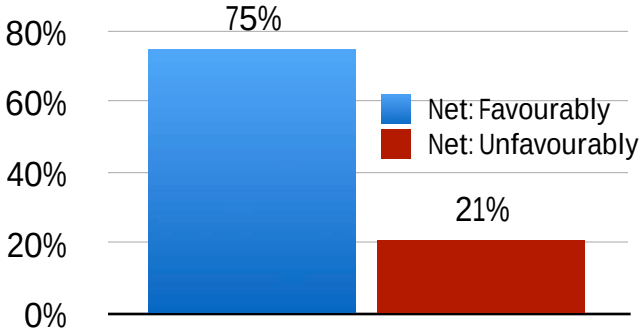
JUSTICE INSTITUTE of BRITISH COLUMBIA

IN SERVICE: 10-8

A PEER READ PUBLICATION

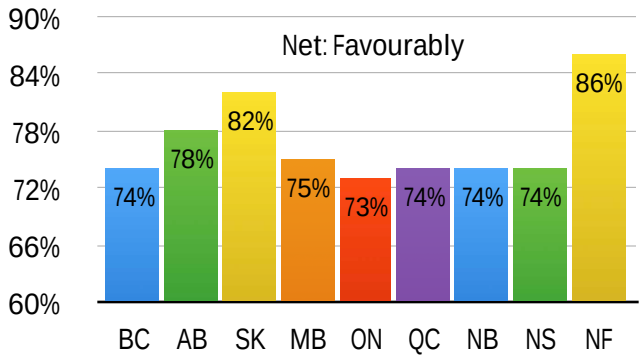
MOST CANADIANS VIEW POLICE FAVOURABLY

According to an Angus Reid Institute study released in October 2020, the vast majority of Canadians perceive the police in their own community favourably. In the survey, respondents were asked whether they generally viewed the police in their own community where they lived as favourably or unfavourably. According to the report, **75%** of Canadians viewed their local police favourably, while **21%** did not. The remaining respondents were not sure or did not know.



Police Viewed Favourably by Region

Newfoundland and Labrador had the highest proportion of residents with a favourable view of police followed by Saskatchewan, Alberta and Manitoba.



Police Viewed Favourably by Major City

Major City	Net Favourable	Net Unfavourable	Not sure/ Don't know
Regina	84%	16%	1%
Calgary	79%	16%	5%
Edmonton	79%	19%	2%
Saskatoon	75%	19%	5%
Quebec City	74%	22%	4%
Halifax	72%	28%	3%
Winnipeg	70%	26%	4%
Vancouver	69%	27%	4%
Greater Toronto Area	69%	24%	7%
Montreal	67%	29%	4%

Favourably Factors

Looking at various respondent groups, the following were more likely to favourably view their local police:

- **Females (77%)** v. Males (72%)
- **55+ years of age (85%)** v. 35-54 years (76%) or 18-34 years (59%
- **$100K income (78%)** v. $50K-<$100K income (77%) or <$50K income (67%)
- **College educated (76%)** v. High school or less educated (74%), or University educated (73%).
- **Conservative voter (84%)** v. Bloc voter (80%), Liberal voter (75%), Green voter (62%) or NDP voter (61%).
- **Caucasian (77%)** v. Indigenous (72%) or other visible minority (67%).

See more on p. 5

Highlights In This Issue

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JUSTICE INSTITUTE of BRITISH COLUMBIA | LIBRARY

WHAT'S NEW FOR POLICE IN THE LIBRARY

The Justice Institute of British Columbia Library is an excellent resource for learning. Here is a list of its recent acquisitions which may be of interest to police.

