Toronto Police officers intervened after he was injured in a confrontation with teenagers in a convenience store. The officers tried to treat him for his injuries, but when he became violent, they handcuffed him and struck him in the legs with a baton. His death was attributed to cardiovascular stress from the incident.

56 The Special Investigations Unit charged four officers with manslaughter, but they were acquitted. The coroner’s jury made 22 recommendations, focused primarily on the need for Tasers and training on Tasers, but also called for a permanent structure to discuss “the intersection of policing and issues that arise in the mental health sector.”

O’Brien Christopher-Reid – Toronto, 2004 (inquest 2007)

57 In June 2004, Toronto police responded to several calls about a shirtless man brandishing a knife in the area of Edward Gardens. Three officers confronted Mr. Christopher-Reid, 26, who suffered from paranoid

¹⁸ Supra note 15 at p. 24.

¹⁹ This information, contained in the Iacobucci report, was in response to a recommendation from the Use of Force Committee Final Report established in 1997 by then Chief of Police David Boothby. It appears that this course is different than the one referred to in the *Saving Lives* report.

²⁰ Supra note 2 at p. 70.

delusional disorder. They raised their guns and ordered him to drop the weapon. When he continued to advance, he was shot four times.

- 58 The Special Investigations Unit laid no charges. The subsequent coroner's jury recommended better police training on de-escalation and dealing with emotionally disturbed persons.

Byron Richard Debassige – Toronto, 2008 (inquest 2010)

- 59 In February 2008, Toronto Police were called after Mr. Debassige, 28, stole lemons from a convenience store. He was armed with a three-inch knife. Mr. Debassige pulled the knife when the police approached him. They ordered him to drop it and not move, warning that he would be shot. He continued to advance on the officers, who shot him five times in the chest at a range of six feet.
- 60 Mr. Debassige had a long record of violence, psychosis, alcohol abuse and fetal alcohol syndrome. The Special Investigations Unit laid no charges. The coroner's jury recommended better collection and sharing of knowledge about people with mental disorders who interact with the justice system.

Douglas Minty and Levi Schaeffer – OPP, 2009 (inquests 2014, 2011)

- 61 Ontario Provincial Police were called to the Huronia West home shared by Mr. Minty, 59, and his mother on June 22, 2009, after a complaint the mentally challenged man took a swing at a door-to-door salesman. When Mr. Minty, holding a small pocket knife, moved toward the OPP officer, the officer shot him five times, killing him.
- 62 A week later, Mr. Schaeffer, 30, diagnosed with schizoaffective disorder, panic and personality disorders, was shot dead by an OPP officer near Pickle Lake. Two officers were investigating a missing boat and they alleged that Mr. Schaeffer – who was alone at the scene – threatened them with a knife and bear spray.
- 63 In both cases, the Special Investigations Unit determined no charges should be laid but raised concern with the note-taking practices of the police, with the officers in both cases being told to consult with legal counsel before writing down their notes, impacting both the independence and contemporaneity of their notes. The Schaeffer and Minty families

successfully appealed all the way to the Supreme Court of Canada, which declared in 2013 that officers must write their notes immediately after an incident and without having lawyers vet or assist with writing their notes before they are submitted to the SIU.

- 64 In March 2011, the coroner’s jury in the Schaeffer case recommended improvements in communications policy for officers in remote locations and in training for dealing with people with mental health issues. In June 2014, the coroner’s jury in the Minty case recommended better training for OPP officers and call-takers to help them relate to people who are mentally ill, developmentally disabled or emotionally disturbed.

Aron Firman – OPP, 2010 (inquest 2013)

- 65 On June 24, 2010, OPP responded to a Collingwood residence about an assault complaint. Mr. Firman, 27, who had schizophrenia, became agitated when police tried to arrest him. He elbowed one constable in the face and continued to advance. After police Tasered him, he was taken to hospital and pronounced dead. The SIU laid no charges.
- 66 The coroner’s inquest heard conflicting testimony about the cause of death, but Ontario’s top pathologist testified that the Taser was a key factor in Firman’s death from heart arrhythmia. About half of the jury’s recommendations focused on the use of Tasers; the rest called for better police training in recognizing and responding to mental illness.

Evan Jones – Brantford, 2010 (inquest 2012)

- 67 Mr. Jones was just 18 in August 2010, but had been experiencing problems with depression, alcohol and drugs. When he arrived home from drinking with a friend and began yelling and throwing furniture, his mother called Brantford police. When they arrived, Mr. Jones was standing on the porch, holding two large knives. He held them to his throat and demanded that police kill him.
- 68 Officers followed him into the house, where he threw one knife at them. Pepper spray failed to deter him. When he raised a cleaver over his head, the officers shot him four times, killing him.
- 69 In May 2012, the coroner’s jury made 26 recommendations, including that frontline police officers receive “mandatory up-to-date training” on issues

relating to persons with mental illness. The jury also proposed that the Ministry review the Ontario Police College training on police interactions with persons with mental illness, as well as Ontario's use-of-force model, standards for tactical communication and the use of the police challenge. As well, it suggested expanding mobile crisis intervention teams that would pair mental health professionals with police officers.

- 70 The SIU investigation in 2011 resulted in no charges, but in a rare move, it was reopened in January 2015 because of "materially new" evidence. At the time this report was prepared, there had been no further developments.

Steven Mesic – Hamilton, 2013 (inquest 2014)

- 71 Shortly after Mr. Mesic, 45, a voluntary psychiatric patient at St. Joseph's Healthcare in Hamilton who had issues with anxiety and depression, checked himself out in June 2013, police responded to a call that he had stepped in front of a bus and was wandering in highway traffic near his home.
- 72 Police ordered Mr. Mesic off the road, and he climbed up an embankment toward his house. They confronted him in his backyard, where he was shot and killed. His fiancée was pregnant at the time of his death.
- 73 The SIU laid no charges. Among the jury's recommendations in the 2014 inquest was a call to have police receive annual training by "consumers/survivors of mental health services."

Michael Eligon, Jr. – Toronto, 2012 (inquest 2014)

- 74 Mr. Eligon, 29, a father of one son, was in a Toronto hospital under the *Mental Health Act* in February 2012, but escaped. He went to a convenience store, where he picked up two pairs of scissors and cut the store owner, who called 911. Police arrived to find Mr. Eligon in the street in his hospital gown and socks, brandishing the scissors.
- 75 Seven officers faced him with guns drawn and issued their standard challenge, but he continued to advance. He was shot and died later in hospital. The SIU laid no charges, but its director at the time (Ian Scott) said the death raised questions about how police officers are trained to

deal with persons with a mental illness and whether frontline officers should be issued Tasers.

- 76 The 2014 coroner's inquest into the shooting of Mr. Eligon also looked at the deaths of **Sylvia Klibingaitis, 52** (killed in October 2011), and **Reyal Jardine-Douglas, 25** (killed in August 2010). All three had mental health issues and were holding edged weapons when they were shot by Toronto police officers. The SIU did not lay charges in any of the cases. However, the recommendations from the coroner's jury are the most comprehensive and thorough to date with respect to police training on de-escalation.
- 77 In September 2015, the Toronto Police Service responded in detail to the jury's 74 recommendations, noting that 85% had been fully implemented.²¹ These included:
- Training police officers to, when feasible and consistent with officer and public safety, take into account whether a person is in crisis and all relevant information about his/her condition, not just behaviour;
 - Training police officers to, when feasible and consistent with officer and public safety, verbally offer help and understanding when they are dealing with a situation in which a person in crisis has an edged weapon;
 - Maximizing the emphasis on verbal de-escalation techniques in all aspects of annual in-service training at the Toronto Police College; and
 - Incorporating more dynamic scenarios (e.g., including bystanders, traffic, and distractions) and examples of real-life incidents into use-of-force training.

²¹ Toronto Police Service response to the Eligon/Jardine-Douglas/Klibingaitis inquest recommendations is available at:
https://www.torontopolice.on.ca/publications/files/reports/20150911-jke_inquest_recommendations_and_tps_response.pdf

Evolution of De-escalation: As the Wheel Turns

- 78 The families who spoke with our investigators and the juries in the long line of coroner's inquests have struggled repeatedly with the same basic questions: How can this happen? How does a police officer responding to a call about someone in distress end up killing the person?
- 79 The *Criminal Code of Canada* permits police officers to use force in order to prevent the commission of certain offences. The officer may only use as much force as is necessary for that purpose and the officer must be acting on reasonable grounds.²² Section 25 of the Code justifies a police officer's use of force causing death or grievous bodily harm in certain instances, such as protecting the life of the officer or others.²³
- 80 Police services have adopted "use-of-force" models to illustrate the factors to be considered when officers are involved in potentially violent situations. The models are a window into why police act the way they do in certain situations. Our investigation reviewed past and current models used in Ontario and elsewhere, because of the impact they have on training, policies, procedure and – ultimately – police culture.

Training wheels: An overview of use-of-force models

- 81 Some Canadian police forces began adopting use-of-force models in the 1980s, but it wasn't until 1993 that Ontario developed one.²⁴ Ontario's model was an attempt to ensure that training consistent with contemporary use-of-force issues was being provided both to recruits and officers in the field.²⁵ The model was, as it is today, a graphic in the form of a wheel depicting the various elements of the process when a police officer assesses and responds to a situation. **(See Figure 1)**
- 82 In 1999, the Canadian Association of Chiefs of Police (CACCP) endorsed an initiative to develop a national model, which it called the National Use of Force Framework. Some 65 experts from across Canada and the

²² Section 25(1).

²³ Section 25(4).

²⁴ OPC Officer Safety Student Reference Guide July 2013 p. 6.

²⁵ Ron Hoffman, Chris Lawrence and Greg Brown. "Canada's National Use-of-Force Framework for Police Officers" (October 2004) – Retrieved from http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=1397&issue_id=102004

United States came together at the Ontario Police College to develop this framework.²⁶

83 Among their criteria was that the national framework wheel **not** imply a linear progression of force options. They also stressed that it should be easy to understand – not just for officers, but the public. As noted in the training documents we reviewed from the Ontario Police College, the model “assists officers and the public to understand why and in what manner an officer may respond with force.”²⁷

84 The national framework is not intended to dictate policy to any police agency, prescribe specific responses to situations, or serve as a justification for an officer’s use of force.²⁸ The Ontario Police College’s mental health issues co-ordinator explained its purpose to our investigators this way:

We used to get these questions from recruits, ‘Well, if somebody comes at me with a baseball bat, I can pull my firearm, right, and shoot him? Or, if it came to that, I’d be justified, right?’ The whole idea was, it’s not that simple... it’s not just a matter of him with that knife and me with my gun...[The officer] has to be thinking of all the other factors that are involved here.

85 To that end, the national framework model teaches officers to assess the situation and the subject’s behaviour continuously, and select the most reasonable option, relative to those circumstances as perceived at that point in time. The officer’s “use-of-force options” are shown on the wheel, and they overlap to indicate that one or more can be used at once. It is recognized that in dynamic situations, the subject’s behaviour and the officer’s perceptions and tactical considerations could change at any moment. **(See Figure 2)**

86 The use-of-force options are:

- **Officer presence:** This simply refers to police being on the scene; it is not strictly a force option.
- **Communication:** Verbal and non-verbal communication to control or resolve the situation.

²⁶ Ibid.

²⁷ Supra note 24 at p. 5.

²⁸ Supra note 25.

- **Physical control/empty hand techniques:** These options don't involve weapons, but range from "soft" techniques (restraint of a subject) to "hard" control, such as punches or kicks.
- **Intermediate weapons:** These are less-lethal police weapons that are not intended to cause serious bodily harm or death, such as batons, Tasers or O/C spray.
- **Lethal force:** The highest level of force, this generally means the officer's firearm, but refers to any weapon or technique intended or likely to cause serious bodily harm or death.

87 Ontario developed its present use-of-force model, based on the 1999 national framework, in 2004. It was approved by the Ministry of Community Safety and Correctional Services after it was vetted and endorsed by the Ministry's Policing Services Advisory Committee.²⁹ Section 5 of the Ministry's Use of Force Guideline in the Policing Standards Manual under the *Police Services Act* says police chiefs "should" ensure that use-of-force training for their members is "in the context" of this model.

88 Like the national use-of-force framework, the Ontario version of the model is in a wheel format, showing the clockwise escalation of force options. In both, "communication" is included as a ring encircling all force options, indicating that communication techniques can be used at any point. **(See Figure 3).**

89 There is no specific reference in either model to "de-escalation." Although it is understood by many of those we interviewed to be part of the "communication" option, there were differences of opinion about the meaning and significance of both terms. One Ontario Police College instructor said de-escalation underpins every aspect of a decision to use force:

Ultimately, even when [police] use force, they have to recognize when it's sufficient to de-escalate. There's no aspect of policing where they consider an application of force, or use force, where de-escalation isn't the underpinning of it.

²⁹ Supra note 24 at p. 6.

- 90 Another college instructor framed de-escalation slightly differently. As he explained to our investigators:

What's the ultimate goal of every situation? To de-escalate and resolve it. Otherwise it would still be going on. So every situation an officer is involved in, at some point, has to get to the point where it's over.

Asked if this could mean the use of lethal force as a form of de-escalation, he replied, "Well, yeah. If someone is displaying that type of behaviour, then that would be the ultimate resolution."

- 91 In July 2013, shortly after the death of Sammy Yatim, Bill Blair, then-chief of the Toronto Police Service, asked retired Supreme Court Chief Justice Frank Iacobucci to conduct an independent review of the service's use of lethal force. The report, *Police Encounters With People in Crisis*, was released in July 2014 and made 84 recommendations, with the ambitious but laudable goal that there be no more deaths from police use of force.³⁰ By September 2015, Toronto Police reported³¹ that 79 (94%) of the recommendations were at least partially implemented, with 67 (80%) fully implemented.

- 92 Justice Iacobucci's recommendations are directed at the Toronto Police Service, not the Ministry, but the report identifies issues and proposes sensible solutions that apply provincewide and deserve the Ministry's attention. In particular, he commented that Ontario's use-of-force "wheel" model is "not a particularly effective or intuitive visual aid." Although it promotes continuous assessment of a situation, he noted, "there is surprisingly little focus on the need to attempt various methods of communication before using physical force or a weapon on a person." He also noted that Ontario's Use of Force Guidelines, which are premised on the model, "do not emphasize communication and de-escalation techniques as imperative to all stages of the police response to crisis situations."³²

- 93 Dr. Gary Ellis, a former Toronto Police Services superintendent and current Program Head of Justice Studies at the University of Guelph-

³⁰ Supra note 2.

³¹ Toronto Police Service response to the Iacobucci Report is available at: https://www.torontopolice.on.ca/publications/files/reports/20150911-iacobucci_report_recommendations_with_tps_response.pdf

³² Supra note 2 at p. 200.

Humber, told our investigators that Ontario’s use-of-force model is useful but problematic in that it doesn’t refer to de-escalation tactics such as disengagement and containment. It could be improved by adding specific reference to de-escalation tactics, he said.

- 94 De-escalation tactics are taught as part of use-of-force training for police officers, Dr. Ellis said, but he felt that they might not be emphasized as much as they should be. He pointed out that the Ministry’s Use of Force Guideline calls for police training to be in the context of the model, and at present there is nothing on the model itself to reflect that officers should be trained on de-escalation.

