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Another denial of police humanity

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Shivers ran through the Ontario police ranks last week when that province's appeal court ruled officers who shoot and kill someone are not entitled to legal advice in preparing their accounts of what happened.

The case centred on two police shootings and the officers that had legal support in making notes that are, by provincial regulation, mandatory.

Ontario's Special Investigation Unit -- the police watchdog -- had earlier cleared the officers when its director claimed he had no option, adding that because of the lawyer's involvement, their notes may have been unreliable.

The ruling comes after 20 years of controversial service by the SIU. There have been inquiries into its effectiveness. A former director has been sued. The public says it's biased toward the police. Other reports pit police brass and unions against the oversight agency.

The court's decision was a shot in the arm for the beleaguered SIU, saying that instead of providing specific legal advice, lawyers should simply inform officers of their legal obligation to produce and forward a written account of their actions.

The Court spelled out that individual rights for police officers come second in the big scheme of things.

"Note-taking is a core element of (police) duty. Focusing on the officer's private interests rather than the interest of the SIU investigation is inconsistent with the officer's public duty."

There was no shortage of cheerleaders when the ruling was announced. They included Toronto lawyer Julian Falconer, quoted widely as he expressed gratitude to the court for effectively thwarting future attempts by the police to manipulate a system that was put in place to oversee them.

Missing from the discussion was the reality of what officers face when involved in a police shooting. Unlike what Falconer's disciples may say, the aftermath of an officer using lethal force is an exercise in stress survival, not manipulation.

The accounts of the Ontario ruling lacked humanity and read as if officers were mostly robotic, quite capable of killing, doing notes and carrying on as if nothing had changed. No hint or pause

to consider the dynamics at play when an officer is thrown into the hell of a split-second decision with life and death on the line.

The stress is extraordinary. And because most shootings are a last resort, they are most often up close and personal. They happen in a flash. For the officer, according to expert research, time may seem to speed up or slow down. Noise can be elevated or oddly silent and in some cases officers may even feel an out-of-body experience.

The effects may last a lifetime.

Unlike the images conjured up by anti-police factions, there is no lounging around the station waiting on a union lawyer to cook up a story.

As an investigator of such events, my experience has been that the officer is separated from others and advised of his rights, as a criminal might be. It is a homicide investigation after all.

The officer is placed in a room often used for murder suspects and other prisoners. Instead of being able to speak and check on his partner, just to see how he's doing, the officer is more likely to have his uniform or other clothing taken away.

His weapon will already have been seized. He may be left wearing a disposable paper suit.

Gun-shot residue tests are likely and DNA may be taken from him.

A simple twist of fate -- his availability for a call -- transported him to the hot centre of some very unwanted attention. He knows there will be an investigation, a review, an inquest. Maybe a civil suit. Maybe a trial. All of which will go to great length to judge that split second where ordinary became extraordinary.

Even if all police action is fully justified, the officer may be racked with remorse or guilt and spend days, months, sometimes more, second-guessing his life-altering decision.

And there's usually an uninformed peanut gallery champing at the bit with its two-cents-worth (thankfully, that has been minimal with last weekend's non-fatal shooting of a Long Plains First Nation resident by RCMP.)

The police must be accountable. That's part of the territory, especially when the sanctioned use of force is in question.

But cops are human, too. That part is too easily forgotten when perfect endings aren't in the cards.

Sure, there are some bad apples in the police barrel. But we're lucky in Canada. Police corruption is hardly pervasive despite the sometimes unconscionable, shoot-from-the-hip commentary that paints entire departments in rogue-like fashion.

The biggest fear is that the chilling effect of the Ontario ruling and remarks from influential people like Julian Falconer will lead to a cop freezing at a time when life and death depends on all his training.

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