Civil Liability and the Police Use of Force in Canada

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

Statutory provisions serve to govern the powers, status, and liability of police officers within Canada. This legislative framework also provides a means for determining when and by whom liability for the tortuous acts of police officers will be borne. Liability may flow from the breach of a direct duty of care (primary liability) or vicariously from a legally recognized responsibility for the actions of another (secondary liability). In either case, negligence will only lie where there is a duty, breach of the standard of care, and resulting losses.

Vicarious Liability

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

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

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

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

of a statutory duty. The causes of action asserted in these cases were of a different nature.

The performance of the duty imposed upon police officers to arrest offenders who have committed a crime and are fleeing to avoid arrest may, at times and of necessity, involve risk of injury to other members of the community. Such risk, in the absence of a negligent or unreasonable exercise of such duty, is imposed by the statute and any resulting damage is, in my opinion, *damnum sine injuria* (*Priestman v. Colangelo*, 1959).

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

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

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

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

In summary, these rulings indicate that vicarious liability will vary with the powers and duties being exercised by the police officer at the time the allegedly negligent act was committed. The acceptable level of force, therefore, will likely vary with each unique situation based upon the noted principles outlined by the courts.

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

In *Davidson v. City of Vancouver* (1986), the police removed a child from the custody of the plaintiff's sister as per an Ontario Court Order. The plaintiff responded by launching a civil action against the police agency, alleging that it was not authorized

to do so and had acted excessively. At trial, the Court held that Section 25(2) of the Criminal Code applied and provided the police with immunity in these specific circumstances (*Davidson v. City of Vancouver*, 1986).

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

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

At trial, the judge dismissed the action, citing that the force used by the police officers was reasonable under the circumstances. The trial judge also ruled that the police were immune from the action pursuant to Section 25(1) of the Criminal Code (*Allarie v. Victoria City*, 1993).

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

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

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

In response, the police officer struck the suspect on the nose with a flashlight. When the suspect attempted to stick his head and shoulders out a second time, he was struck once again by the officer. At trial, the judge dismissed the action, ruling

that the police officer's use of force was not excessive under the circumstances (*Nault v. Tromblev*, 1995).

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

The police officer then received instructions from his superior to arrest the subject. The subject resisted and was pepper-sprayed twice in the course of being handcuffed. The subject was charged with and convicted of resisting a police officer. A public inquiry exonerated the constable. At trial, each side agreed that the subject's behaviour was bizarre and that dogs were a factor in assessing risk. The only difference in view was whether the officer should have used an empty hands technique or retreated instead of using pepper spray. The officer and the City argued that appropriate necessary force was used to effect a lawful arrest.

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

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

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

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

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

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

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

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

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

At trial, the judge ruled that the police officers were jointly liable for the plaintiff's injuries that resulted during their bungled "take-down manoeuvre." The judge added that it was reasonably foreseeable, to both Smitas and Oleskiw, that a gun could accidentally discharge during the manoeuvre and injure Keeling, but

neither addressed his mind to the risk of accidental discharge. Both police officers, therefore, were jointly liable for the injuries sustained by the plaintiff (*Keeling v. Insurance Corporation of British Columbia*, 1997).

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

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

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

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

Interestingly, the initial decision rendered in the case of *Berntt v. City of Vancouver* (1997) was appealed to the Supreme Court of B.C. Upon appeal, the initial decision against the Vancouver Police Department was reversed with the presiding judge noting that the articulation of the police officer is critical in determining the evidentiary impact of the decision to use force.

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

> . . . the trial judge must proceed to the third and fourth questions. In so proceeding, he or she should be a doppelganger to the peace officer whose conduct is in issue.
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> . . . that the issue is whether a reasonable person standing in the position of the constable, who had the same responsibility as the officer to bring the

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

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

Liability in Regard to Failure to Train

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

Third Party Action in Relation to Inadequate Police Training

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

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

In the case of the British Columbia, there is no explicit statutory exemption making the government liable in those instances that indicate a failure to train. This would be in addition to the issue of vicarious liability, which may be imposed under Section 11 of the Police Act.

The Police Officer's Cause of Action for Inadequate Training

A police officer injured while in the course of performing his or her duties may allege that the government agency is negligent for failure to adequately train

him or her in the use of force. It is important to emphasize that the government agency has a responsibility to ensure that use of force is effectively authorized by regulating the qualifications of those individuals who are granted this authority.

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

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

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

Liability and General Duty of Care

In addition to the specific issue of liability regarding police use of force, there may also be allegations of negligence concerning other operations of the police agency. In this regard, there appears to be a growing trend towards the number of litigated matters concerning the conduct of policing in general. This trend is reflected in the following cases.

Failure to Protect the Public

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

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

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

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

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

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

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

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

Duty of Care to Prisoners

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

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

In the case of *Gerstel v. Penticton City* (1995), the plaintiff was arrested and placed in custody, awaiting trial on criminal charges. The plaintiff had a history of mental illness that included being diagnosed as suffering from schizophrenia with symptoms of depression, illusions, and paranoia. Nonetheless, he was transferred to a regular police holding cell with provisions made for frequent observational checks.

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

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

Conclusion

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

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

- That the police owed a duty of care to the plaintiff
- That the police should have observed a particular standard of care in order to perform or fulfill that duty
- That the police breached their duty of care by failing to fulfill or observe their standard of care
- That such breach of duty caused damage or loss to the plaintiff
- That such damage was not too remote a consequence of the breach so as to render the police not liable for its occurrence

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

> . . . the police in Canada, by and large, see themselves as public servants, as crime fighters answerable to the citizenry . . . public prosecutors are not afraid to lay charges against the police when the evidence is there . . . the courts are willing to find against the police. Of course, it is more difficult to convict a police officer than it is an ordinary citizen or to get a civil judgment against the police: When we allow the police to use force against us, we must allow them some freedom from being second-guessed about their split-second judgments. (Westwood, 1997, p. A23)

Noteworthy is that police officers in Canada and the United States are receiving better training and more precise guidance by departmental policy and appear to be making better decisions in the field regarding the usage of force than in the past. In addition, both Canadian and U.S. police have more equipment options at their disposal than in former years, which give them viable ranges of force to utilize when encountering resistance.

In addition to these developments, the concern regarding negligence and liability appears to have intensified professionalism within policing. As a result, Canadian police agencies appear to have become more proactive in meeting the demands and expectations of both the courts and the public. This approach is a departure from past practices, which were largely reactive, often taking the form of policy changes.

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