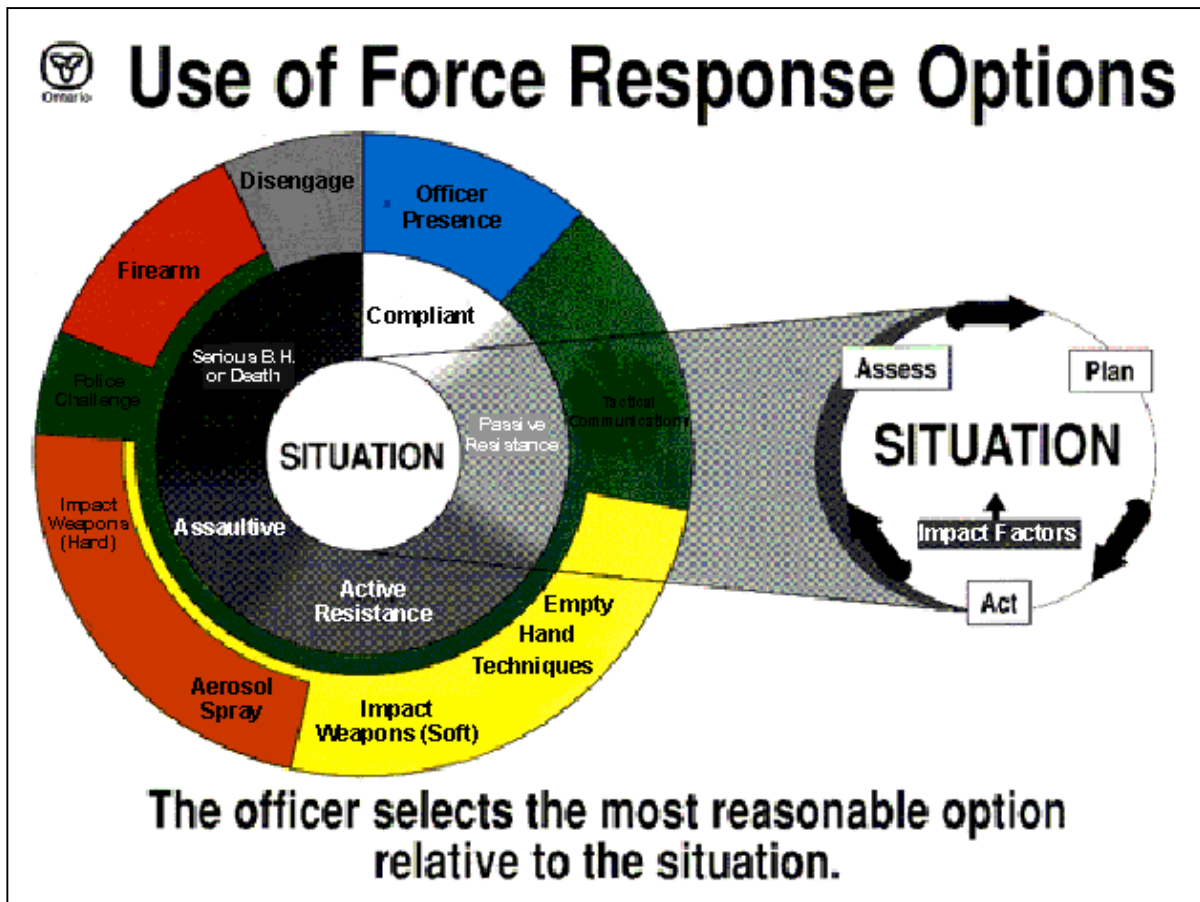
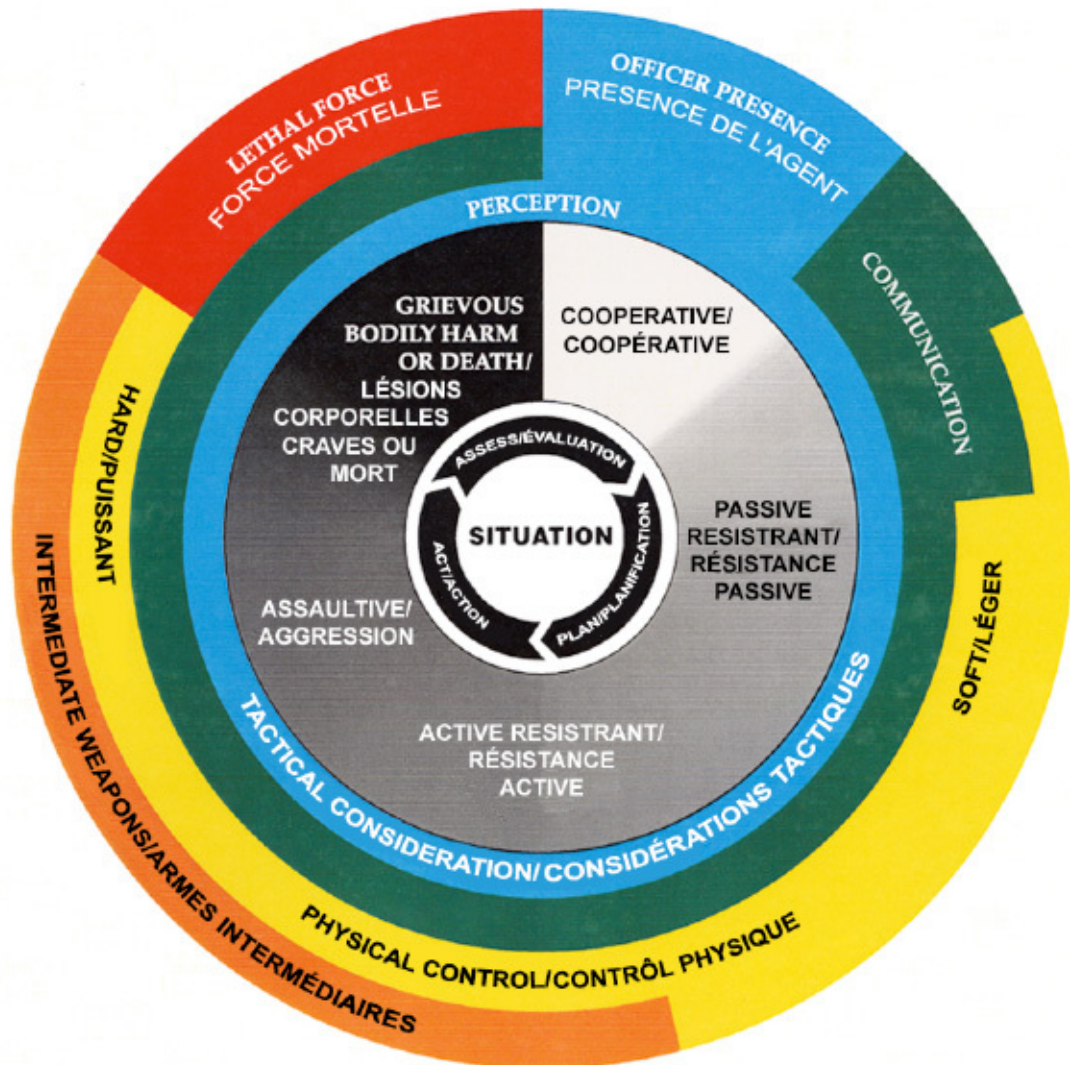


Figure 1 – Ontario use-of-force model, 1993

National Use of Force Framework Le cadre national de l'emploi de la force

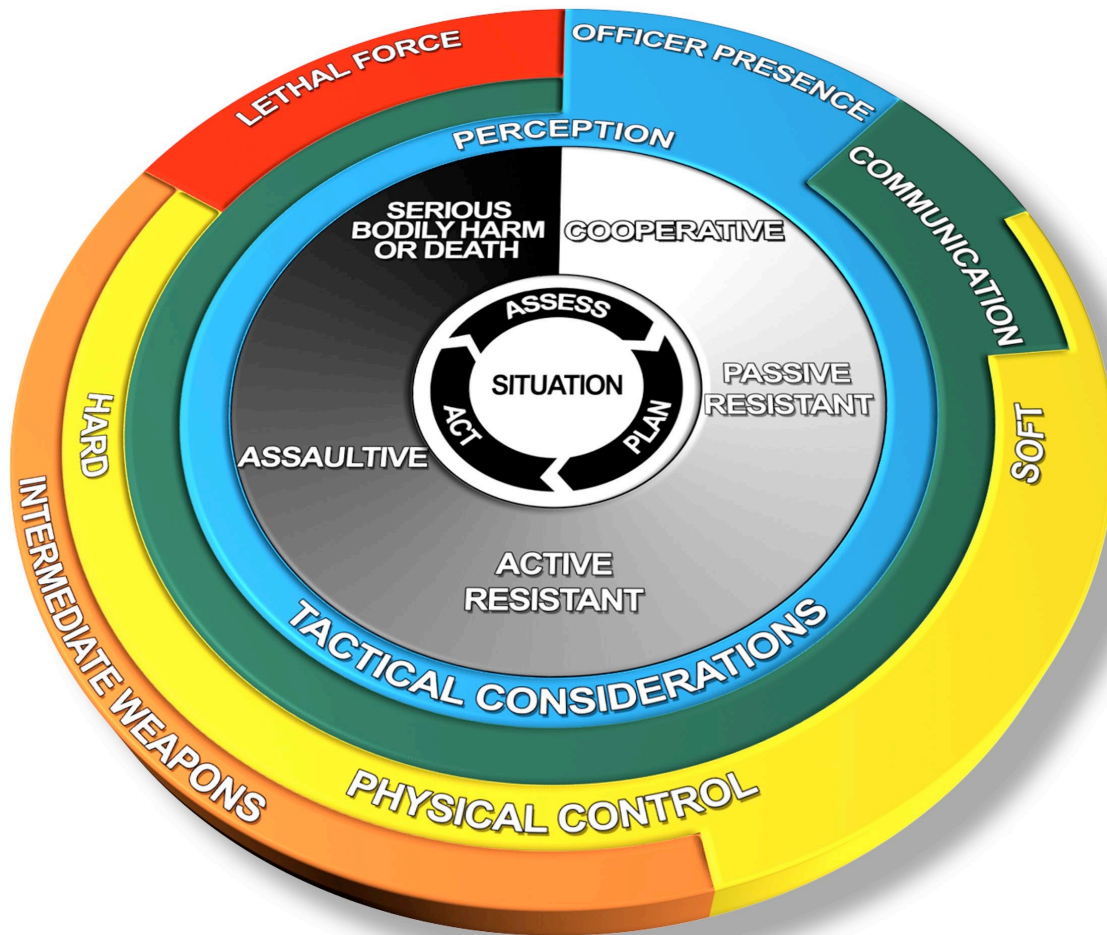


The officer continuously assesses the situation and acts in a reasonable manner to ensure officer and public safety.

L'agent doit continuellement évaluer la situation et agir de manière raisonnable afin d'assurer sa propre sécurité et celle du public.

Figure 2 – National Use of Force Framework

Ontario Use of Force Model (2004)



The officer continuously assesses the situation and selects the most reasonable option relative to those circumstances as perceived at that point in time.

Figure 3 – Current Ontario model

Reinventing the wheel: What’s wrong with this picture?

- 95 As policing techniques have evolved over time, the “wheel” models and even the term “use of force” have come under criticism. Some of those we interviewed believed that the Canadian and Ontario models should remove the term “force.” We came across documentation from one Ontario municipal police service requesting that the Ministry of Community Safety and Correctional Services change the name to “Police Intervention Model.”
- 96 Dr. Frum Himelfarb, a former acting assistant commissioner at the **Royal Canadian Mounted Police**, was involved in the development of the “Incident Management/Intervention Model” used by that service. **(See Figure 4)** She told our investigators that using the terminology of a situation management model sends a message to the public and officers that “we are here in the interests of public safety; the focus is on finding the least intrusive, least risky intervention appropriate to the circumstance.” She said such a model encourages actions that de-escalate the risk of violence, while recognizing this is not always possible.
- 97 The RCMP’s model uses a wheel format, but with a significant difference: It includes “tactical repositioning” as an outer ring, to indicate that options other than force can be used at any point to de-escalate a situation – such as creating time and distance from the subject, or “disengagement.”
- 98 The **Victoria State Police** in Australia also use the wheel shape for their “Tactical Options Model,” described as a visual aid to help officers establish the most appropriate tactical option or alternatives to using force. Possible tactics are represented by wedges – including “negotiation” and “tactical disengagement” – and “communication” is a separate ring that runs through them all. **(See Figure 5)**
- 99 The Tactical Options Model was introduced during an extensive review of the service’s training, policies and operational safety tactics. The model was selected as opposed to a use of force ‘continuum’, as it was observed that when a use of force continuum is applied, the choice of force option and equipment must always be one level higher than the threat being presented by the subject; the so-called “one-plus theory” – the result being

that “while de-escalation is always the aim, the concept of a continuum generates the psychological perception of escalation.”³³

- 100 In **British Columbia**, the province created a model specifically for cases involving emotionally disturbed persons – although it can be used for any situation warranting de-escalation. This model was the result of Justice Thomas Braidwood’s 2009 inquiry report on the police-involved Taser death of Robert Dziekanski, which prompted the province to require all police to receive “crisis intervention and de-escalation” (CID) training.
- 101 The model is the foundation of the training. The main thrust behind the CID model is for the police officer to establish rapport with the subject to de-escalate the situation, facilitate communication and engage in solution building. Although it is a “wheel” model, it is characterized by double-sided arrows to represent the natural ebb and flow of communication in a crisis situation – and to emphasize that the officer should continuously assess risks as the incident progresses. **(See Figure 6)**
- 102 In 2012, the **Las Vegas Metropolitan Police Department** replaced its use-of-force “wheel” with a sliding-scale model that reflects greater emphasis on de-escalation. The model recognizes that officers can always make the choice to de-escalate, depending on the opportunity or situation. This addresses the main criticism of one-direction “wheel” or continuum models – that they only represent a situation as escalating, without sufficiently showing that it can be de-escalated as well.³⁴ **(See Figure 7)**
- 103 The Las Vegas model is also supported by a use-of-force policy that defines de-escalation tactics and makes it clear that they should be considered and used by officers in potentially violent situations to gain compliance without using force. Suggested tactics include withdrawing to a more secure position, creating distance between the officer and the subject, using verbal persuasion and attempting to slow the momentum of the situation. This addresses issues that had been highlighted in officer-involved shootings in Las Vegas, where it was found that “failing to de-

³³ Toronto Police Service, Use of Force Committee. *Final Report*. (1998) Prepared by Ken Cenzura and Michael Federico, Detective Support Command. Toronto. Accessible at <http://www.torontopolice.on.ca/publications/files/reports/1998useofforce.pdf>

³⁴ See Ken D. Wallentine, “*The Risky Continuum: Abandoning the Use of force Continuum to Enhance Risk Management*”, Summer 2009 International Municipal Lawyers Association Journal; and Thomas Petrowski, *Use of Force Policies and Training, A Reasoned Approach*, FBI Law Enforcement Bulletin, October 2002, Vol 71, Issue 10, p. 25.

escalate and slow the momentum of an incident was among the most common tactical errors made.”³⁵

Do models matter?

- 104 Some of the Ontario Police College instructors interviewed for this investigation had little concern for the design and content of the use-of-force model, since it is just an instructional aid. They said it is far more important to ensure officers are trained in de-escalation tactics, and practice them in training scenarios. As one put it:

Absolutely nobody in a critical incident is thinking of the [use-of-force model]. So what you make the model look like is not going to affect what people do when they believe their life or someone else’s life is in danger.

- 105 In any event, it is the Ministry of Community Safety and Correctional Services that bears primary responsibility for both the model and the training. Any change – to the model, the way police are trained to use it, or to police culture in general – must start there.
- 106 To understand the state of de-escalation training in Ontario and how it can be improved, it is essential to explore the Ministry’s role in its design and delivery – as well as its leadership – or lack thereof – on the issue.