Be ready for anything: how to survive tornadoes, earthquakes, pandemics, mass shootings, nuclear disasters, and other life-threatening events.
Daisy Luther.
New York, NY: Racehorse Publishing, 2019.
GF 86 L883 2019

Conflict management for managers: resolving workplace, client, and policy disputes.
Susan S. Raines.
Lanham, MD: Rowman & Littlefield, 2020.
HD 42 R35 2020

Creating a drama-free workplace: the insider's guide to managing conflict, incivility & mistrust.
Anna Maravelas.
Newburyport, MA: Career Press, 2020.
HD 42 M375 2019

Dealing with difficult people: fast, effective strategies for handling problem people.
Roy Lilley.
London, UK; New York, NY: Kogan Page Ltd., 2019.
HF 5548.8 L493 2019

Dark side of media and technology: a 21st century guide to media and technological literacy.
Edward Downs, editor.
New York, NY: Peter Lang Publishing, Inc., 2019.
P 95.54 D37 2019

Evidence-informed learning design: creating training to improve performance.
Mirjam Neelen & Paul A. Kirschner.
London, UK: Kogan Page Ltd., 2020.
HF 5549.5 T7 N398 2020

Fear is fuel: the surprising power to help you find purpose, passion, and performance.
Patrick Sweeney.
Lanham, MD: Rowman & Littlefield, 2020.
BF 637 S8 S94 2020

Interpreting qualitative data.
David Silverman.
London, UK; Thousand Oaks, CA: SAGE Publications Ltd., 2020.
HM 571 S53 2020

Interviewing as qualitative research: a guide for researchers in education and the social sciences.
Irving Seidman.
New York, NY: Teachers College Press, 2019.
H 61.28 S45 2019

An introduction to qualitative research.
Uwe Flick.
Los Angeles, CA: SAGE, 2018.
BF 76.5 F55 2018

Lawless: the secret rules that govern our digital lives.
Nicolas P. Suzor.
Cambridge, UK; New York, NY: Cambridge University Press, 2019.
K 564 C6 S875 2019

Managing privacy in a connected world.
Éloïse Gratton & Elisa Henry.
Toronto, ON: LexisNexis Canada Inc., 2020.
KE 1242 C6 G73 2020

The power of strategic listening.
Laurie Lewis.
Lanham, MD: Rowman & Littlefield Publishers, 2020.
HD 30.3 L495 2020

Single-session coaching and one-at-a-time coaching: distinctive features.
Windy Dryden.
Abingdon, Oxon; New York, NY: Routledge, Taylor & Francis Group, 2020.
BF 637 P36 D79 2020

CBSA SEIZURES

Canada Border Services Agency (CBSA) released its seizure statistics for the 2019-2020 fiscal year (posted May 29, 2020). The fiscal year begins on April 1 and ends on March 31 the following year.

DRUGS

Cannabis Products	
Grams	4,322,136

Cannabis products includes dried and fresh cannabis, cannabis seeds, resin, solids, non-solids, concentrates and synthetic cannabis.

Hashish	
Grams	24,370

Cocaine/Crack		
2018/2019	2019/2020	Change
1,429,465 grams	1,304,903 grams	-9%

Cocaine/crack includes coca leaves, coca paste, cocaine and cocaine crack.

Heroin		
2018/2019	2019/2020	Change
119,884 grams	178,306 grams	+49%

Fentanyl		
2018/2019	2019/2020	Change
5,166 grams	2,951 grams	-43%

Jewelry		
2018/2019	2019/2020	Change
6,839 seizures	15,142 seizures	+121%

Firearms		
2018/2019	2019/2020	Change
696	753	+8%

Firearms include non-restricted, restricted, and prohibited firearms.

Prohibited Weapons		
2018/2019	2019/2020	Change
22,264	18,966	-15%

Child Pornography		
2018/2019	2019/2020	Change
227	295	+30%

Currency		
2018/2019	2019/2020	Change
$32,899,456	$27,493,051	-16%

Suspected Proceeds of Crime		
2018/2019	2019/2020	Change
$2,808,831	$3,527,776	+26%

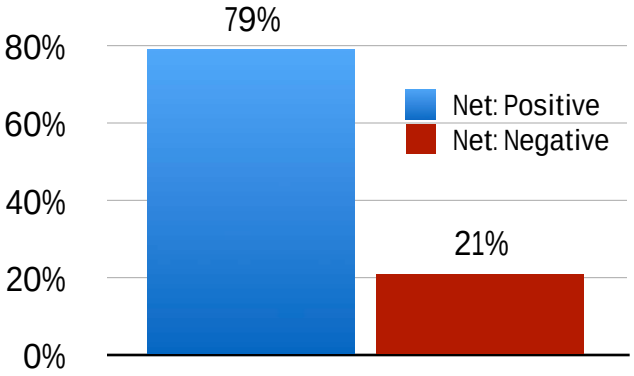
Alcohol		
2018/2019	2019/2020	Change
22,070 litres	14,209 litres	-36%

