

**CACOLE Conference – Panel
Civilian Oversight of Use of Force**

June 16, 2008

*Speaking Notes for Toronto Police Services Board Chair Alok
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I. Introduction

Good afternoon,

Lately, there has been quite a bit of discussion on the subject of use of force, especially in the context of Tasers.

In the public mind – and even in the minds of many people in government ministries responsible for policing matters as well as those involved with civilian oversight of policing themselves – use of force is, for the most part, if not entirely, an operational matter under the jurisdiction of the Chief of Police. In my mind, there is, most certainly an important role for civilian oversight bodies to play and it is this role that I intend to explore in my brief remarks.

In Ontario, use of force is legislated through a Regulation to the provincial *Police Services Act*. The province's Use of Force model creates the framework for determining when and how force should be used in different situations.

II. Public Concerns re: use of force in Toronto – Saving Lives Conference on Alternatives to Lethal Force

In June 2000, a conference was held, entitled “Saving Lives: Alternatives to the Use of Lethal Force by Police.” This conference was hosted jointly by the Urban Alliance on Race Relations and the Queen Street Patients Council with participation from many community stakeholders as well as members of the Toronto Police Service and the Toronto Police Services Board.

The conference was occasioned by heightened public concern caused by a number of incidents in the 1990s in which police use of lethal force had resulted in deaths. These tragic events had gained a high public profile and generated considerable controversy and accusations of biased policing because of the fact that those shot to death were people of colour, almost all of whom suffered from mental illness. There was great public concern about the effectiveness of policies, procedures and training related to issues such as police interactions with different communities, race relations, mental illness and force options available to police officers.

The conference was an effort on the part of the concerned communities and the police service to find solutions in partnership. As is evident from the title of the conference, one of the main areas of focus was that of the use of lethal force by police. There were a number of presentations, as well as a panel discussion, on “less-than-lethal” technology. Suggested actions arising from these sessions included investing in systematic and reliable research on the use of force, establishing a sound policy on the issue and developing practical and effective alternatives to incapacitating individuals.

The conference report outlined a series of important recommendations. Recommendations in the area of use of force included that police continue to receive training in methods of de-escalation, that chiefs of police provide administrative reports on events where the provincial Special Investigations Unit (better known as the SIU) had invoked its mandate to police services boards, and that a provincial ministry publish a newsletter on alternatives to lethal force.

At its meeting of April 7, 2005, the Toronto Police Services Board reaffirmed its commitment to implementing the recommendations contained in the Saving Lives conference report and established

the Saving Lives Implementation Group, or SLIG, which has been meeting since that time and examining the issues raised. The working group is comprised of Board members, Service members and community members from a variety of organizations and backgrounds.

It is my hope that this progressive group will help us to move forward on these critical issues, including use of force.

Recent events, such as the deaths of Jeffrey Reodica, a Filipino youth, and Otto Vass, who suffered from a mental illness as well as other medical problems, have only reinforced the need for the work that SLIG has been engaged in.

III. Making Public Policy within the Legal Framework on Use of Force

Arguably, much of the discussion around use of force is perhaps operational in nature. But, as the public response to the tragedies I have mentioned suggest, there is an overriding public policy interest as well concerning the application of force to individuals by police officers. The power to use a range of force options, including lethal force, that the law gives police officers is necessary and important. Public interest requires great

accountability and scrutiny with respect to the exercise of this power.

The decision of the Toronto Police Services Board to establish the Saving Lives Implementation Group consisting of the Chief of Police and other senior members of the Service, knowledgeable members of the community and members of the Police Services Board, is a recognition, on one hand, of the obligation on the part of the Board to pay serious attention to that public interest and, on the other, of the fact that use of force is one of those areas where operational issues cannot be dealt with in isolation from broader public interest considerations. And those considerations, I would suggest, are very much the concern of civilian oversight.

The Toronto Police Services Board has a policy regarding use of force. It states that the Board places the highest value on the protection of life and the safety of its officers and the public.

Clearly, from the perspective of a policy which places the highest value on protection of life and on safety, de-escalation and containment techniques to prevent a situation from escalating to a point where further force is required assume considerable significance.

This policy statement has obvious operational implications with respect to when, how and what force is to be used, what training is to be provided, how police officers are to be held accountable for their decisions to use certain types of force, and what are the consequences for failing to follow prescribed procedures. It has implications as well for what the Board's obligation is in terms of providing information to the public on uses of force by members of the police service.

Under our policy, the Chief of Police must ensure that force options used by Service members meet all requirements and standards established by the provincial Ministry of Community Safety and Correctional Services. In addition, the policy requires the Chief to ensure annual training for members required to use force and for those authorized to carry force option weapons.

IV. Jurisdictional Issues: Who Does What re. Use of Force – Province, Service, Board

While the Board creates an overarching governance framework, the Chief determines the operational details related to use of force. In Toronto, as elsewhere, this is dealt with through operational procedures.

The primary determinant in use of force is the Ontario Use of Force Model, which is an aid to promoting continuous critical assessment and evaluation of every situation. The model assists police officers to understand and make use of a variety of force options to respond to potentially violent situations.