³⁵ *Collaborative Reform Model: Six-Month Assessment Report of the Las Vegas Metropolitan Police Department*. September 2013. Community Oriented Policing Services – U.S. Department of Justice & CAN at p. 29. Available at <http://ric-zai-inc.com/Publications/cops-w0711-pub.pdf>

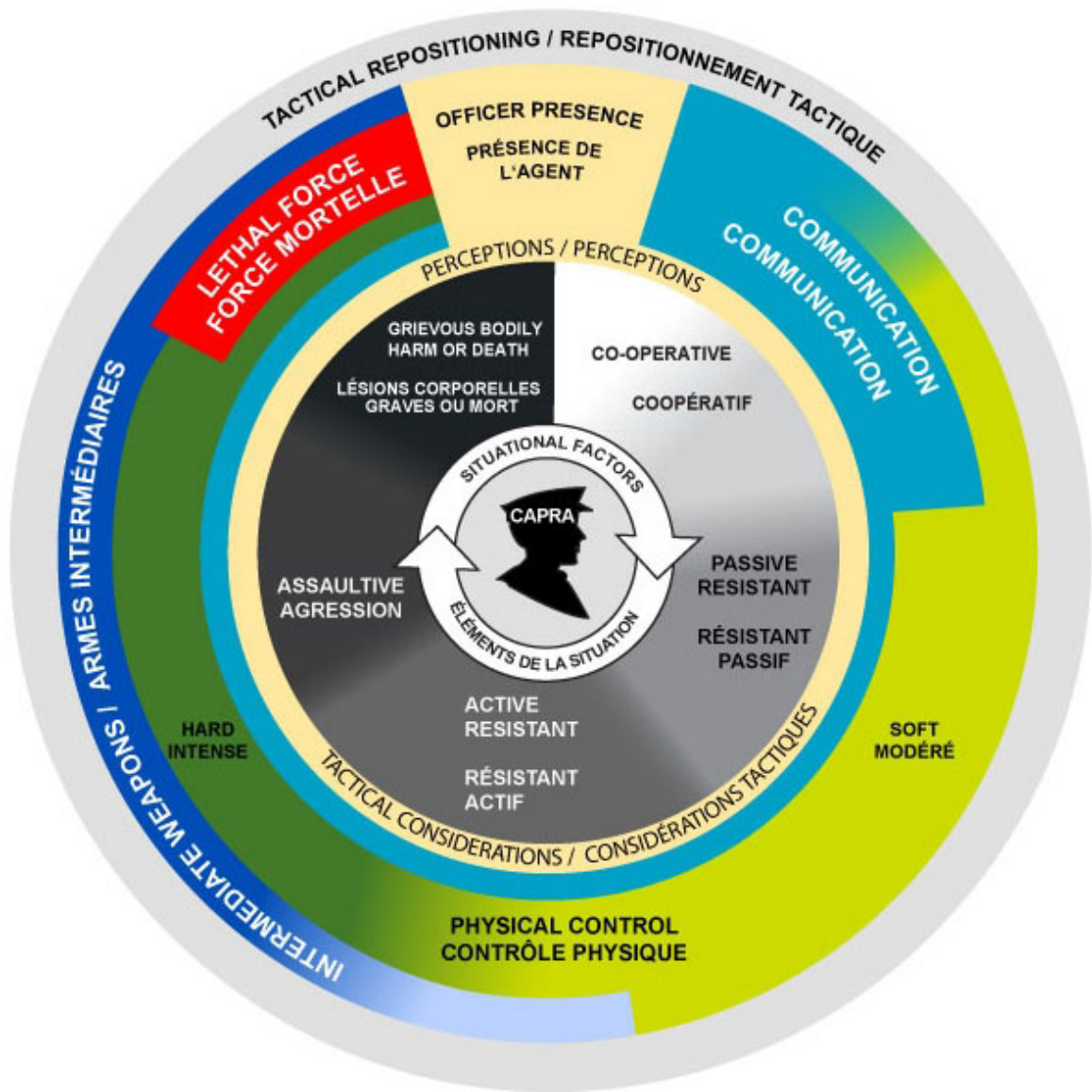


Figure 4 – RCMP model



Figure 5 – Victoria State Police (Australia) model

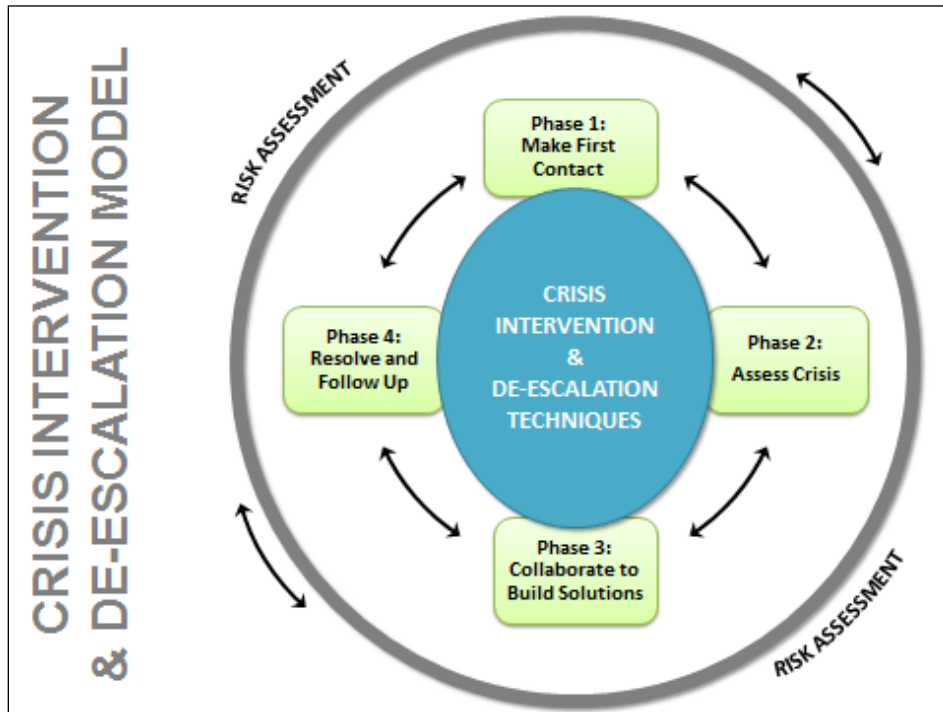


Figure 6 – B.C. Crisis Intervention and De-escalation model

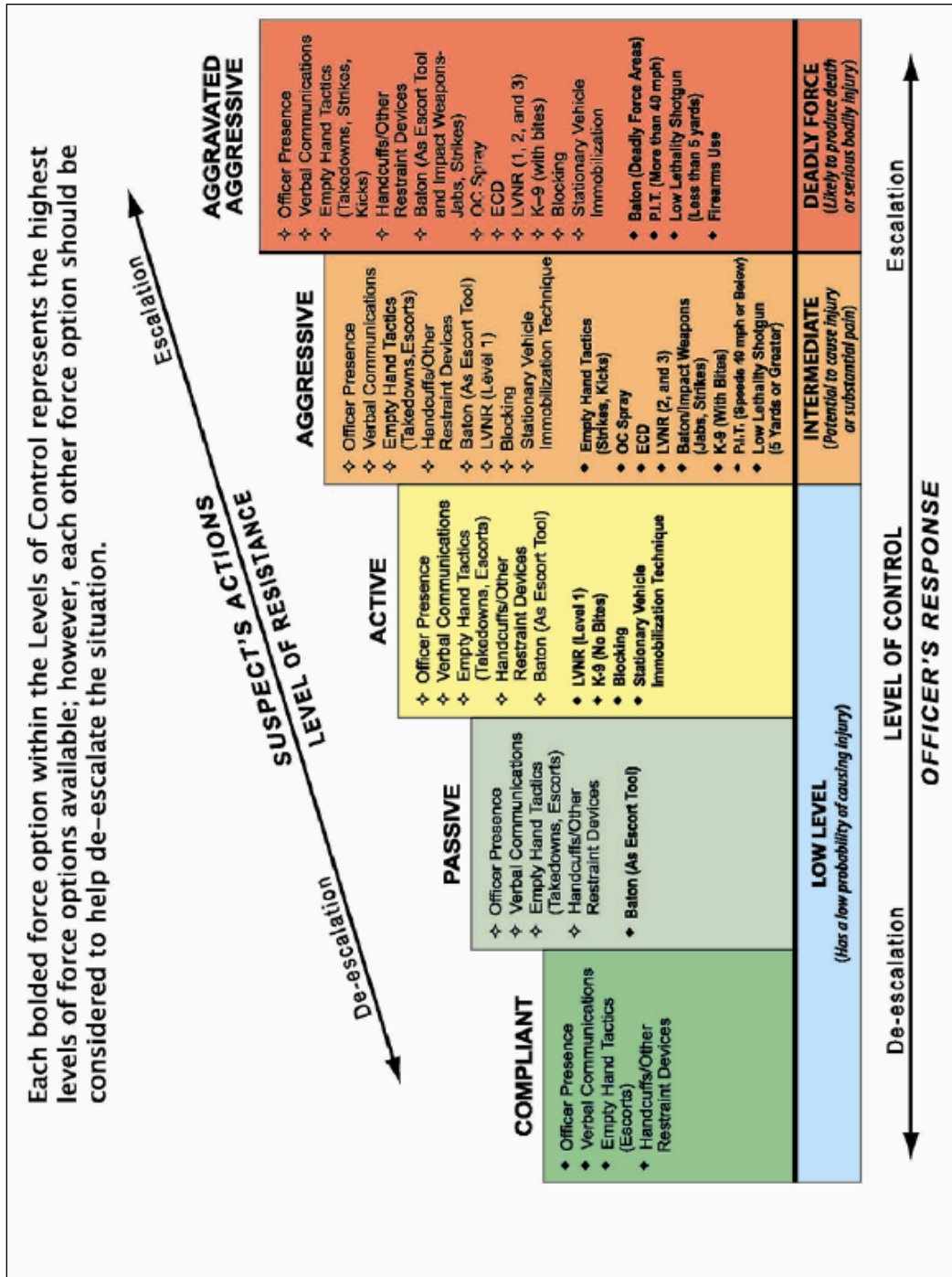


Figure 7 – Las Vegas Metropolitan Police Department model

Who's in Charge? The Role of the Ministry of Community Safety and Correctional Services

- 107 Policing in Ontario is carried out by municipal/regional police services and the Ontario Provincial Police, all of which fall under the responsibility of the Ontario government, specifically the Ministry of Community Safety and Correctional Services.
- 108 The duties and powers of the Ministry with respect to policing fall under the *Police Services Act*. The Act grants authority to the Ministry to, among other things:
- Develop and promote programs to enhance professional police practices, standards and training;
 - Develop, maintain and manage programs and statistical records and conduct research studies in respect of police services and related matters; and
 - Issue directives and guidelines respecting policy matters.³⁶
- 109 The Act also permits the Lieutenant Governor in Council to make regulations prescribing standards for police services, regulating the use of force by members of police services, and courses of training for members of police services and prescribing standards in that connection.³⁷
- 110 The Ministry's total budget is \$2.3 billion. It is responsible for the Ontario Provincial Police, the largest police service in the province, whose budget last year was \$1 billion. The Ministry spends some \$255 million on public safety, including the operation of the Ontario Police College, and \$130 million on administration.

Police training: Anything but uniform

- 111 Anyone wishing to become a provincial or municipal police officer in Ontario must undergo Basic Constable Training at the Ontario Police College, which is overseen by the Ministry's Public Safety Training Division. Every recruit in the province starts with the same basic training.

³⁶ Section 3 (2) (d) (h) & (j).

³⁷ Section 135 (1) 1, 16 and 18.

Beyond that level, however, Ontario's 52 municipal police services and the Ontario Provincial Police are given a great deal of latitude in training their members.

- 112 The Ministry's Public Safety Division, which previously had responsibility police services. It created a *Policing Standards Manual*, which contains guidelines to assist police services boards, chiefs of police, police associations and municipalities with their understanding and implementation of the *Police Services Act* and its regulations.³⁸
- 113 One of the most important guidelines in the manual is the Use of Force Guideline. This guideline is intended to assist chiefs of police and police services boards in meeting the requirements of the *Equipment and Use of Force Regulation*, which, among other things, requires all police chiefs to ensure their members complete training courses on the use of force and firearms once a year. The regulation states that these training courses shall include training on: (1) Legal requirements; (2) The exercise of judgment; (3) Safety; (4) Theories relating to the use of force; and (5) Practical proficiency.³⁹
- 114 The language in the Ministry's Use of Force Guideline varies, depending on the topic – the words “shall” and “should” are used to differentiate between items that are mandatory and those that are at the discretion of the police service.
- 115 For example, the guidelines say that chiefs **shall** ensure that members undergo use-of-force and firearms training once a year, and that training **shall** include the five elements outlined in the *Equipment and Use of Force Regulation* on firearms and use of force training noted above.⁴⁰ But then it says that police chiefs **should** ensure this training is “in the context with the Use of Force Model currently used in Ontario” and that it **should** also be “consistent with the Ministry's approved Use of Force options,” namely, officer presence, communication, physical control, intermediate weapons and lethal force.⁴¹ In other words, training for police officers on the use of force and firearms is mandatory but there is some discretion to police services as to what that training will look like.

³⁸ Available at: <http://govdocs.ourontario.ca/node/13561>

³⁹ R.R.O. 1990, Reg. 926, Section 14.4(1).

⁴⁰ Section 3 and 4 of the guideline.

⁴¹ Section 5 of the guideline.

- 116 Our investigators were told by Ontario Police College instructors and Ministry officials that police services are given discretion on the design and delivery of training because they need the flexibility to take local circumstances into account. As one instructor said:

Depending on where you work, there's going to be different elements that you may be facing as an officer, depending on if you're rural or you're working in a built-up environment. And I don't think the Ministry should be in a position where we dictate to every police service, 'This is what you will do.'

- 117 However, another instructor took a different view:

I think it would be helpful as a province to have a foundation set from the Ministry and in essence it comes back to consistency of application of use of force and how people expect to be treated. It should have a foundation that's the same in Northern Ontario as Toronto. I think it should be up to the service to devise training that's more contextual for their communities, but I think the general architecture would be beneficial to come from the Ministry.

- 118 Several instructors told our investigators that their impression was that training given by most police services on the use of force and firearms is consistent with the Ontario Police College's Basic Constable Training course – and therefore in line with the province's guideline. Unfortunately, this is all but impossible to verify, because the Ministry does not keep track of the content or even the number of hours of training each police service delivers.

- 119 Generally, officials in the Ministry as well as instructors at the college supported calls for increased police training on de-escalation. However, our investigators also encountered skepticism. For example, in a written exchange with the Ministry about police interaction with persons with mental illness, the college's mental health issues co-ordinator noted that enhanced training "may not be the great panacea that many think it is." His response cited a lack of empirical studies on the amount of training police should receive and whether or not it leads to better outcomes in interactions with persons in crisis.

Setting standards: In the provincial interest

- 120 The *Police Services Act* gives the Ministry the ability to set standards for police services, with good reason. As one Ministry official put it in an interview with our investigators, this ensures that “no matter where you are in the province of Ontario, as a citizen, you’re going to get the same level of police service.”
- 121 The Ministry has a long history of enacting standards in matters of public interest. The clearest example is the *Adequacy and Effectiveness of Police Services* regulation,⁴² which lays out procedures and policies for such basic things as criminal investigations. The Ministry official explained that such matters require “a level of consistency across the province,” and “the only way to truly achieve that is to have standards.”
- 122 The Use of Force Guideline in use today is the result of the government determining a need for some standardization in use-of-force training. That was in 1992. There have been only minor modifications since then, despite changes in policing techniques and hundreds of recommendations from coroner’s inquests.
- 123 But in 1999, the Ministry used its power to enact standards after a series of high-speed police pursuits resulting in deaths and injuries of civilians. Guidelines on police pursuits had been in place since the 1980s, but practices varied across the province, and there was increasing public outcry about innocent bystanders being killed over relatively minor crimes. The former Commissioner of Community Safety for the Ministry recalled in his interview with our investigators that these events “formed the impetus for the government to say, ‘you know what, we need to change the behaviour in police officers.’” The result was the *Suspect Apprehension Pursuit* regulation under the Act,⁴³
- 124 Although he was not involved with that regulation, when our investigators spoke with the former Assistant Deputy Minister of the Public Safety Division, he observed there have been several examples of the province using standards in the “provincial interest.” As he said:

⁴² O. Reg. 3/99.

⁴³ O. Reg. 266/10. The regulation sets strict rules for police pursuits, focused on the potential risk to public safety. Among other things, it says there should be no pursuit if the fleeing vehicle or the person in it has been identified.

At a point in time, it's clear... it's time for commonness, some consistency. There's a need for government action to ensure that the best practice... should be used by all.

- 125 A more recent example is the issue of street checks, or “carding.” In June 2015, amid strong public concern about how the practice disproportionately affected visible minorities, the Ministry announced it would develop a new regulation on the practice. After public consultations, the regulation was drafted by October 2015 and finalized by March 2016. The regulation takes effect January 1, 2017 and new training related to it will be rolled out for all police services this spring, summer and fall.⁴⁴
- 126 Undoubtedly, local police services will require some flexibility to be able to tailor aspects of de-escalation training to address matters that are particular to the communities that they serve. But there is a concern that too much latitude given to police services has resulted in a patchwork system, where police training in one part of the province is different from that elsewhere.
- 127 The Ministry has demonstrated that on certain issues, there is a public interest in ensuring consistency provincewide, and it has acted on that basis. To date, that has not been the case for training on de-escalation. Notwithstanding the Ministry’s guideline, the extent to which it is adhered to, or even what type of de-escalation training is delivered, is discretionary and left up to individual police services.

The B.C. example

- 128 In the wake of the death of Robert Dziekanski at the Vancouver International Airport in 2007 at the hands of four Royal Canadian Mounted Police officers armed with Tasers, an inquiry headed by Justice Thomas Braidwood recommended that all officers in the province be trained in crisis intervention and de-escalation (CID) techniques.⁴⁵

⁴⁴ <https://news.ontario.ca/mcscs/en/2016/03/ontario-prohibits-carding-and-street-checks-sets-out-new-rules-for-police-interactions.html> The regulation, finalized in March 2016, also requires police services to keep detailed statistics on street checks.

