

Response on Use of Force policy

The proposal to reconsider the Use of Force Policy was approved by the Board on August 18, 2020.

“9. Direct the Executive Director, in consultation with the Chief of Police, to review the Board’s Use of Force Policy, consult with internal and external experts, and propose to the Board by November 2020, amendments to the Policy that will align it with best practices to reduce death and injuries from the use of force by Service Members and with the Ontario Provincial Use of Force Model.”

The direction required a report by the end of 2020 (eighteen months ago), and it is limited – not to reduce the use of force, but simply to reduce “death and injuries from the use of force. This limitation is reflected in the statement of purpose of the new policy: “The purposes of this Policy are to:

- Establish zero tolerance of the willful use of excessive force...
- Ensure that any force option will be used against a member of the public only where it is reasonably necessary and in a manner proportionate to the circumstances to effectively protect public safety.

The first statement only deals with excessive force; the second puts the decision in the hands of an officer, who can hardly expect to say that what he/she did was not necessary.

We believe any review of the Use of Force policy must not assume that police will use force. It must challenge that presumption.

Any consideration of the use of force policy must begin with an acknowledgement that police use of force - often aggressive, sometimes extreme – is firmly embedded in police culture. Police authorities assume that the use of force is a basic part of their job and it is often used on those who are arrested, witness the significant number of occasions when those arrested complain of being kicked, kneed, punched, kneeled on, and so forth. Of course, some are killed – three or four dozen a year in Canada. While officers often explain they were simply responding to a difficult person, many (including many judges) see this simply as a poor excuse for their actions.

Too often police violence is overlooked or condoned by other officers, or by superiors. It is just part of the job, they seem to say. Jerome Skolnick entitled his book on this aspect of police culture as ‘Justice Before Trial’, concluding that these assaults happen because somehow the police think they are in the front line, responsible for meting out justice, and that the criminal justice system may not do it as they think appropriate.

This aspect of police culture is taught at police college, where a significant amount of time is taught about how to fire a gun, trying to tell young recruits that they are entering a dangerous profession for which they need a gun to protect themselves if no other means is available to them – even though most police officers will never fire that gun throughout their whole life as

police officers. It is re-enforced by the annual gun training all officers must undertake. The latent violence police are told to expect is re-enforced by the body armour they wear, the taser they carry, and the baton at their side.

Given all these cues pushed onto police officers about how they should act, it is understandable why so many respond by the use of force. That also explains such dubious practices as the no-knock entry, where officers burst upon an unsuspecting individual with guns drawn.

Accordingly, a draft use of force policy and procedure should begin as follows:

It is acknowledged that deeply embedded in police culture is the use of force - often aggressive sometimes extreme. This aspect of police culture must be challenged and changed so that police may better serve the community, and this use of force policy is crafted to make some preliminary steps in that direction.

One immediate change must be to disarm rank and file police officers – remove their guns, conducted energy weapons, body armour and batons. This will not only reduce death and injury, but also assist in helping them to rethink their relationship with those they are arresting and generally dealing with: they will realize that force and violence is not an appropriate way to deal with most situations.

Most police requests for service do not involve threats or violence. Toronto police data indicates that only about 3 per cent of police calls for service can be described in this way. For that three per cent of calls, it may be necessary to send out the emergency task force where officers are specially trained in how to use – and not use – violence.

It must be noted that there are many other people who intervene in dangerous situations and resolve them without the use of force: teachers, social workers, child protection workers, health care workers, friends and family members. Police are the outliers in thinking that force is necessary to resolve most situations.

Accordingly,

All reference to guns, conducted energy weapons, and batons in the use of force policy and procedures for rank and file officers should be removed. This includes removing reference to training in the use of such weapons. An independent policy and procedure should be established for members of the emergency task force.

It is only in this context that the emphasis on de-escalation makes sense, since only when the officer is on a more-or-less equal ground with those being dealt with that the officer can be expected to use de-escalation techniques.

The draft policy document sets out requirements for de-escalation. As noted above, all sections relating to guns, conducted energy weapons and batons should be removed.

We support the proposal requiring officers to intervene when prohibited or excessive force is used by another.

When Stephen Lewis reported to the Premier on racism in Ontario in 1992, he recommended that officers be required to report on any use of force, not just that requiring medical treatment. That recommendation was never adopted. We understand that has been also recommended more recently by U of T criminologist Scot Wortley. This change should be put in place,

We do not believe this would include all forms of touching. Touching with consent or implied consent would clearly be excluded. Consultation with teachers who have dealt with this issue for years would be helpful in sorting out what is permitted and what is not.

Accordingly,

Officers should be required to report on any use of force, whether or not it requires medical treatment.

The changes noted above should all be reflected in the 15-01 Incident Report document. This will require substantial amendments to this document since so much of it deals with the use of a gun – an indication of the extent to which gun use figures so largely in police culture. We have considerable doubt that the Ontario Use of Force Model is a useful guide for officers, as claimed in paragraph 2 of the Rationale. We believe the Use of Force Model needs to be rethought.

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April 17, 2022.