Tobacco		
	2018/2019	2019/2020
Cartons	14,560	10,618
Kg	161,384	173,391

Total Seizures		
2018/2019	2019/2020	Change
30,689	47,765	+56%

Most Interactions With Police Positive

For respondents having at least one direct interaction with police in the last five years, most rated their overall experience with police as positive when asked to think about the officer(s) demeanour and the way the person was treated. An interaction was described as *"anything from a traffic stop, to speeding ticket, to reporting a break in or disturbance."*



The net positivity of police/citizen encounters varied across provinces.

Region	Net Positive	Net Negative
British Columbia	78%	22%
Alberta	84%	16%
Saskatchewan	86%	14%
Manitoba	83%	17%
Ontario	78%	22%
Quebec	76%	24%
New Brunswick	79%	21%
Nova Scotia	83%	17%
Newfoundland and Labrador	84%	16%

Positivity Factors

Looking at various respondent groups, the following were more likely to view their interactions with police as positive:

- **Females (81%)** v. Males (79%)
- **55+ years of age (84%)** v. 35-54 years (79%) or 18-34 years (74%)
- **$100K income (83%)** v. $50K-<$100K income (81%) or <$50K income (71%)
- **College educated and University educated (80%)** v. High school or less educated (77%)
- **Conservative voter (86%)** v. Liberal voter (79%), Bloc voter (78%), NDP voter (71%) or Green voter (70%).
- **Caucasian (81%)** v. visible minority (76%) or Indigenous (72%).

Most Canadians Proud of Their Police

When asked, the overwhelming majority of Canadian residents agreed the police in their community made them proud. In total, **72%** of respondents said they strongly or moderately agreed they were proud of their police while **28%** did not.

The poll also divided respondents into four (4) groups based on their perspective of police:

- **True Blue** - 26% of population
- **Silent Supporters** - 26% of population
- **Ambivalent Observers** - 22% of population
- **Defunders** - 25% of population

Police in community make me proud.		
Policing Perspective	Net Agree	Net Disagree
True Blue	97%	3%
Silent Supporters	90%	10%
Ambivalent Observers	73%	27%
Defunders	28%	72%
Total	72%	28%

See full survey for more results.

SHARE IT. DON'T WEAR IT.

IT'S TIME TO SPEAK UP ABOUT MENTAL HEALTH.

AMBULANCE PARAMEDICS OF BRITISH COLUMBIA | BC EMERGENCY HEALTH SERVICES | BC MUNICIPAL CHIEFS OF POLICE | BRITISH COLUMBIA POLICE ASSOCIATION | BRITISH COLUMBIA PROFESSIONAL FIRE FIGHTERS ASSOCIATION | CANADA BORDER SERVICES AGENCY | FIRE CHIEFS' ASSOCIATION OF BC | FIRST NATIONS EMERGENCY SERVICES SOCIETY OF BRITISH COLUMBIA | GREATER VANCOUVER FIRE CHIEFS ASSOCIATION | PROVINCE OF BC | ROYAL CANADIAN MOUNTED POLICE | TRANSIT POLICE | VOLUNTEER FIREFIGHTERS ASSOCIATION OF BC | WORKSAFEBC

BCFirstRespondersMentalHealth.com

For more resources on better understanding mental health in the context of the experiences and pressures of first responders, as well as the broader population, visit the following link.

www.BCFirstRespondersMentalHealth.com

BC IIO NOTIFICATIONS UP FROM THE PREVIOUS YEAR

In its Annual Report 2019-2020, the IIO described itself as follows:

> The IIO is a civilian-led, police oversight agency which was created in 2012. At its helm is a Chief Civilian Director (CCD) who is, by statute, not permitted to have ever been a police officer. The IIO is responsible for conducting investigations into incidents of death or serious harm that may have been the result of the actions or inactions of a police officer, whether on- or off-duty. The IIO is responsible for investigating these incidents throughout the province of B.C.
>
> The IIO has jurisdiction over all of B.C.'s policing agencies. This includes 11 municipal agencies, the Royal Canadian Mounted Police (RCMP), the South Coast BC Transportation Authority Police Service, and the Stl'atl'imx Tribal Police Service. Our jurisdiction includes officers appointed as special provincial constables, municipal constables, and on- and off- duty police officers. The IIO's authority comes from the British Columbia Police Act, which requires the police to notify the IIO of an incident that may fall within its jurisdiction.
>
> An investigation commences whenever there has been serious harm or death. There does not need to be an allegation of wrongdoing. All investigations are carried out in as transparent a manner as is practical under the circumstances, while respecting the integrity of the investigation and the privacy interests of those involved. The IIO conducts all investigations to a criminal law standard.

According to its Annual Report, the IIO received **242** incident notifications that potentially involved serious harm or death arising from the action or inaction of police for the fiscal period from April 1, 2019 to March 31, 2020. Of these 242 notifications, **49** were categorized as advice files while **193** were investigated. Of the **193** investigations, **106** files were concluded without a public report or media release, **41** files were closed with a public report, eight (**8**) files were concluded with a media release, six (**6**) files were referred to Crown Counsel and **36** files remained under active investigation.

Of the 193 investigations opened:

- **132** originated from an RCMP detachment, **60** from a municipal police agency and one (**1**) from the Stl'atl'imx Tribal Police Service.
- **156** notifications to the IIO occurred within 24 hours of the incident taking place. Of these notifications, **28** were made within one hour of the incident. The remaining **37** notifications occurred after 24 hours.

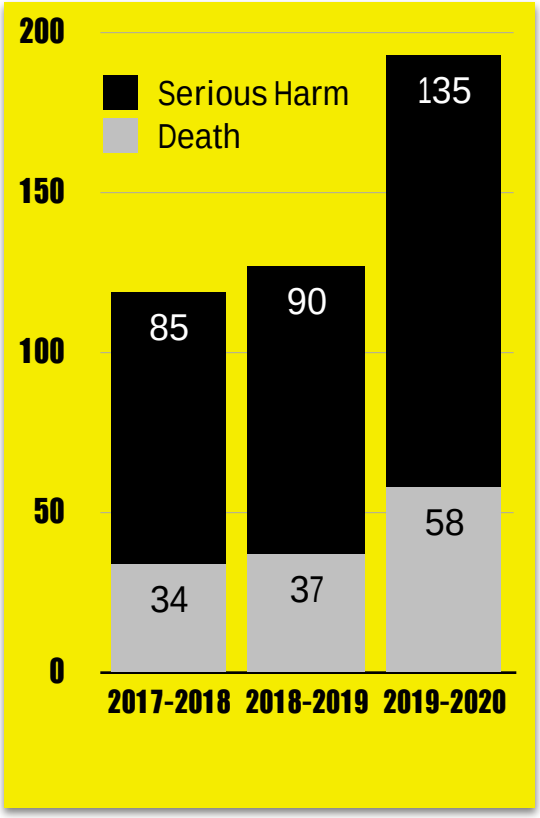
AFFECTED PERSONS

Individuals who died or suffered serious injuries as a result of an interaction with BC police.

Ages	15-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	Total
Male	11	8	29	34	20	13	13	16	9	0	153
Female	1	3	4	2	4	4	5	2	2	2	29
Total	12	11	33	36	24	17	18	18	11	2	182

Note: The IIO's Annual Report 2019-2020 identified 167 affected persons as male and 29 as female. This totals 193 affected persons. However, the IIO table provided at p. 16 of its annual report identified only 182 affected persons by age categories.

FILES BY CLASSIFICATION			
Classification	Death	Serious Harm	Total
CEW (Conducted Energy Weapon)	0	2	2
Firearm	3	3	6
In Custody	2	4	6
Medical	7	6	13
MVI (Motor Vehicle Incident)	5	28	33
PSD (Police Service Dog)	0	14	14
Self-Inflicted	27	24	51
Use of Force	3	42	45
Other	11	12	23
Total	58	135	193



"Serious harm" is defined "as injury that may result in death, may cause serious disfigurement, or may cause substantial loss or impairment of mobility of the body as a whole or of the function of any limb or organ."