⁴⁵ See <http://www2.gov.bc.ca/gov/content/justice/about-bcs-justice-system/recent-inquiries> - Justice Braidwood further recommended that when dealing with an emotionally disturbed person, all police officers should be required to use de-escalation and crisis intervention techniques before deploying a Taser, until they were satisfied that such techniques would not be effective in eliminating the risk of bodily harm.

- 129 The province responded to Justice Braidwood’s 2009 report by establishing the *Crisis Intervention and De-escalation Training Standard*,⁴⁶ requiring every frontline police officer, supervisor, and recruit to receive provincially approved CID training.⁴⁷ This consists of an online course that takes 3-4 hours, plus seven hours of in-class instruction. All officers must redo the online course every three years to refresh their skills.
- 130 B.C. is the only Canadian jurisdiction to have such a standard. Development of the course was a collaborative effort involving police and non-police experts, but B.C.’s Ministry of Justice and Solicitor General took the lead in coordinating it.

The Taser exception

- 131 Several Ministry officials told our investigators there were no plans to introduce guidelines, directives or regulations on the issue of de-escalation. However, on August 27, 2013, exactly one month after the shooting of Sammy Yatim, the Minister of Community Safety and Correctional Services did make a significant change to the use-of-force rules. Then-minister Madeleine Meilleur announced that police services could allow all officers to use Tasers, instead of limiting them to frontline supervisors and members of specialty teams.
- 132 In explaining this decision, the Ministry pointed to the numerous recommendations by coroner’s juries in support of Taser use by frontline officers. Many of these same juries – and several more – also recommended improvement to police training, including de-escalation training, yet little has been done in response to those.
- 133 In our Office’s review of Ministry staff emails related to this development, we found one that was quite revealing of their awareness of this lack of action. A Ministry official raised concerns with a colleague that our investigation might reveal it as “ignoring the recommendations by some of the same juries with respect to mental health and de-escalation.”

⁴⁶ Section 3.0, Subject 3.2.2 – Available at <http://www2.gov.bc.ca/gov/content/justice/criminal-justice/policing-in-bc/policing-standards>

⁴⁷ The B.C. CID Course Training Standard recognizes the RCMP’s Crisis Intervention Training delivered at the Pacific Regional Training Centre and the Vancouver Police Department’s Crisis Intervention Training as provincially approved CID courses. The standard also requires frontline officers to complete the course if they are deemed by their police agency, for any reason, as unable to effectively utilize CID techniques.

Too many studies, not enough action

- 134 In May 2012, not long after the shootings of Michael Eligon and Sylvia Klibingaitis, then-Minister of Community Safety and Correctional Services Madeleine Meilleur announced a review of police interactions with persons with mental illness. Regrettably, there appears to have been little progress in the four years since this announcement.
- 135 Phase one of the Ministry's review looked at police training models and best practices in other jurisdictions, as well as a review of coroner's jury recommendations in Ontario in relevant cases between 1989 and 2011. It counted **474** recommendations relating to fatal police interactions with people with mental illness. Of these, **109** called for better police training, including in de-escalation techniques.⁴⁸
- 136 Remarkably, prior to this review, the files on these inquests existed only on paper and there was no way to search or track them electronically to determine what, if anything, had been done in response to the recommendations. In August 2013, an internal Ministry document reported this information had been made available in a database format that could be searched and evaluated.⁴⁹ The document recommended the Ministry keep such records up to date to inform future decision-making.
- 137 Also in 2012, the Ministry created the Future of Policing Advisory Committee, a group of stakeholders (police and non-police) chaired by the then-Assistant Deputy Minister of the Ministry's Public Safety Division, with the broad goal of determining core and non-core police services in support of effective, efficient and sustainable delivery of policing services to enhance community safety. The plan, originally targeted for the spring of 2015, was to open the *Police Services Act* to make changes based on the committee's recommendations.
- 138 In the early months of this investigation, our Office was told the Future of Policing Advisory Committee was not considering anything explicitly

⁴⁸ The 474 recommendations does not include recommendations made in cases such as Evan Jones, Aron Firman, Steve Mesic and, most notably, the 74 recommendations made in the Jardine-Douglas, Klibingaitis and Eligon cases.

⁴⁹ There were 35 coroner's juries in all, and they made a total of 474 recommendations. Of those, 109 related to police learning and professional development, and updated training in practices and enforcement techniques (e.g. conflict resolution); 123 were directed to the Ministry (including the Ontario Police College and Office of the Chief Coroner), 183 to the Ministry of Health and Long-Term Care, and 176 to municipal/regional police services.

related to the issue of de-escalation. The Ministry did develop some recommendations based on the information gathered from the committee for the second phase of its review, but these involved issues with medical facilities and were directed to Ministry of Health and Long-Term Care.

- 139 In its April 2015 response to the first draft of this report, the Ministry noted that it was planning a “Strategy for a Safer Ontario” which would “present opportunities for a more robust integration of communication and de-escalation techniques and enhanced training...” It also noted that the Office of the Independent Police Review Director (which directly oversees police) was doing a systemic review of the use of force and de-escalation techniques in dealing with people with mental health issues and people in distress. That review – which originally focused on Toronto Police but was expanded in April 2015 to include all police services in Ontario⁵⁰ – is still pending.
- 140 The Ministry announced publicly in August 2015 that the Strategy for a Safer Ontario would include updating the *Police Services Act* and consultations on how to, among other things, “modernize training programs” and improve police oversight, as well as “interactions between police and vulnerable Ontarians, including enhancing frontline responses to those in crisis.”⁵¹
- 141 In its April 2016 update to my Office, the Assistant Deputy Minister, Public Safety Training Division, wrote that the Strategy for a Safer Ontario was “still in development,” but that its review of use of force will be an integral part of it, including enhancements and revisions to training requirements, “including a focus on de-escalation.” It also noted that, while the review is ongoing, “there have been incremental changes made throughout the [police training] program.”

Health care: A factor, not an excuse

- 142 No discussion involving mental illness, even one focused on police training, can ignore the role of the health care system. There is no doubt that community-based supports and increased resources for mental-health initiatives could play a role in improving interactions between persons with

⁵⁰<http://www.oiprd.on.ca/EN/PDFs/News%20Release%20OIPRD%20Revises%20Terms%20of%20Reference%20for%20Use%20of%20Force%20Review%20EN.pdf>

⁵¹ <https://news.ontario.ca/mcscs/en/2015/8/province-developing-a-new-strategy-for-a-safer-ontario.html>

mental illness and police. Some of the police services that responded to our request for input in this investigation made this abundantly clear.

143 Justice Iacobucci's report stressed that "the issue of police interactions with people in crisis is not merely one of policing." He said it must also involve improvements to the mental health system – and therefore the Ministry of Health and Long-Term Care. He noted that a general theme that emerged from his consultations is that the Ministry of Health and Long-Term Care is less involved in this issue than the Ministry of Community Safety and Correctional Services, and that the latter has been criticized for "a concerning inattentiveness of police interactions with people in crisis."⁵²

144 Justice Iacobucci also commented that responding to calls involving people in crisis is a "core part of policing." He wrote:

Police are part of the mental health system – they are the frontline mental health workers for many of the most dangerous encounters. Preventing deaths includes preventing the crises in the first place, as well as helping police to deal with crises better.⁵³

145 There is abundant research to demonstrate that inadequate mental health care has resulted in an increase in interactions between police and persons with mental illness, as well as an increase in policing costs. One study of such interactions in London, Ont. from 2000-2011 calculated that the London Police Service spent an estimated \$12.4 million of its budget in 2011 responding to calls for service related to persons with mental illness, and that the number would grow to \$16 million by 2015.⁵⁴ The author's support increased funding for community-based supports for persons with mental illness.

146 But with all that said, police interaction with persons with mental illness remains a policing issue as much as it is a health care issue. No matter how much funding is put into mental health, police will still encounter

⁵² Supra note 2 at p. 91 and 92.

⁵³ Ibid at p. 94 and 38.

⁵⁴ See L. Heslop, K. Hartford, H. Rona, L. Stitt, and T. Schrecker. "Trends in police contact with persons with serious mental illnesses in London, Ontario" (October 2002). Paper presented at the First Annual Conference on Police/Mental Health Liaison, Montreal, Quebec, Canada as cited in Terry Coleman and Dorothy Cotton "Reducing Risk and Improving Outcomes of Police Interactions with People with Mental Illness." (2010) *Journal of Police Crisis Negotiations*, Vol 10, No. 1-2, pp. 39-57.

people in crisis. The police response – from the options afforded to them by law and in their use-of-force model, to the training provided at every stage of their careers – is ultimately the responsibility of the Ministry of Community Safety and Correctional Services.

Model behaviour: A time to lead

- 147 It is incumbent on the Ministry and the police services it oversees to put their own policies and guidelines under the microscope, and show leadership on this issue. So far, the expansion of Taser use has been the Ministry's main response to police shootings of persons with mental illness. It must use its legal and moral authority to do much more.
- 148 The Ministry can provide clarity to police services on the teaching and use of de-escalation practices, starting with the development of a new use-of-force model and regulation. Although it may seem like an academic exercise to some, a model that clearly identifies de-escalation techniques and balances them with a description of appropriate force will benefit both police and the public.
- 149 Our Office's research found merit in the approaches taken by police in Las Vegas and British Columbia, to name just two examples. The Las Vegas policy, for instance, defines de-escalation tactics and makes it clear that officers have the ability to influence the outcome of situations based on the tactics they choose. The approach taken in B.C. also contains much that is worth emulation, especially the clear government direction to make sure officers of every rank are current on de-escalation techniques.
- 150 It is also the responsibility of the Ministry to set standards to ensure consistent practices in police services across the province, by setting a provincial standard for de-escalation training. As well, it should follow through on improvements to its tracking of coroner's inquest recommendations on this issue, and ensure transparency and accountability by responding to them publicly.

Recommendation 1

The Ministry of Community Safety and Correctional Services should use its legal and moral authority to take the lead on the issue of de-escalation and police-involved shootings of persons in crisis.

Recommendation 2

The Ministry of Community Safety and Correctional Services should develop and implement a regulation on de-escalation, modelled on the Suspect Apprehension Pursuit Regulation, which requires officers to use communications and de-escalation techniques in all situations of conflict before considering force options, wherever tactical and safety considerations permit. This should be done as quickly as possible, and no later than 12 months after the publication of this report.

Recommendation 3

The Ministry of Community Safety and Correctional Services should institute a new use of force model that is easy to understand and clearly identifies de-escalation options, rather than just use of force options. Both the B.C. and Las Vegas models have clarity and balance, but Ontario should lead by developing its own model that builds on the best of what others have done. Given the urgency of this issue, a new model should be developed and rolled out to all police services as quickly as possible and no later than 12 months after the publication of this report.

Recommendation 4

The Ministry should formally and publicly respond to all coroner's jury recommendations involving police use of force and de-escalation. This should be completed on a priority basis. The Ministry should also keep a complete and accurate record of actions taken to address coroner's jury recommendations.

Stepping Up: Improving De-escalation Training for Police Across Ontario

- 151 In order to assess what direction should be provided by the Ministry to police on de-escalation training, our investigators conducted a thorough examination of the current ministerial framework that guides how police are trained in Ontario. They reviewed the full spectrum of police officer education, from their first classes as new recruits, through to the follow-up and guidance they receive once they begin real police work.

- 152 The focus was on how recruits and officers are trained to respond to situations involving persons with mental illness or experiencing a crisis, and what emphasis is given to de-escalation techniques.

Fear factor: Training police to deal with people in crisis

- 153 A police officer's decision to use lethal force is based, in part, on his/her perception of the imminence of a threat of serious bodily harm or death. In potentially violent situations involving persons with mental illness or in crisis, the fundamental question becomes, how can police accurately assess the threat and respond to it accordingly – ideally without resorting to lethal force?
- 154 In a 2007 article published in *The Police Journal*, Dr. Rick Parent, a retired B.C. police sergeant and police use of force expert, wrote that officers who perceive they are “less threatened” by a subject are less likely to use their firearms in a potential use of force situation. These “less threatened” officers, he says, will be more likely to try such alternative tactics as containment of the subject, increasing physical distance and time, dialogue or disengagement.⁵⁵
- 155 Training officers to feel less threatened or, as one OPC instructor referred to it as, to “more accurately assess the threat level” of a subject, requires officers to be able to recognize that in some situations, the subject is acting irrationally or that commands and orders that work with rational offenders may not be useful.
- 156 The adoption of different tactics in response to subject behaviours is not a novel approach in policing. In *Policing the Emotionally Disturbed*, the late Dr. James Fyfe, former Deputy Commissioner of Training for the New York City Police Department, writes that typical training for police officers involves getting rational offenders to submit to police authority. Although this approach “almost always” succeeds in gaining compliance, he says a forceful approach with an emotionally disturbed person is liable to escalate the confrontation, which can lead to the use of deadly force by the officer. Police services almost universally recognize and act upon the distinction between a rational offender and an emotionally disturbed person in situations involving barricaded suspects or hostage-takings, he says, while

⁵⁵ Rick Parent. “Crisis Intervention: The Police Response to Vulnerable Individuals.” (2007). *The Police Journal*, 80 p. 109 to 116.

noting that this distinction is too often overlooked in street-level encounters with people in crisis.⁵⁶

- 157 Our investigators spoke to several trainers at the Ontario Police College and police service level who echoed this belief. As one explained, officers need to understand that in some interactions with subjects, they may need to do things differently. He felt that officers need to be trained to recognize that “things that normally would work for a person who is not suffering and not in crisis, those same things will not work with those that are in crisis.” The subject, for instance, may not respond to the pointing of a firearm the same way that a rational offender would reasonably be expected to react.
- 158 A use-of-force trainer with policing experience in the U.K. as well as Ontario put it this way:

Recognize that you have someone who’s mentally ill in front of you and if it’s static, if the time allows you...then we can slow everything down... Screaming repetitive stuff doesn’t always work, especially with someone who is actually mentally ill. But if time, barriers [and] safety for the officer allow to slow it all down, then that training can come into play... We can maybe talk this person into a position where they do drop whatever it is they are trying to hurt someone with, or themselves, and we can resolve it without the use of any force.

Challenging the police challenge

- 159 Our review of Ontario’s use-of-force model and police training pointed to a clear issue with Ontario’s adopted “police challenge” (“Police! – Don’t move!”). Officers who believe they are in a life-threatening situation are taught to draw their guns and shout this command. If the subject doesn’t respond, they are trained to repeat the command. Time and again, when the subject is experiencing mental or emotional crisis, the police challenge has escalated the situation, with fatal results.
- 160 The police challenge came under scrutiny in the coroner’s inquest into the deaths of Michael Eligon Jr., Reyal Jardine-Douglas and Sylvia Klibingaitis (all of whom suffered from mental illness and were carrying edged weapons when they were killed). The coroner’s jury recommended police

⁵⁶ James Fyfe. “Policing the Emotionally Disturbed.” *The Journal of the American Academy of Psychiatry and the Law*, (2000).Vol. 28. Pp-345-347.

switch to different communication techniques when a subject fails to respond to shouted commands:

If the (emotionally disturbed person) has failed to respond to standard initial police commands (i.e., “Stop – police” “Police – don’t move” and/or “Drop the weapon”), train officers to stop shouting those commands and attempt different defusing communication strategies.

The Toronto Police Service accepted and implemented this recommendation.⁵⁷

- 161 Investigators also interviewed one of the developers of British Columbia’s Crisis Intervention and De-escalation training. She recalled her own experiences going through firearms training as a police officer and why she felt firearms training that includes a strong emphasis on de-escalation techniques better prepares officers for such situations:

You point your gun at the target and you say “Stop – police! Don’t move!” And you have to yell that in a really loud voice...Those words were the only words that we were ever trained to use or say when we had our firearms out. And it’s just the same drill over and over and over again; every year you re-qualify doing this. And so the notion of having your gun out pointed at somebody in a critical situation and saying ‘Hi, my name is...and I’m here to help you’, completely foreign. And when you talk about resorting to your training, that’s the last thing you would think of in that kind of pressure-packed situation. Especially when you’ve trained it over and over and over again and all you can think of saying is ‘Get down! Get down! Police! Stop – Don’t move!’...And those may be the best and only options you have in a certain situation but maybe not always.

- 162 The Ontario Police College teaches recruits that the police challenge is to be delivered loudly and clearly whenever a firearm is presented in response to a threat of life or threat of serious bodily harm. They are told it serves a variety of purposes, including identifying the officer, giving the subject an opportunity to comply with police commands and alerting other officers that a firearm is deployed.

⁵⁷ Supra note 21.