It is important to note that this use of force continuum does not go just one way. A police officer acting in accordance with this continuum has the ability to go in either direction, escalating or de-escalating the response as the situation demands.

This model provides a valuable framework for understanding and articulating the events associated with an incident involving an officer's use of force.

While the province's Use of Force Model assists an officer in making force option decisions on the ground, Regulation 926 of the Revised Regulations of Ontario prohibits a police officer from using force on another person, unless the officer has successfully completed the prescribed training course on use of force.

Finally, with respect to accountability, there is the issue of legal liability. The *Criminal Code* empowers every person who is required or authorized to do anything in the administration or enforcement of the law, to use as much reasonable force as necessary. Every person is liable both criminally and civilly for any unjustified or excessive use of force. In Ontario, a police service is required to report every incident involving police and civilians resulting in serious injury or death to a member of the public to the provincial Special Investigations Unit. On a case by case basis, the SIU decides whether it wishes to take jurisdiction over the incident. If it decides to do so, the SIU carries out a full investigation and has the power to lay criminal charges.

The Chief of Police undertakes an administrative review of all policies and procedures relevant to the specific incident as well as of the conduct of the officers involved. The findings of the SIU and of the Chief's administrative review can result in conduct charges being laid under the *Police Services Act*.

The results of the SIU investigation and the Chief's administrative review are reported to the Board on an ongoing basis. With access to this information, the Board is in a position to provide effective oversight by ensuring that the actions of the officers as

well as the handling of the reasons and results of those actions by the police service were consistent with its policies and in the public interest. That is to say, the information enables the Board to hold the police service accountable on behalf of the community.

V. The Issue of Public Trust: Robert Peel on Public Trust and the Role of Civilian Oversight

It is important to always be mindful of the fact that the Board governs the police service *on behalf of* the public. The Board represents the city, the community, the public. Through the Board, the public oversees the police.

To me, this is the cornerstone of policing in a democratic society. I believe strongly that in such a society the public should be able to decide the kind of policing they want, and to hold the police accountable. It is an expression of one of the nine principles set out by Sir Robert Peel, the father of modern professional policing.

According to Peel's second principle, "The ability of the police to perform their duties is dependent upon public approval of police actions."

In my view, civilian oversight mechanisms, such as a police services board, represent Peel's second principle in action. If it is effective and working well, such a mechanism facilitates that "public approval of police actions" to which Peel refers.

Through the policing objectives, priorities and policies that a board establishes, the community's interests and needs are given expression. And by scrupulously following those in its actions, a police service gains public approval.

VI. Public Accountability: The Annual Board Report

Public trust and approval depends as well on public accountability – perhaps even more so. Our Board's policy on use of force requires the Chief to report all incidents of use of force to the Board on an annual basis.

This exceeds the reporting of use of force which is legislated through the regulation to the provincial *Police Services Act*. Though there is a comprehensive process in the regulation for reporting use of force incidents, it is an internal report.

In Toronto now, detailed information on use of force is reported annually to the public as part of a comprehensive Professional

Standards report. As the name suggests, this report provides information on the various types of uses of force, any serious consequences, circumstances in which force was used, public complaints, and disposition of conduct issues, for example. It is a very useful tool for holding the service as well as the Board itself accountable to the public in regard to an aspect of policing that is of great public interest and has generated a lot of public scrutiny.

Because of its importance, this annual report receives considerable attention from Board members as well as the public. I should add that it is not the only public report on use of force. We receive a separate detailed annual report on the use of Tasers. But I shall save that for the next session!

VII. Conclusion: So What Can We Do?

As all of us know from experience, police use of force, particularly lethal force and deemed to be lethal force such as the Taser, is a matter of great public interest and concern. The first media reports as well as the subsequent fallout are sometimes negative.

A body of opinion forms suggesting that there was no justification for the force that was used, or that it was not reasonable.

Even when an independent investigation, such as by SIU in Ontario or a Coroner's inquest, finds that there was no wrongdoing, questions persist. As we found in the aftermath of the death of Jeffrey Reodica in Toronto, there was great reluctance in accepting the verdict of the Coroner's jury, and a strong community voice emerged in favour of further police reforms and better relations with the city's Filipino community. It has taken significant effort on the part of the Board and the Service to overcome the fallout.

If anything, it was through our acknowledgement of the loss to the Reodica family, our willingness to engage with the community, and our assurance that their demands for better attention to issues of diversity and human rights had been heard, that we have gone a long way towards healing the wounds that are inevitably caused by tragic incidents like these, no matter how justified the police action.

The actions that were taken to deal with the aftermath of the Reodica incident are, I suggest, an essential part of our civilian

oversight role. Such actions constitute a balancing act between holding the police service accountable and holding ourselves accountable to the community.

The cost of not recognizing the importance of this balancing act can be enormous in terms of not only expensive civil litigation, but also loss of public trust and confidence.

Effective oversight by way of clear policies, internal reporting mechanisms and public accountability is critical.

Thank you.