The **"medical"** classification "includes instances where the primary reason for the death or serious harm of the affected person is attributed to a health condition confirmed by a medical professional during the course of an IIO investigation."

The **"other"** classification "involve circumstances that are not well-aligned with the larger classification groups identified or may include elements that fit under multiple categories."

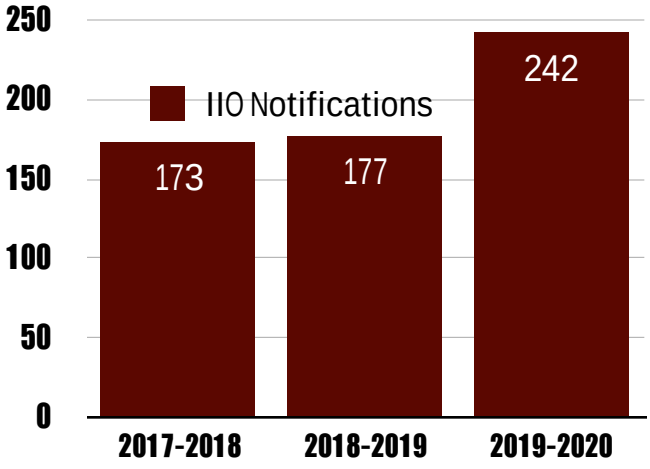
The **"self-inflicted"** classification "includes serious harm or death that may have been related to drug use by the affected person before or during their police interaction, suicides and suicide attempts, or other actions taken by the affected person, often in an attempt to avoid arrest" such as "an affected person [jumping] from some height while attempting to flee officers."

Crown Counsel Referrals

Of the six (**6**) cases referred to Crown Counsel in fiscal 2019-2020, charges were approved in four (**4**) cases while the remaining two (**2**) were pending a decision as of March 31, 2020.

IIO Notifications

Notifications to the IIO were up **37%** over the previous fiscal year.



IIO STATS

POLICE FORCE	Investigations By Agency
Abbotsford	7
New Westminster	2
Central Saanich	2
Port Moody	2
Saanich	1
Vancouver	31
Victoria	13
West Vancouver	1
Municipal Total	59
RCMP	131
Stl'atl'imx Tribal Police	1
Lower Mainland District	1
Southeast Traffic District	1
Total	193

INVESTIGATIONS BY RCMP DETACHMENT			
100 Mile House	1	North Vancouver	4
Boundary-Midway	1	Penticton	4
Burnaby	2	Port Alberni	2
Campbell River	3	Prince George	8
Chase	1	Prince Rupert	2
Chilliwack	7	Richmond	2
Chilliwack (UFV Traffic)	1	Ridge Meadows	3
Clinton	1	Salmon Arm	3
Coquitlam	4	Sicamous	1
Dawson Creek	1	Sidney/North Saanich	1
Fort St. James	2	Smithers	1
Fort St. John	3	Sooke	1
Hope	2	Squamish	1
Kamloops	6	Sunshine Coast	3
Kelowna	6	Surrey	17
Langley	6	Terrace	2
Lytton	1	Trail	1
Merritt	1	University	2
Nanaimo	5	Vanderhoof	1
New Hazelton	1	West Shore	8
North Cowichan/Duncan	2	Whistler	4
North Okanagan/Vernon	3	TOTAL	131

Note: The IIO table at p. 31 of its annual report identified Port Moody Department as an RCMP agency. Port Moody Department, however, is a municipal agency and has been referenced in the above tables as such. Thus, numbers differ in the above table.