- 163 An instructor at the college told our investigators that police commands are meant to be simple and straightforward, and recruits are taught to repeat them so people who may be impaired by drugs, alcohol or some aspect of an emotional crisis or mental illness (such as hearing voices) have an opportunity to follow them. In his view, the police challenge is “critically important” because it lets people know what to do so they don’t get shot, and it remains an officer’s best communication tactic.
- 164 While he acknowledged that the commands could be perceived as antagonistic and escalate the situation, he said there are “a great number of situations” where the opposite proved true. For this reason, he was skeptical of any suggestion to change the police training and practice – and he pointed out there are no “magic phrases” for such situations: “If we could come up with a definitive ‘this phrase de-escalates people,’ we’d use it all the time.”
- 165 However, the same instructor said that once the police challenge has been issued, assuming officer safety and tactical considerations such as time, distance, and containment permit, “it certainly makes sense to get into some of the de-escalation tactics and find out their motives, what they’re seeing, what they’re experiencing.”
- 166 This is a sensible approach. The police challenge has its purpose and it can be effective in de-escalating a situation. However, continuing to shout at a person who is not responding is futile and carries great risk. As it reviews its use-of-force model and police training, the Ministry should take the opportunity to provide guidance on this issue. Ontario police should be trained to recognize that if the police challenge is not successful in de-escalating a situation, and if tactical and officer safety considerations permit, another approach should be attempted to de-escalate the situation before resorting to the use of lethal force.

Recommendation 5

The Ministry of Community Safety and Correctional Services should offer more guidance for recruits and in-service officers on the use of the police challenge, including when the police challenge has not been successful in de-escalating a situation and when, so long as safety and tactical considerations permit, to use de-escalation techniques. This guidance should be incorporated into a de-escalation regulation.

Edged weapons: ‘He pulls a knife, you pull a gun’?

- 167 A common question from the public, as well as countless families of people shot by police is: Why do police shoot and kill people who are armed with knives? Several coroner’s juries have grappled with this issue, in search of an answer rooted in police training. At present, the training provided to recruits at the police college is that the most “reasonable” option against what police call “edged weapon” (knives, scissors, screwdrivers, etc.) is usually their firearm.
- 168 Most people who are shot and killed by police are not armed with guns. Our investigation reviewed statistics collected by the Special Investigations Unit on police confrontations that ended in death or injury from a firearm. Of **182** incidents from 2000-2011, there were 70 **firearm deaths**. The SIU’s stats indicate that **30** of the 70 deaths involved persons armed with an edged weapon, while **30** were armed with firearms. The remaining cases involved such things as a rock or a baseball bat, or the use of an automobile as a weapon.
- 169 From the police perspective, the threat posed by edged weapons must not be underestimated. Recruits are taught to take knives as seriously as they do guns, and that they are three times as likely to be attacked with an edged weapon as a firearm. Recruits also learn that **one-third** of all homicides and attempted homicides are committed with edged weapons. From 1995 to 2000, Ontario police officers were assaulted **315 times** with edged weapons, compared to **51 times** with firearms.
- 170 Edged weapons are dangerous for a variety of obvious reasons, including being inexpensive, readily available, easy to conceal and simple to use. Unlike guns, knives are silent and rarely miss the intended target. As one instructor at the police college put it, knives are a far greater threat than guns:
- You don’t need a licence, they’re not regulated, anything can really be an edged weapon, you don’t need training for them, they don’t jam, they don’t quit working, you don’t need ammunition... They’re extremely dangerous.
- 171 One non-police use-of-force trainer told our investigators: “Knives are huge in police training. Knives are more scary than guns.”

- 172 When faced with an edged weapon encounter, recruits are taught – in class and via the student reference guide – that when an officer perceives an imminent threat of serious bodily harm or death (to him/herself or others), the “most reasonable” use of force response may be the firearm while maintaining a reactionary gap. The reference guide notes that no use of force is mandatory, and that an officer’s baton and other “weapons of opportunity” must also be considered. However, the student reference guide discourages the use of a baton to disarm a subject wielding an edged weapon, as this might leave the officer vulnerable to further assault.
- 173 Recruits also learn that the best defences against edged weapon assaults are awareness, maintaining a safe distance, and monitoring a subject’s hands. They are told there is no simple use-of-force equation (i.e., a subject with a knife doesn’t necessarily have to be confronted with a firearm), but they must consider the use-of-force model and use their own judgment. An officer’s decision to fire depends on perception and tactical considerations, including distance from the weapon and availability of cover. Generally, the closer the threat, the greater the urgency to respond.
- 174 The coroner’s jury in the Eligon/Jardine-Douglas/Klibingaitis inquest made six recommendations regarding police interactions with emotionally disturbed persons and edged weapons. One recommendation took aim at the residual effect of the 21-foot rule, defined as the danger zone for a knife attack, and that officers should be taught there is no fixed or automatic distance at which they are obligated to draw their firearm on someone with an edged weapon.⁵⁸

It should be emphasized and clarified in training that there is no fixed distance from a subject with an edged weapon at which officers should either draw or fire their firearms and that the reactionary gap (the time it takes to perform a response, which in this case would be the time it takes to discharge a firearm) is much shorter once a firearm is drawn.⁵⁹

⁵⁸ Developed by Dennis Tueller in the United States in the 1980’s, the 21-foot rule essentially holds that an average healthy adult male can cover 21 feet in a time of about one and one-half seconds, suggesting that an armed attacker at 21 feet is within the “Danger Zone” of an officer. For the origins of the 21-foot rule, see www.theppsc.org/Staff_Views/Tueller/How.Close.htm

⁵⁹ Our investigators were told by the Team Lead for Defensive Tactics at the OPC that instructors do not teach the 21-foot rule, noting that looking at it as such “can be dangerous.” He explained that sometimes a person with a knife could be successful from 10-feet or from 30-feet; the point being that there is no set distance where a subject armed with an edged weapon can be

The Toronto Police Service accepted and implemented this recommendation, although it noted that its training has never specified that there is a fixed distance from a person that dictates when officers should discharge their firearms.⁶⁰

- 175 The issue of appropriate response to a person with an edged weapon has also been dealt with in other jurisdictions, and their experience can offer some guidance to us in Ontario. A review of 16 fatal shootings of persons with a mental illness by Victoria state police in Australia from 1990-2005 found nine of the dead were in possession of an edged weapon.⁶¹ The review noted a comment made in 1996 by an Australian coroner who recommended:

That a critical evaluation be undertaken as to the merits of a firearm being the only effective weapon to counter an attack by an assailant using an edged weapon. I am concerned that there appears to be a universally held belief among operational officers that all edged weapons should be treated equally and that in defence from attack, it is necessary to shoot until the threat is neutralized.⁶²

- 176 The approach since taken by Victoria Police has been to train officers that their first response to a person armed with an edged weapon should be to disengage, cordon (surround the person), contain and negotiate.⁶³
- 177 Properly assessing the threat posed by a person with an edged weapon is clearly one of the biggest challenges faced by police in crisis situations. It is difficult for the public to understand why police would kill someone armed with a small hammer or knife, but if Ontario police are trained to regard these kinds of weapons as even more deadly than guns, and to respond accordingly, the fatalities will continue.
- 178 Once an officer's gun is drawn, it is a short step to a deadly conclusion. With leadership from the Ministry, the training for police at all levels should

considered to be dangerous. He cited various factors that need to be considered when determining the appropriate distance to stay back from a subject armed with a knife, such as the lighting/ environmental conditions, fitness of the shooter and the subject.

⁶⁰ Supra note 21 at response to recommendation 17 of the Eligon/Jardine-Douglas/Klibingaitis inquest.

⁶¹ "Review of Fatal Police Shootings by Victoria Police." Report of the Director, Police Integrity, Office of Police Integrity Victoria, November 2005.

⁶² Ibid at p. 45-46.

⁶³ Ibid at p. 46.

be revised to include de-escalation as the first option in cases of people in crisis who have edged weapons.

Recommendation 6

The Ministry of Community Safety and Correctional Services should revise edged-weapons training for recruits and in-service officers to stress de-escalation techniques as the first option when facing a person with an edged weapon, provided that public and officer safety and tactical considerations permit.

Basic training: Ontario Police College

- 179 The starting point for every would-be officer of a municipal police service or the Ontario Provincial Police is the Ontario Police College. New recruits must complete the college's "Basic Constable Training" course, which teaches foundational policing skills.⁶⁴
- 180 This basic training course lasts **12** weeks. During that time, just **five** 90-minute sessions are devoted exclusively to communication and de-escalation skills. These fall into the "officer safety" part of the course.
- 181 By comparison, Basic Constable Training provides **15** 90-minute sessions on driving skills, **22** on defensive tactics, **19** on firearms and **18** on "officer safety" topics other than communication and de-escalation.
- 182 According to the college's instructors and course materials, the overarching aim of this communication training is to ensure a standard and professional approach in everyday interactions with the public, prevent volatile situations from escalating, and de-escalate situations that are at a crisis level.
- 183 The topics of the five sessions include active listening skills, building a rapport with members of the public, mediation skills, conflict prevention and de-escalation techniques, topics on mental illness, and response strategies for people with mental illness.
- 184 Some instructors at the college pointed out to our investigators that communication training isn't limited just to these five sessions; communication is an element of all training. The instructor in charge of

⁶⁴ *Police Services Act, O. Reg. 36/02 Courses of Training for Members of Police Forces, s. 1.(1).*

officer safety training said they have tried to incorporate “a holistic approach so that the tactics and concepts that are taught in one area are carried through and used, at least as a foundation, in other areas.” To state that communication training is exclusively housed in Officer Safety “wouldn’t do the entire theory or concept justice,” he said.

- 185 However, the chief instructor of practical skills training said the main goal in firearms training, for instance, is to teach the handling and shooting of a gun. The teaching on “communication” is limited to instructing recruits in when and how to deliver the police challenge. The broader communication training associated with situations where the police challenge and firearms may be used, such as assessing the situation, is relegated to the “officer safety” part of the course.
- 186 In other words, although communication may be integrated throughout the course, this key aspect of de-escalation – communication in situations where firearms are involved – is absent from firearms training, even though many more hours are spent on the latter.

Practice makes perfect: More of a good thing

- 187 Eight officer safety sessions in Basic Constable Training are earmarked for practical exercises that simulate situations recruits might encounter on the job. The exercises are intended to help students develop judgment, problem-solving strategies and critical thinking skills. All of them involve, to some degree, either de-escalating subject behaviour or implementing strategies to prevent escalation.
- 188 Our investigators reviewed documents from the college that detail the expectations and requirements of such exercises. For example, in a simulated situation, recruits are expected to take into account the offence committed, pre-attack cues, the authority to arrest, detain or charge – and de-escalation strategies. They are required to demonstrate judgment in selecting reasonable force options, with the goal of controlling and de-escalating the situation.
- 189 The exercises include simulated incidents of theft, public intoxication, break and enter, assault, disturbance complaints, weapons offences, and domestic violence. Typically, some recruits participate in exercises while others observe them.

- 190 Our investigators observed an exercise designed to teach recruits about selecting and applying de-escalation techniques. It involved a person with an apparent mental illness smashing a car with a bat. The scenario stresses the importance of thorough assessment of the situation prior to engaging the individual. Once the person is engaged, de-escalation strategies are emphasized. Isolating and containing the person, using a calm voice, not invading his personal space, and recognizing the signs of mental illness are all considered to be appropriate responses.
- 191 Afterwards, instructors debrief the recruits who participated in the scenario and those who observed it to go over the options they chose as well as others that could have been considered. However, there is no pass/fail grade on these exercises – they are considered “practice sessions” only.
- 192 The chief instructor of practical skills training at the college said they are working to improve basic constable training by adding more practical exercises. Our investigators were told that one option being considered to free up more time for exercises is to make some training materials available online instead of teaching it in the classroom.
- 193 One of the reasons for this change, the chief instructor said, was to increase and improve de-escalation training by giving recruits more experience through scenarios. She said this would help recruits “solidify the idea [that] there’s time to react and there’s time to de-escalate, and that we want to see the communication.”
- 194 Several of the college’s officer safety training instructors said it would be beneficial to put recruits through more practical exercises, particularly ones emphasizing de-escalation tactics such as isolating and containing a subject, and disengaging. Another instructor expanded on this:

So, we’ve seen officers use force in the final scenario, make the decision to use force, know when to stop using it, and de-escalate when that’s appropriate. I would like to see them have the opportunity to encounter a scenario where force could be considered, but they have an opportunity to use some de-escalation strategies and talk the person down. I would also like to see them have an opportunity to encounter a scenario where they form containment, they don’t deal with the subject, so we can delineate between when they need to use force, when force might be considered, but it may be appropriate to use more verbal

interaction. And times when it's not necessary to encounter the subject at all.

- 195 The college's team lead for officer safety told our Office he is confident that when it comes to the academics of de-escalation tactics they are taught in class, the recruits "get it." Still, he said there is a difference between that and practical experience in applying techniques:

Academically understanding what to say is different from having an experience you can rely on under stress, and we know under stress people rely on experiences more than they do their academic understanding... If you don't have those experiences, you're less likely to resort to that tactic. If you want to increase the probability then you give (recruits) the experiences, and that's exactly what I'd like to see (them) have...

- 196 In a telling example, he noted that the tactic of "negotiation at gunpoint" is taught, but only in a classroom setting. More time would be needed to explore the techniques and have recruits use them in a practical scenario, he said:

They practice having people at gunpoint. They don't practice, necessarily, negotiating with people in that context, because it is a higher level of learning. Rather, it's a higher tier of competence and we need to bring them to certain levels before we reach that tier, or at least expose them to that tier in scenario-based training. We bring them as far as we can with the time frames and resources we have.

Judgment day

- 197 All recruits are tested on a scenario at the end of basic training to assess their judgment in the use of force. Unlike the eight practice sessions, this final scenario is a pass or fail.
- 198 In this scenario, the recruit is faced by a subject who is displaying an edged weapon. Instructors evaluate recruits based on their use of appropriate communication, their ability to identify and respond to a subject's behavioural cues, recognition of the threat and an appropriate use of force response, and whether they recognize when the threat is diminished and when to de-escalate the situation.

- 199 Our investigators were told the vast majority of recruits pass this exercise. One instructor estimated that only 1-2% of the class (4-5 of a class of 200) fail – and those tend to be recruits who are “more hesitant than they are overzealous” in the use of force.
- 200 Recruits who fail the judgment scenario get another chance – on the identical test. If they fail a second time, the recruit’s police service will be advised by the college of the need for further training on judgment. At that point, the college is no longer responsible for their training.

Course of action: More time to get it right

- 201 The concerns raised by Ontario Police College personnel about the lack of practical exercises and time to do more sophisticated de-escalation training underline a key limitation of the province’s basic training: At 12 weeks, it is short, compared to police training in most other major jurisdictions in Canada. The training delivered by provincial police colleges in British Columbia, Saskatchewan and Quebec is 21, 20 and 15 weeks, respectively – and the RCMP’s recruit course is 24 weeks.
- 202 Although Ontario’s program is shorter than others, the instructors our investigators interviewed didn’t believe it was of lesser quality. They said graduates’ examination grades are very high – the average mark is 90% (passing grade is 75%). They also noted that most recruits will continue to receive training through the police services that employ them. However, the duration and content this training varies from service to service.
- 203 The team lead for officer safety noted that more complex training scenarios involving judgment, communication and de-escalation could not be added until recruits were almost fully trained – “when their skill sets are better developed, and that’s towards the end of the course.” Our Office was told that the only way to enrich training this way would be to remove subject matter from the course (not ideal), or extend it. Some of those interviewed said an extension of two weeks would be sufficient to add more de-escalation exercises.
- 204 The former Assistant Deputy Minister of the Ministry’s Public Safety Division told our Office he felt strongly that the 12-week course is “insufficient” to prepare recruits to meet the standards of judgment expected of police officers today. He also suggested that training be divided, with new recruits doing some basic training, then a period on the

job at their police services to gain practical experience, followed by the rest of their basic training.

- 205 The Ministry's former Commissioner of Community Safety said the Ministry is conducting a review of the basic constable course, including its duration. He told our Office that basic training was longer than 12 weeks in the past, but was ultimately shortened in response to requests from the Ministry's "clients" (i.e. police chiefs and services) who wanted to get recruits on the job as soon as possible. The chiefs also wanted to have some responsibility for recruit training at the local level.
- 206 Extending the length of the Ontario Police College course would address a multitude of problems raised by those interviewed for this investigation, such as the need for additional exercises and the time to teach more complex de-escalation skills such as negotiation. It would also provide the Ministry with the ideal opportunity to implement instruction on the revised use-of-force model and de-escalation regulation.

Recommendation 7

The Ministry of Community Safety and Correctional Services should expand the training period for new recruits at the Ontario Police College and use the additional time for more explicit training on de-escalation techniques and for practicing more de-escalation scenarios.

Recommendation 8

The Ministry of Community Safety and Correctional Services should use the expanded Ontario Police College curriculum to offer more training on mental illness, and strategies to de-escalate situations involving persons in crisis.

On-the-job training: Results may vary

- 207 After they complete basic constable training at the Ontario Police College, recruits return to their respective services. For most, the only provincially-mandated training they receive throughout their careers will be in the form of annual "refresher" or "requalification" training – the content and duration of which varies from one police service to another.
- 208 The Ministry's Use of Force Guideline provides guidance to police chiefs as to the length of time that should be allotted as part of the annual

refresher/requalification training. This includes training on the components of Ontario's Use of Force model.

- 209 The guideline distinguishes between refresher training (does not involve a pass/fail test) and requalification training (training with a pass/fail evaluation of an officer's skills or knowledge). Training officers on baton and firearm skills is requalification training, while skills associated with officer safety, communication, physical control and O/C spray are refresher training.
- 210 The guideline also provides police chiefs with suggested lengths of time to be allotted for both refresher and requalification training. For instance, firearms training should consist of **four** hours, **two** hours of physical control training, and **one** hour each for baton and O/C spray training for a total of **eight** hours. The guideline, however, **does not** provide an amount of time for communications training.
- 211 Our investigation identified a variety of issues relating to the Ministry's direction – or lack thereof – on de-escalation training. These included issues with a lack of guidance and oversight from the Ministry on the vital issue of maintaining police officers' de-escalation skills, how the trainers themselves are trained and what they teach police officers.

Training à la carte

- 212 The *Police Services Act's* Use of Force Guideline says police services **should** deliver annual refresher training in communication. While the content and duration of this training isn't standardized or mandatory, most police services cover it as part of their eight-hour refresher/requalification training day once per year. The guideline says communications training should review the same topics covered in the Ontario Police College's basic constable training.⁶⁵ These include:

- Basic communication skills:
 - Subject rapport development;
 - Voice control;
 - Receiver/sender issues; and
 - Active listening;

⁶⁵ Section 8 of the Use of Force Guidelines states: Every Chief of Police should ensure that annual refresher training on communication covers a review of the topics set out in Appendix A: *Ontario Police College Guideline* section 3(b).

- Race relations and cross-cultural communication skills;
- Mental illness/communication awareness;
- Mediation skills;
- Diagnosing verbal encounters;
- Creating voluntary compliance;
- Defusing aggressive behaviour; and
- Role-playing exercises.

213 The college’s mental health issues co-ordinator, who is responsible for communication training, said although the guidelines don’t use the word “de-escalation,” the term “defusing aggressive behaviour” essentially means the same thing. He said he has used the terms interchangeably for years to mean “basically, how to calm people down.”

214 One instructor at the college told our investigators that in his experience, the use-of-force trainers at police services don’t feel they have to cover all the suggested topics when they conduct in-service training once a year. Some, he said, feel like’s it’s “à la carte – here’s the selection... but do we need to do it every year? It’s kind of loose that way. It doesn’t really say it’s got to be done.” He said some feel this way because annual refresher/requalification training at most services is limited to one day per year and they feel they can’t fit everything in.

215 The instructor and several of his colleagues were of the opinion that eight hours once a year was not nearly enough to cover all the topics as part of refresher/requalification training. As one instructor remarked:

The thing we need to keep in mind is that at the end of the day, most services it’s an eight-hour use-of-force refresher day. So, I’m sure you can appreciate, in the span of eight hours, we need to cover all of these things...Do a refresher on the legislation, on communication, on all these elements listed here. So things like active listening, race relations, mental illness, diagnosing verbal encounters – those are all things that have to be covered off. How much time can you really dedicate to [things like active listening and mental illness] and still get everything else taken care of?”

216 The Ministry officials and college instructors our Office spoke to said they believed most police services deliver communications refresher training that meets the guidelines, but they acknowledged this is not tracked – one

said the only way to know for sure would be to take a “poll” of services across the province.

- 217 One Ministry official acknowledged there are “big question marks” about what police services cover in annual refresher training on communications and whether officers understand the de-escalation techniques and options available to them. This official felt the Ministry should review this training provincewide:

I think (the Ministry) can explore that a little bit further and see whether we should be reviewing that training so that there is a better understanding that if you do have the luxury of time, distance, containment and that sort of thing are police officers using other options that are available to them? ... Instead of saying, ‘more training, more training,’ let’s look at the current training and see what exactly police officers are taking out into the street.

More time for communication

- 218 Many of those interviewed, police and non-police, were of the opinion that communications training for police officers was just as important as weapons training and should be subject to requalification, not just a refresher.
- 219 Most police officers will never draw or fire their guns, but every officer in Ontario who is authorized to carry one must requalify every year, in the rare event that the skill will be needed. By contrast, officers use communication and de-escalation techniques far more often – almost daily. Certainly, not all crisis situations can be resolved through de-escalation, but there is broad agreement among academics and people with extensive experience in policing that an officer’s mouth is very often his or her best weapon. In fact, the police college’s own materials describe communication as a police officer’s most valuable tool when dealing with a subject to prevent escalation or to de-escalate a situation.
- 220 The former Chair of the Toronto Police Services Board, Dr. Alok Mukherjee, was one of several stakeholders who told our Office this was an “imbalance” that should be addressed:

If you spend a day, a shift, with a police officer, you’ll see that a great deal of the time goes into problem solving, whether it’s domestic, whether it’s mental illness, whether it’s people in distress,

helping people. And a fraction of the time goes into situations where they will be required to deal with a violent situation.

And I'm not discounting the fact that many of these situations could turn into violent situations. But if you do an analysis of their day and then you do an analysis of the training that they're getting, you'll find that use of force training, or a particularly good expertise in the use of a firearm, gets a tremendous amount of time relative to problem solving, negotiation, communication, peacefully resolving situations.

They have to recertify every year, by law, in their use-of-force ability. But they don't have to recertify every year in how to negotiate, how to communicate. So there's an imbalance between what the police officer today does and what he or she is being trained to do... We need to train them, almost with the same importance and emphasis in these other areas, in these other skills that they're using more regularly than use of force.

- 221 The former Assistant Deputy Minister also felt that adequate time should be devoted to all important police tools, including firearms. He said it is "inevitable – and, I think, required – that there be more training ... on what I would just call judgment." Although he noted the importance of annual firearms requalification training, he said the Ministry is "learning" that this should also include training that helps officers "make the right choice about what weapon is available to you." He noted that the Ministry had increased training for officers who use Tasers, from eight to 12 hours. This, he said, was in order to increase the "judgment" component of this training.
- 222 At present, the Ministry offers no guidelines with respect to the evaluation of police officers as part of judgment training; this is left to the discretion of use-of-force trainers at individual police services. Although the police college materials mention the importance of evaluation, its teaching materials have little to say about the development of evaluation mechanisms for an officer's judgment and the use of de-escalation as part of use of force training.
- 223 One of the recommendations made by the coroner's jury in the Jardine-Douglas, Klibingaitis and Eligon inquest urged the Toronto Police and the Ministry to develop a protocol "for the formal assessment of officers

regarding the communication judgment skills they demonstrate in training and while on duty.”

- 224 Justice Iacobucci’s report recommended the Toronto Police Service “consider requiring officers to re-qualify annually or otherwise in the areas of crisis communication and negotiation, de-escalation and containment measures.”⁶⁶ In its response, the Toronto Police Service said it incorporates these areas in its annual in-service training and that a failure to show an aptitude in them or any other part of the program results in officers being required to relinquish their use-of-force options until they are able to demonstrate competence.⁶⁷
- 225 Achieving the goal of making officers more skilled at de-escalation and more comfortable with its techniques will require more training than the single day that most police services devote to it. The Ministry should expand the annual refresher training to two days, and ensure that one is devoted to de-escalation techniques.

Recommendation 9

The Ministry of Community Safety and Correctional Services should expand mandatory annual use-of-force refresher/requalification training to two days, with one day dedicated to use-of-force techniques and one day to de-escalation techniques. This should also include clear guidelines to evaluate an officer’s use of de-escalation techniques. The Ministry should monitor police services’ implementation of this expanded course.

Scenarios: The best cases

- 226 Like any other skill, de-escalation requires practice, and the more realistic the practice, the better. Increasing the amount of scenario-based training for police officers was heartily endorsed by the use-of-force trainers and police college instructors interviewed for this investigation. As with the basic training for recruits, they said scenario-based training was superior to “classroom learning” – many of the instructors called it “invaluable.”
- 227 Among the advantages of such training are that it can help officers learn how to assess and respond to threats, which can include the use of de-

⁶⁶ Supra note 2 at p. 155.

⁶⁷ Supra note 31 at response to recommendation 19 of the Iacobucci Report.

escalation techniques, and how to make complex decisions in high-stress situations.⁶⁸

- 228** The Use of Force Guideline suggests to police chiefs that role-playing be used in firearms and communications training, and services do conduct this kind of training for their members. However, it is unclear how many services utilize role-playing scenarios, the content of these scenarios, or similar approaches as this is up to individual services.
- 229** In April 2014, our Office’s team involved in this investigation, including the former Ombudsman, observed a portion of the annual requalification training conducted by Durham Regional Police Service. This was arranged through one of our special advisors. The training involved dynamic judgment scenarios, including one in which officers responded to a noise complaint where they were confronted with a subject armed with a knife. After the exercise, use-of-force trainers debriefed the officers on the tactics they selected, their view of how well the scenario went and what they could have done differently. It was apparent that Durham had put a significant amount of resources and effort into scenario-based use-of-force training, emphasizing de-escalation as a key component.
- 230** Supporters of scenario-based training in de-escalation also pointed out to our investigators that the debriefing officers are given afterwards is as important as the exercise itself – since it helps them to understand how well they managed the situation and consider alternative responses. Dr. Alok Mukherjee said debriefing was “the most significant component” of the scenario-based training he observed in Toronto, although it was not long enough:

We use great scenarios. We create real-life scenarios and put officers through them, but then in 10 minutes we have a quick conversation about who did what, how did it go, was it right or not. That’s not adequate... That’s where I think the time needs to be spent. Not in giving them 50 scenarios, but creating more time for debriefing, for feedback.

- 231** It was also pointed out that there is no standard evaluation to measure officers’ judgment in this type of training. Like the training itself, this is left to individual police services. One instructor said the lack of evaluation

⁶⁸ See Craig Bennell and Natalie Jones. *The Effectiveness of Use of force Simulation Training Final Report*. Carlton University, Ottawa. Available for download at <http://bit.ly/1qJyg1p>

criteria for officer judgment contributed to a significant “gap” in police training across the province. Justice Iacobucci’s report also commented on the evaluation of recruits at the Ontario Police College: “[It is] interesting and somewhat concerning that recruits are not evaluated on forms of communication that are designed to achieve de-escalation without confrontation.”⁶⁹

- 232 More scenario-based training, complete with full debriefings, would clearly benefit Ontario officers. As Carleton University researchers Craig Bennell and Natalie Jones reported in a 2007 paper, this is a national problem; their study found the time allotted to simulation training for police officers across Canada was “sorely lacking.”⁷⁰ The Ministry should draw on the experience of the Ontario Police College and police services already conducting such training and recommend a curriculum to be used province wide. It should also monitor the use of this curriculum.

Recommendation 10

The Ministry of Community Safety and Correctional Services should require scenario-based training as part of annual refresher training and provide recommended content.

Training the trainers: Lack of communication

- 233 The Ministry's Use of Force Guideline suggests that annual refresher and requalification training should be conducted by Ministry-certified trainers – that is, officers who have completed a “use-of-force trainer” course at the Ontario Police College. The course is three weeks long.
- 234 The first week consists entirely of firearms training. It is essentially the same firearms training that recruits receive at the college, but the would-be trainers are also taught how to safely build a firearms qualification course for their colleagues.
- 235 The second week deals with defensive tactics, including all of the physical skills (use of empty hand techniques, baton and O/C spray) covered in basic constable training – along with techniques in how to instruct others in these techniques.

⁶⁹ Supra note 2 at p. 147.

⁷⁰ Supra note 68 at p. 54.

- 236 The third and final week covers officer safety issues, including relevant legislation and concepts related to the use of force, including dealing with people with “serious mental disorders.” Our Office was told this is essentially an “overview” of the communications training in the basic constable course; it is covered in two 90-minute sessions. To be certified as use-of-force trainers, students achieve a mark of at least 75% on a written exam at the end of the course.
- 237 Our investigators discovered in 2014 that this training had changed due to budget issues at the college. The program co-ordinator’s position had been eliminated and the course reorganized; it is now taught in three separate units. Some instructors said that although this may have made the course more cost-efficient, it has lost the “common thread” element of integrating the various types of tactics to be taught.
- 238 The Ontario Police College instructor responsible for this training-for-trainers course acknowledged that it does not offer substantial training in communication or de-escalation, or in techniques for teaching these skills to other officers. “For them, it’s more of a refresher, the things that they already know with respect to communication, dealing with things like de-escalation and conflict resolution,” he said.
- 239 A retired municipal police officer who has instructed at the course stressed that it “isn’t intending to make that use-of-force trainer an instructor in communications.” Rather, he said, the hope is that they might further develop their skills and share them with the frontline officers they are expected to teach.
- 240 Once they are certified use-of-force trainers, it is up to them and their police services to design and deliver annual training to their members; there is no mandatory communication or de-escalation content. A trainer at the Ontario Police College said:
- [Trainers] can certainly follow our basic constable program if they would like to, but they don’t have to do anything that we teach. So when it says ‘empty hand skills’, they can teach anything they want to. So as long as their chief is happy with their program, we have no say in that matter.
- 241 A Ministry official acknowledged that police services are given latitude and flexibility in what they teach, although the training is generally expected be done according to the Use of Force Guideline.

- 242 Some instructors at the college felt that this was sufficient direction on the Ministry’s part, and that training likely didn’t vary much from service to service. However, several supported the idea of a consistent lesson plan for all police services’ annual use-of-force training – as long it didn’t hamper the ability of police services to address issues unique to their communities.
- 243 One instructor expressed the view that smaller police services would welcome greater direction from the province, since they typically lack resources to develop their own training. Our Office heard from a chief of one such service who heartily agreed.
- 244 The co-ordinator for mental health issues training at the Ontario Police College said some police services have recently asked him “to enhance their training on de-escalation.” In response, he has provided the communication materials used in the basic constable course, along with suggestions for teaching it. In his opinion, provincially standardized lesson plans would make it far easier for services to deliver annual training on this topic, consistent with provincial guidelines.
- 245 It is clear that the training provided to use-of-force trainers in de-escalation and communication tactics is lacking. It is also problematic that de-escalation training delivered at the in-service level is inconsistent across the province. Many of those interviewed expressed the view that greater direction from the Ministry on the topic of de-escalation would be welcomed by police services and use-of-force instructors. The Ministry should heed this call.

Recommendation 11

The Ministry of Community Safety and Correctional Services should develop a standard syllabus on de-escalation, with definitions and training techniques, to ensure a consistent, high standard of in-service training of police officers across the province.

Recommendation 12

The Ministry of Community Safety and Correctional Services should revise the curriculum for use-of-force trainers to better enable them to provide training on de-escalation techniques as part of annual training for police officers. Rather than repeat basic concepts from recruit training, the trainers’ course should focus on teaching de-escalation techniques and

strike a better balance between use-of-force tactics and de-escalation tactics.

Selection criteria for use-of-force trainers

- 246 It is entirely up to police services to select, from amongst their members, those who become certified to deliver annual use-of-force training to their colleagues. There are no Ministry directions on this process.
- 247 A retired municipal officer and former use-of-force trainer told our investigators that in his experience, police services tended to select officers for this task who were experienced in martial arts. He said at his service, the attitude was, “you have tae kwon do, good background, your police record’s good – come on, you’re teaching.”
- 248 A former co-ordinator of use-of-force training echoed this sentiment, recalling that the “typical” candidate for use-of-force trainer was “usually someone who’s high energy, either a tactical officer or they’ve got some other experience. They’re comfortable with firearms or [defensive tactics], one or the other, usually.”
- 249 While this isn’t necessarily a problem, several other stakeholders – police and non-police – suggested more useful eligibility criteria for use-of-force trainers would include experience in dealing with persons with mental illness, responding to crisis situations, and using de-escalation techniques. They also said use-of-force trainers too often tend to be people who are proficient in martial arts and weapons use, and not necessarily skilled in communication.
- 250 The selection of trainers was discussed as part of an extensive review completed by Terry Coleman and Dr. Dorothy Cotton on police interactions with persons with a mental illness across Canada. They recommended that use-of-force trainers be “carefully selected, trained, certified, and monitored to ensure all use-of-force training is well balanced between verbal communications/de-escalation skills and technical use-of-force skills.”⁷¹ The Ministry is well suited to direct this sensible improvement.

⁷¹ Dorothy Cotton and Terry Coleman. A Comprehensive Review of the Preparation and Learning Necessary for Effective Police Interactions with Persons with a Mental Illness. (2014) Mental Health Commission of Canada at p. 4. Accessible at:

Recommendation 13

The Ministry of Community Safety and Correctional Services should set guidelines for the selection of use-of-force trainers, so that de-escalation and communications expertise is given equal weight with weapons training experience.

When refresher trainers need refreshing

- 251 Police services are required to deliver annual training to ensure all members' use-of-force skills are up to date. They all have Ministry-certified use-of-force trainers for this purpose. But what about those trainers' skills? Who ensures they are up to date?
- 252 There is no requirement for use-of-force trainers to demonstrate their continuing proficiency in the subject they are teaching. The only condition they must meet for annual validation of their trainer diploma is that they train 30 officers per year.
- 253 The Ministry does not even strictly require certification of use-of-force trainers – it is one of the things that police chiefs **should** (as opposed to **shall**) do under the *Police Services Act* guidelines. Its inspections have found that all police services have adhered to this recommendation. However, the Ministry has no mechanism to track certified trainers.
- 254 According to an internal Ontario Police College memo that our investigators reviewed, anyone who possesses a use-of-force trainer's diploma is considered to be certified for "an indefinite length of time" and "no attempt is made to ensure that trainers remain current and meet all criteria for Ministry certification." The note concludes with the comment:

The Ministry does little to manage and regulate those who possess its credentials in these areas... The Ministry is unable to keep track of trainers across the province and requires the assistance of the police services. To ensure due diligence as a Ministry, we must officially request the assistance of police agencies. Otherwise, it devalues the Ministry's accreditation and does not address the identified issues.

http://www.mentalhealthcommission.ca/English/system/files/private/document/effective_police_interactions_-_exec_summary_0.pdf

- 255 In one 2011 case in the Ministry's records, its inspectors discovered a use-of-force trainer whose certification dated back to 2002. They reported that this was a concern, since there had been significant changes in the intervening years to legislation, weapons, and even the province's new use-of-force model.
- 256 It was nearly unanimous among the college instructors our Office spoke to that use-of-force trainers should have regular recertification training. This concept is certainly not foreign to the Ministry. The college recently established a recertification process for those who train officers on the use of Tasers. Trainers must be recertified every two years – and those who train the Taser trainers must take a professional development course every year. The Ministry also provides a manual for trainers to follow.
- 257 Our investigators were told there would be some logistical challenges in instituting a similar recertification program for use-of-force trainers, mainly because of the potential cost to police services to train and recertify people in a position that has relatively high turnover (3-5 years, generally). At the same time, the Ministry's Future of Policing Advisory Committee has been considering issues and recommendations related to the certification and recertification of use-of-force trainers. It simply makes sense for the Ministry to hold use-of-force trainers to the same standards as Taser trainers.

Recommendation 14

The Ministry of Community Safety and Correctional Services should institute and monitor a mandatory two-year recertification for use-of-force trainers, the same as it does for those who teach officers to use Tasers.

Learning from experience: Tracking de-escalation stories

- 258 Although this report highlights numerous cases of police use of lethal force, those we interviewed also offered many examples of situations that could have ended in fatalities, but didn't. There are countless cases where police have successfully de-escalated and peacefully resolved situations that might otherwise have ended in bloodshed. However, there is no formal mechanism to incorporate lessons learned from such cases into what Ontario police are taught, either as recruits or during annual on-the-job refresher courses. As one college instructor said: "It's the luck of the draw if we hear about them."

- 259 Many instructors at the college supported the idea of gathering successful real-life stories to use in scenario training. The Ministry is developing an electronic version of the form police services fill out on use-of-force cases, targeted for rollout in late 2016. It will ask police services to identify subject behaviours and how they influenced the officer's decision to use force. The data from the forms will also be used to track and analyze data provincewide, and to inform training at the police college.
- 260 However, although it will no doubt provide useful data on cases where force has been used, the proposed form would not capture situations that have been successfully de-escalated, or even situations where lethal force could have been used, but was not. This is shortsighted thinking on the Ministry's part. The form should be redeveloped now to ensure all interactions involving successful de-escalation are captured, so they can be used as training tools to benefit officers across the province.
- 261 Dr. Gary Ellis told our office that in a pilot project involving community-based mobile crisis units (in his former role with Toronto Police), he required officers to complete a one-page report on situations that officers were able to de-escalate involving persons with mental illness. He felt this was a useful exercise that demonstrated that such information can be captured.
- 262 As for those cases where lethal force is used, at present, there is no formal mechanism to review them, either – even though the province has an agency (the Special Investigations Unit) that investigates all such incidents (as do individual police services, internally). Both types of investigation could potentially provide information and insight for use in de-escalation training.
- 263 Our Office understands that the Special Investigations Unit has been informally providing details about all firearm injuries and deaths to the police college over the last decade or so, at the college's request. This is a positive arrangement that should be formalized and possibly expanded. The Ministry should work with the Ministry of the Attorney General, which is responsible for the SIU, to formalize the exchange of information between the SIU, police services and the police college, so lessons from incidents can be incorporated into recruit and officer training.

Recommendation 15

The Ministry of Community Safety and Correctional Services should develop a standard reporting process that enables feedback and learning on de-escalation. The process should be used after all interactions with people perceived to be suffering from a mental illness or who are otherwise in crisis, where force was an option but was not used, and where the situations were successfully de-escalated.

Recommendation 16

The Ministry of Community Safety and Correctional Services should monitor de-escalation reports to identify best practices, and use the information as a learning tool for recruits and in-service training. Successful de-escalations should be shared among police services as a model of expected behaviour.

Recommendation 17

The Ministry of Community Safety and Correctional Services should work with the Ministry of the Attorney General and the Special Investigations Unit to analyze information collected in SIU investigations into incidents involving the death or serious injury of persons perceived to be suffering with mental illness or who are otherwise in crisis, and incorporate relevant lessons into the police training process.

Tools of the trade

264 As de-escalation techniques have evolved, so too have the tools and technology police use to assist them in crisis situations. Among the most common are Tasers and body-worn video devices. Our investigators assessed both of these tools and canvassed experts and research on them.

The Taser: A tool, not a solution

265 The Ministry's decision to allow more Taser use has been viewed simultaneously as a positive and negative development. So far, the expansion of Tasers has been the Ministry's main response to the problem of police shootings of people in crisis. However, a Taser is primarily a use-of-force tool, not a de-escalation tactic.

- 266 The first Canadian jurisdiction to approve Tasers for use by law enforcement personnel was B.C. in 1999. In Ontario, they were initially authorized by the Ministry for use only by tactical and hostage rescue teams after field tests with the Ottawa and Toronto police services. In 2004, the Ministry permitted police services to equip only frontline supervisors with Tasers. All Canadian provinces have since authorized their use.
- 267 In 2010, Ontario’s Use of Force Guideline said officers should consider whether efforts to de-escalate the situation have been effective, before deploying a Taser. This was amended in 2013 to say an officer “may” consider whether efforts to de-escalate the situation have been effective before doing so. This brings more subjectivity into Taser use, allowing an officer to use one when he or she believes a subject is threatening or displaying assaultive behaviour, or that there is an imminent need for control of a subject.
- 268 According to the police trainers interviewed for this investigation, and testimony at the coroner’s inquest into the deaths of Reyal Jardine-Douglas, Sylvia Klibingaitis and Michael Eligon Jr., there may be limited circumstances where a police officer may consider using a Taser – rather than a firearm – in situations involving a subject with an edged weapon. A use-of force trainer at the Ontario Police College said a Taser can be used “concurrently” when faced with a subject with an edged weapon, so long as “lethal force backup,” or an officer with a firearm drawn and pointed at the subject, is available. Generally speaking, officers are trained that the firearm is the most reasonable use-of-force option in such cases.
- 269 Our Office also heard from members of the policing community who did not support expanding Taser use to frontline officers. They worried that the Taser would become an easy option for officers to resolve situations quickly, rather than attempting to use verbal communication and de-escalation skills.
- 270 The Ministry’s plan will make Taser use more widespread. This makes the need for a regulation and revised training on de-escalation all the more pressing. Officers should be required to assess a situation and employ mandated de-escalation techniques, where tactical and safety considerations permit, before utilizing any force options, including a Taser.

Another set of eyes: Body-worn video

- 271 Several Ontario police services have begun using body-worn video devices – worn on an officer’s lapel, vest or on the side of eyeglasses or a helmet – to capture audio or video recordings of events as they occur. Pilot projects are either underway or completed in Toronto and Amherstburg, as well as in Calgary, Edmonton and Vancouver. Many U.S. jurisdictions have been using the devices for years, although most research to date has focused on their use as tools of investigation, not de-escalation.
- 272 In one notable study, conducted by the Rialto Police Department in California, body-worn video had a dramatic effect on reducing use-of-force incidents. The one-year study, begun in February 2012, included all frontline officers in the 157-person force. There were only 25 use-of-force incidents that year, compared to 60 in 2011, 65 in 2010 and 70 in 2009. The study also found that not only did officers use force less often but when force was used it was twice as likely to have been applied by the control group of officers who weren’t wearing cameras. In addition, complaints against Rialto officers dropped to three during the study period, compared to 28 in 2011, 51 in 2010 and 36 in 2009.⁷²
- 273 The Toronto Police Service’s one-year pilot project, which began in May 2015, involves about 100 officers from two divisions and a range of different teams, e.g., Traffic Services, Primary Response Unit. The pilot project included three months of scenario-based testing at the Toronto Police College prior to going live in the community. According to the service’s website, recommendations on “how best to move forward” will be presented to the Chief once the project is concluded.⁷³
- 274 The Ministry has not provided any guidance or direction to police services on the use of these devices, and there is no requirement for police services to seek its permission or involve it in their pilot projects. One Ministry official told our Office the use of body-worn video is considered a “local issue” and the Ministry would only become involved if it were a matter of “provincial interest.”

⁷²Available at:

http://ccjs.umd.edu/sites/ccjs.umd.edu/files/Wearable_Cameras_Capitol_Hill_Final_Presentation_Jerry_Lee_Symposium_2013.pdf

⁷³ For more information, see: <http://www.torontopolice.on.ca/bodyworncameras/>

- 275 These devices merit further investigation by the province, as potential tools for de-escalation and police accountability. They present many possible advantages, from supporting police accounts of incidents by creating a video record, to assisting the SIU in its investigations. More to the point, they would provide valuable material for use in police training.

Recommendation 18

The Ministry of Community Safety and Correctional Services should actively monitor ongoing police pilot projects in the use of body-worn video to assess its value as an accountability and de-escalation tool. Based on the results of existing pilot projects, the Ministry should consider providing direction to police forces on the use of body-worn video, by no later than May 2017.

‘Code of the Officer’: Changing Police Culture

- 276 Expanding de-escalation, enriching it with scenarios and ensuring consistent training across the province would be welcome improvements on the Ministry’s part, but they can only go so far. The underlying issue that must also be addressed, according to the families, interest groups, academics, police trainers and many others our Office interviewed in the policing community, is a culture that tends to regard fatal interactions with persons in crisis as unfortunate but unavoidable.
- 277 Some families of victims described this as an “us-versus-them” mentality that leads to stereotypes of persons with mental illness and exaggeration of the threat they pose to police and the public in crisis situations. A retired police chief said this becomes entrenched in part by police associations and in-service training that “create a culture that around every corner there’s a guy waiting to kill you, waiting to shoot you.”
- 278 In Justice Iacobucci’s report, while citing several aspects of Toronto Police culture that are positive, he gave examples of “certain beliefs and attitudes that are somewhat unhelpful” among officers. Most significant, he said, is the “deaths are inevitable” attitude toward persons with mental illness:

Many members of the [Toronto Police Service] assume that police shootings of people in crisis cannot be avoided. This leads to an apparent lack of enthusiasm for efforts designed to make changes that seek to minimize the number of deaths.⁷⁴

- 279 Other cultural issues cited by Justice Iacobucci include the police paramilitary structure that makes it difficult for lower-ranking officers to speak out or push for change, an emphasis on “forceful responses – asserting and maintaining control over every situation,” a general stigma surrounding mental illness, and a feeling among officers that responding to calls about emotionally disturbed persons is not “real” police work.⁷⁵ In an effort to address these and other issues, the Toronto Police Service published on its website a statement of commitment in relation to mental health, emphasizing its role in protecting all vulnerable citizens, taking all reasonable steps to de-escalate potentially violent situations and aspiring to preserve every life if reasonably possible.⁷⁶
- 280 In a similar vein, a theme heard throughout this investigation was that the “real” training for police officers begins on the job, once they have left the police college. We were told an attitude of “forget what you’ve learned – welcome to the real world” risks undermining the limited training recruits receive on de-escalation. Real change will only come if de-escalation is fully supported by frontline officers and supervisors.

Culture versus training

- 281 The issue of culture was also raised by police college instructors, current and retired police of various ranks, Ministry officials, and my special advisors. All cited a phenomenon described in the Iacobucci report as “culture eats training.” As Justice Iacobucci puts it: “Regardless of how effective a training regime may be, the training will not cause the desired behaviour if the attitudes, beliefs, and values of the majority of people in the organization are inconsistent with the training.”⁷⁷
- 282 The retired Ontario police chief our investigators interviewed called this a “disconnect” between what is taught at police college and what officers

⁷⁴ Supra note 2 at p. 122.

⁷⁵ Ibid at p. 124.

⁷⁶ Accessible at the Toronto Police Service website at:
<http://torontopolice.on.ca/community/statementofcommitment.php>

⁷⁷ Supra note 2 at p. 117.

actually do on the job. He suggested the Ministry and the college make fixing this a priority:

The Ministry and the Ontario Police College need to understand what's happening on the street is not perfect. The analogy I would use is, if GM is making a bad car, they should want to know about it. It's a good business practice... If the Ontario Police College is putting out officers that are abusing their training, they should want to know about it.

- 283 The former Assistant Deputy Minister said he has also heard comments from police officers after leaving college along the lines of "I'm now going to unlearn everything I just learned." He attributed this to a "code of the police officer."
- 284 The former Commissioner of Community Safety said he, too was concerned about this "disconnect," and that the Ministry has a role in addressing it. He said the Ontario Police College has been given the task of determining what the Ministry can do "to increase the probability that the application of the use of force [by working officers] will be as appropriate, as judicious, as when they talk through their behaviour at the police college."

Coaching the culture

- 285 Among the cultural issues raised in our investigators' interviews was the role of "coach officers" and their influence on new officers. As one college instructor explained, most newly trained officers are paired with a coach officer at their police service after they complete basic training. He said coach officers are typically more senior (i.e., several years removed from police college), meaning their ability to reinforce the new officers' training may be limited. More likely, the instructor said, a coach officer's approach will be, "I'm going to show you how I do it."
- 286 As one Ministry official pointed out, the experience of being paired with a coach officer may be a recruit's first exposure to the culture of the police service, "and that can lead them in a positive or possibly a negative direction, depending on who they get and what kind of interaction they have."
- 287 The *Police Services Act*, in its *Adequacy and Effectiveness of Police Services Regulation*, requires every police service to have a skills

development and learning plan to coach or mentor new officers. However, our Office was told the Ministry has no role in assessing these programs.

- 288 As for the qualifications of “coach officers,” the Ministry provides no guidelines for their selection. Although the Ontario Police College delivers a coach officer training course, it is not mandatory.
- 289 Justice Iacobucci’s report noted the “critical influence” coach officers can have on new members, and the concern that they, “if not properly educated themselves, can perpetuate negative stereotypes about people in crisis.”⁷⁸ He noted there was no formal mechanism for evaluating the effectiveness of coach officer training, and recommended the Toronto Police Service change its selection and evaluation process so “to ensure that the individuals in these roles are best equipped to advise officers on appropriate responses to people in crisis.”⁷⁹ Among other things, he suggested additional mental health training for coach officer candidates as well as an evaluation mechanism through which constables can provide anonymous feedback on their coaches. In its response, the Toronto Police Service noted that it has increased mental health training for supervisors and coach officers since 2014.⁸⁰ However, it took the position that further research is required to determine whether it would be beneficial to introduce anonymous feedback for coach officers. At present, probationary officers are invited, during their evaluations, to comment on their experience and relationship with their coach officers.
- 290 Although Ministry officials have raised issues involving coach officer programs at individual police services, there does not appear to be any plan to engage in a provincewide review. Justice Iacobucci’s recommendation is a practical and sensible approach to the issue, and one that the Ministry should mandate for all police services across Ontario.

Recommendation 19

The Ministry of Community Safety and Correctional Services should institute new mandatory training standards for coach officers, recognizing that these on-the-job mentors are a vital force in shaping new officers’ skills and perceptions. The training for coach officers should be in line with the revised approach to de-escalation that will flow from the new use-

⁷⁸ Supra note 2 at p. 164.

⁷⁹ Ibid at Recommendation 24.

⁸⁰ Supra note 31 at response to recommendation 24 of the Iacobucci Report.

of-force model and expanded de-escalation training at the Ontario Police College.

Recommendation 20

The Ministry of Community Safety and Correctional Services should make review of police services' coach officer programs part of its regular inspections of police services.

From the top: The boss matters

291 Police supervisors can also play a significant role in reinforcing – or not reinforcing – new officers' training in de-escalation techniques and dealing with persons in crisis. Several of those who raised concerns about coach officers were also concerned about the role of supervisors. An Ontario Police College instructor noted that supervisors don't necessarily know more about use-of-force techniques than recruits: "They aren't necessarily given a higher tier of training that allows them to critically assess the use-of-force behaviours of others and train them."

292 Justice Iacobucci's review also recognized the important role played by supervisors in ensuring appropriate responses by police to persons in crisis. He recommended that Toronto Police Service performance reviews specifically recognize those who have experience in dealing with people in crisis and displaying de-escalation skills⁸¹. As well, he said supervisors should monitor officers' use of de-escalation skills and take remedial steps if it does not comply with their training.⁸² His report also called for a new procedure for supervisors to debrief officers after incidents involving people in crisis and/or the use of force; Toronto Police rejected this, saying mandatory debriefing participation might increase officers' psychological risks.⁸³

293 Dr. Alok Mukherjee, former chair of the Toronto Police Services Board, told our Office it was crucial for supervisors to take the time to assess and debrief officers after such incidents (as well as after training exercises). Debriefing, he pointed out, is not just a training tool, but an accountability

⁸¹ This recommendation is still under review by Toronto Police. Supra note 31 at response to recommendation 31 of the Iacobucci Report.

⁸² The Toronto Police Service's position is that this already takes place. Supra note 31 at response to recommendation 32 of the Iacobucci Report.

⁸³ Supra note 31 at response to recommendation 25 of the Iacobucci Report.

tool that supervisors should use to reinforce the use of de-escalation tactics.

- 294 Dr. Frum Himelfarb, the now-retired former acting commissioner of the RCMP Learning and Development Directorate, told our investigators that debriefing at the detachment level about real-life incidents should be happening on a regular basis. Supervisors, she said, have a great role to play in mentoring officers.
- 295 It hardly seems productive to expect senior officers to act as teachers and examples for new officers in the use of de-escalation techniques if their training gives them only the same skills as constables. If de-escalation is to become the norm in Ontario policing, it must be reinforced in every link of the organizational chain.

Recommendation 21

The Ministry of Community Safety and Correctional Services should institute new training for supervisory officers to help them develop skills in teaching de-escalation and in debriefing officers on how armed confrontations with persons experiencing a crisis were handled.

Conclusion

- 296 Ontario's use-of-force model and guideline, the rigour of its police recruit training, and the content and monitoring of in-service training are all below the standards that citizens should expect in a modern, forward-looking jurisdiction.
- 297 Our investigation identified a shortfall in provincial guidance on the use of force and de-escalation, limited training for new recruits, a lax approach to on-the-job training and a failure to monitor results. All these things are directly or indirectly under the control of the Ministry of Community Safety and Correctional Services.
- 298 Many of these shortcomings have been identified by multiple coroner's juries and other expert studies. There is ample evidence and advice indicating what must be done, but the Ministry has taken a laissez-faire approach to issues that are crucial to public safety and the public perception of policing. Accordingly, I find that that the Ministry's failure to

do little more than tinker with this issue is unreasonable and wrong, under s. 21(1)(b) and (d) of the *Ombudsman Act*.

- 299** A new approach that gives real weight to de-escalation techniques has the potential to dramatically reduce the human toll of such incidents in future. That new approach will also give our police more and better tools to use when faced with the challenging situations they encounter on the street. No police officer wants to take a civilian's life. It is in everyone's interest to train, direct and help them do all they can to avoid taking that drastic action.
- 300** If the problems identified in this report are to be rectified, the provincial government must act. The Ministry is the only body with the scope and legal authority to bring about real change. The recommendations contained in this report constitute a clear plan of action.

Recommendations

Ministry leadership

- 1. The Ministry of Community Safety and Correctional Services should use its legal and moral authority to take the lead on the issue of de-escalation and police-involved shootings of persons in crisis.**

De-escalation regulation

- 2. The Ministry of Community Safety and Correctional Services should develop and implement a regulation on de-escalation, modelled on the Suspect Apprehension Pursuit Regulation, which requires officers to use communications and de-escalation techniques in all situations of conflict before considering force options, wherever tactical and safety considerations permit. This should be done as quickly as possible, and no later than 12 months after the publication of this report.**

New use-of-force model

- 3. The Ministry of Community Safety and Correctional Services should institute a new use-of-force model that is easy to understand and clearly identifies de-escalation options, rather than just use-of-force options. Both the B.C. and Las Vegas models have clarity and balance, but Ontario should lead by developing its own model that builds on the best of what others have done. Given the urgency of this issue, a new model should be developed and rolled out to all police services as quickly as possible, and no later than 12 months after the publication of this report.**

Coroner's jury recommendations

- 4. The Ministry should formally and publicly respond to all coroner's jury recommendations involving police use of force and de-escalation. This should be completed on a priority basis. The Ministry should also keep a complete and accurate record of actions taken to address coroner's jury recommendations.**

Improving training

5. The Ministry of Community Safety and Correctional Services should offer more guidance for recruits and in-service officers on the use the police challenge, including when the police challenge has not been successful in de-escalating a situation and when, so long as safety and tactical considerations permit, to use de-escalation techniques. This guidance should be incorporated into a de-escalation regulation.

6. The Ministry of Community Safety and Correctional Services should revise edged-weapons training for recruits and in-service officers to stress de-escalation techniques as the first option when facing a person with an edged weapon, provided that public and officer safety and tactical considerations permit.

Recruit training

7. The Ministry of Community Safety and Correctional Services should expand the training period for new recruits at the Ontario Police College and use the additional time for more explicit training on de-escalation techniques and for practicing more de-escalation scenarios.

8. The Ministry of Community Safety and Correctional Services should use the expanded Ontario Police College curriculum to offer more training on mental illness, and strategies to de-escalate situations involving persons in crisis.

9. The Ministry of Community Safety and Correctional Services should expand mandatory annual use-of-force refresher/requalification training to two days, with one day dedicated to use-of-force techniques and one day to de-escalation techniques. This should also include clear guidelines to evaluate an officer's use of de-escalation techniques. The Ministry should monitor police services' implementation of this expanded course.

On-the-job training

10. The Ministry of Community Safety and Correctional Services should require scenario-based training as part of annual refresher training and provide recommended content.

11. The Ministry of Community Safety and Correctional Services should develop a standard syllabus on de-escalation, with definitions and training techniques, to ensure a consistent, high standard of in-service training of police officers across the province.

12. The Ministry of Community Safety and Correctional Services should revise the curriculum for use-of-force trainers to better enable them to provide training on de-escalation techniques as part of annual training for police officers. Rather than repeat basic concepts from recruit training, the trainers' course should focus on teaching de-escalation techniques and strike a better balance between use-of-force tactics and de-escalation tactics.

13. The Ministry of Community Safety and Correctional Services should set guidelines for the selection of use-of-force trainers, so that de-escalation and communications expertise is given equal weight with weapons training experience.

14. The Ministry of Community Safety and Correctional Services should institute and monitor a mandatory two-year recertification for use-of-force trainers, the same as it does for those who teach officers to use Tasers.

Reporting, tracking and using de-escalation stories

15. The Ministry of Community Safety and Correctional Services should develop a standard reporting process that enables feedback and learning on de-escalation. The process should be used after all interactions with people perceived to be suffering from a mental illness or who are otherwise in crisis, where force was an option but was not used, and where the situations were successfully de-escalated.

16. The Ministry of Community Safety and Correctional Services should monitor de-escalation reports to identify best practices, and use the information as a learning tool for recruits and in-service training.

Successful de-escalations should be shared among police services as a model of expected behaviour.

17. The Ministry of Community Safety and Correctional Services should work with the Ministry of the Attorney General and the Special Investigations Unit to analyze information collected in SIU investigations into incidents involving the death or serious injury of persons perceived to be suffering with mental illness or who are otherwise in crisis, and incorporate relevant lessons into the police training process.

Body-worn video

18. The Ministry of Community Safety and Correctional Services should actively monitor ongoing police pilot projects in the use of body-worn video to assess its value as an accountability and de-escalation tool. Based on the results of existing pilot projects, the Ministry should consider providing direction to police forces on the use of body-worn video, by no later than May 2017.

Changing police culture

19. The Ministry of Community Safety and Correctional Services should institute new mandatory training standards for coach officers, recognizing that these on-the-job mentors are a vital force in shaping new officers' skills and perceptions. The training for coach officers should be in line with the revised approach to de-escalation that will flow from the new use-of-force model and expanded de-escalation training at the Ontario Police College.

20. The Ministry of Community Safety and Correctional Services should make review of police services' coach officer programs part of its regular inspections of police services.

21. The Ministry of Community Safety and Correctional Services should institute new training for supervisory officers to help them develop skills in teaching de-escalation and in debriefing officers on how armed confrontations with persons experiencing a crisis were handled.

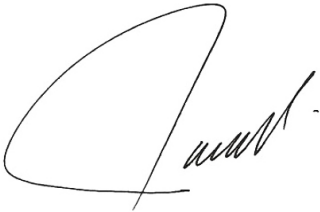
Reporting back

22. The Ministry should report back to my Office on a quarterly basis until I am satisfied that all recommendations have been implemented.

Response

- 301 As is required under the *Ombudsman Act*, the Ministry of Community Safety and Correctional Services was given the opportunity to respond to the findings and recommendations in this report before it was finalized. In fact, it had more than ample opportunity, because of the unusual situation in this case: The Ministry was provided with an earlier draft by my predecessor in March 2015, and had several contacts with my Office prior to receiving an updated draft in May 2016. I also met with then-Minister Naqvi in May and senior Ministry officials in early June.
- 302 Given all this, the response we received from the Ministry on June 10, 2016 – a two-page letter, attached to this report as an appendix – is disappointing and perplexing. Although it states that “some notable enhancements” were made to basic training at the Ontario Police College in May, and that its ongoing work “dovetails” with my recommendations, it has made no specific commitment to accept and implement them.
- 303 It refers to ongoing provincewide consultations on the Ministry’s “Strategy for a Safer Ontario,” which involves a wide spectrum of policing matters, including a much-needed review of the *Police Services Act*. It notes that police use of force, officer training and dealing with people in crisis are part of this review – but that is not new. Reviews and consultations have been going on since 2012, with few results.
- 304 The recommendations in this report are based on extensive evidence-gathering, including scores of interviews with experts on de-escalation training, in Ontario and elsewhere. They echo calls for reform that date back more than two decades. They provide a clear, detailed road map for the kind of change that the Ministry purports to support. And yet, the Ministry has so far failed to commit to any of them – nor offered any reason not to do so.

- 305 Instead, its letter concludes: “The Ministry is committed to reviewing all Ombudsman recommendations, and will formally respond with utmost due diligence once your final report has been made public.” This statement is frankly baffling. The Ministry is well aware that the time to review and respond to my recommendations is before my report is published, not after – it had several weeks to do this; indeed, it has been aware of the main recommendations for more than a year.
- 306 The time for “due diligence” on the part of the Ministry on de-escalation training is long past. We will of course follow up with the Ministry and new Minister, and I will report on what steps they take, if any. I strongly encourage them to review the human costs of their legacy of inaction, and to finally make this issue a priority.



Paul Dubé
Ombudsman of Ontario

**Appendix: Response from Ministry of Community Safety
and Correctional Services, June 10, 2016**

Ministry of Community Safety
and Correctional Services

Public Safety Training Division

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Tel: 416-314-6652
Fax: 416-212-4614

Ministère de la Sécurité communautaire et
des Services correctionnels

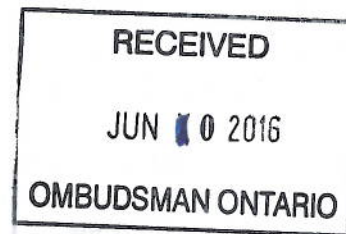
Division de la formation en matière
de sécurité publique

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Tél. : 416-314-6652
Télé. : 416-212-4614



June 09, 2016

Mr. J. Paul Dubé
Ombudsman
Office of the Ombudsman of Ontario
Bell Trinity Square
483 Bay Street, 10th Floor, South Tower
Toronto, ON M5G 2C9



Dear Mr. Dubé:

On behalf of Deputy Minister Torigian, I would like to thank you for providing the Ministry of Community Safety and Correctional Services with an updated version of your draft report on de-escalation, and for meeting with us on Friday, June 3, to discuss the Ministry's Strategy for a Safer Ontario (the Strategy). I am pleased to know that the work we are currently embarking upon dovetails with key recommendations from your police use of force review.

Since the Ministry's last correspondence with your office in April 2016, several province-wide public consultations regarding the Strategy have taken place. These included open public consultation sessions, as well as focussed sessions and an online survey. All feedback will be reviewed before tabling legislative reform. Specifically, as part of the consultations, the Ministry sought public input on how to improve interactions between police and vulnerable Ontarians, including enhancing front-line responses to those in crisis. Public sessions were held in London, Newmarket, Hamilton, Sault Ste. Marie, Thunder Bay, Cobourg, Ottawa and Toronto, and regional stakeholder sessions were held in St. Catharines, Thunder Bay, Timmins, Bancroft, Windsor, Stratford, Toronto, Brampton, Kenora, Sudbury and Cornwall. In addition, some MPPs organized local consultations in their communities to provide further input from constituents.

As you are aware, the Strategy represents the largest transformation of policing in Ontario in more than 25 years. This involves a review of the *Police Services Act (PSA)* and supporting regulations, standards and guidelines, which include the use of force and police response to persons in crisis.

Mr. J. Paul Dube

Page two

Furthermore, we have made some notable enhancements to the way we train our new recruits through the Basic Constable Training program. Commencing with the May 2016 intake, the Ontario Police College (OPC) added new sessions to introduce police recruits to behavioural influence concepts that are designed to enable officers to use the influence developed through a relationship with a person in crisis to achieve compliance rather, than an authority-based approach. This approach, combined with curriculum on assessing imminence and slowing events down, is to be used/demonstrated in practical exercises.

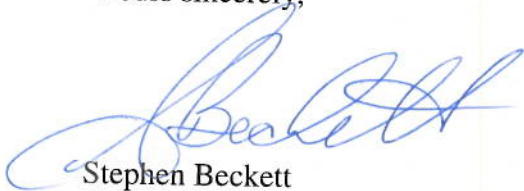
I am pleased that your office has agreed to visit the OPC in the coming months to witness the excellent training police officers and recruits receive. My staff will follow up with your office regarding possible dates and times.

The Ministry continues to review best practices across the country, and is currently conducting its own ongoing Use of Force Review as part of the Strategy, to examine officer training, equipment and how incidents are reported. We continue to work with our partners on further strengthening use of force training, de-escalation and assessment of relevant academic research.

Minister Naqvi has publicly stated that there must be a change to the model of policing, from one that is reactive and enforcement-driven to proactive and community-focused. We are committed to developing an integrated strategy that brings together various sectors, such as mental health, social services, education and police, to achieve safer communities for all Ontarians.

Please find enclosed all eight (8) copies of the draft report provided to the Ministry. As always, the Ministry is committed to reviewing all Ombudsman recommendations, and will formally respond with utmost due diligence once your final report has been made public.

Yours sincerely,



Stephen Beckett

Assistant Deputy Minister, Public Safety Division & Public Safety Training Division



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