IN THE CIRCUMSTANCES, REASONABLE TO BELIEVE PASSENGER POSSESSED STOLEN AUTO

R. v. Harms, 2020 BCCA 242

At about 7:25 a.m., a 2014 Toyota Corolla was stolen after its owner left it running outside her residence with its keys in the ignition. She reported the theft to police and the vehicle was located by an officer parked on a street at 10:50 a.m. Several anti-auto theft team members established surveillance on the vehicle. At 11:13 a.m., the accused and another man, whom the police recognized as having been previously arrested in another anti-auto theft project, approached and entered the stolen vehicle. The accused was the passenger while the other man was the driver. They drove around for about a half hour, then parked in a back alley, exited the vehicle and briefly split up. A few minutes later they met up again on foot at a nearby intersection. The men were then arrested for possessing the stolen vehicle. Following his arrest, the accused was searched. In his pants' pocket police found two shotgun shells, and a 12-gauge sawed-off shotgun and stolen licence plates were located in his backpack. He was charged with possessing the stolen vehicle and the stolen licence plates, along with several firearms offences.

British Columbia Supreme Court

Several police officers involved in the surveillance were called as witnesses. The arresting officer testified that he arrested the accused based on the following factors:

1. He knew the vehicle had been stolen and had a reasonable belief that it had been parked in an alleyway a couple of blocks away;
2. He had received multiple descriptions of the driver and passenger of the vehicle via radio. This description was consistent with the appearance of the individuals he observed;
3. One of the surveillance officers had advised that the driver and passenger had split up after exiting the vehicle and the arresting officer found it unusual that they converged a few moments later;
4. The arresting officer was parked in a residential neighbourhood and there were not a lot of people around at that time; and
5. The arresting officer believed, based on his experience and his knowledge of the driver's criminal history, that the passenger in the vehicle knew that it was stolen.

The accused accepted that the arresting officer subjectively believed he had sufficient grounds for the arrest. However, he argued the officer's belief was not objectively reasonable since the offence of possessing stolen property requires both knowledge and control. As for knowledge, the accused submitted that the keys were in the ignition and there was no damage. Therefore, it was not obvious that a passenger would know the vehicle was stolen. As for the element of control, he suggested that ***"[t]he passenger in a motor vehicle ... cannot be said .... to have had care and control of that motor vehicle."***

The judge noted that the police observed the vehicle and its occupants several times over the course of 20 to 30 minutes after it went mobile. The arresting officer also had about 12 years of police experience. The arresting officer's belief that the accused, as a passenger in the vehicle, unlawfully possessed it was objectively reasonable. The judge stated:

> [The accused] argues that it was unreasonable for [the arresting officer] to assume that [the accused] knew that he was a passenger in a vehicle which had been stolen. The principal evidence [the accused] points to in support of this argument is the fact that the vehicle did not display any signs of forced entry and was being driven using keys. As I understand the argument, [the accused] asserts that given that [the arresting officer] knew that the vehicle was stolen with keys in place, it was unreasonable for him to assume or infer that [the accused] knew the vehicle was stolen and, for that reason, considered through the lens of a

> similarly experienced officer, should not have determined that he had reasonable and probable grounds to arrest.
>
> I reject this argument. Given the close timing between the theft of the vehicle and the time that [the accused] was first observed in it, that [the accused] and [the driver] appear to have abandoned the vehicle in a back alleyway, then split up only to rejoin a few blocks later, which as the Crown suggests may indicate a degree of coordination and cooperation between them, also given [the arresting officer's] knowledge of [the driver's] criminal background, I consider that it was reasonable of [the arresting officer] to infer that [the accused] had knowledge that the vehicle had been stolen.

The judge rejected the assertion that the accused's ss. 8 and 9 *Charter* rights had been breached in relation his warrantless arrest and incidental search. The search incidental to arrest was reasonable and the evidence was admitted. The accused was convicted of possessing a stolen vehicle, possessing stolen licence plates, and several firearm related offences. He was sentenced to six years imprisonment less credit for time served, plus additional ancillary orders.

British Columbia Court of Appeal

The accused again argued that the trial judge erred in concluding that the arresting officer had sufficient grounds to arrest him. He submitted that the officer did not have the necessary subjective belief that he had committed the offence of possessing stolen property. As well, the accused suggested that there was no reasonable basis for the officer to believe that he knew the vehicle was stolen nor had the requisite measure of control over it to possess it. Thus, his arrest was unlawful and the incidental search was unreasonable. In the accused's view, the evidence ought to have been excluded under s. 24(2) of the *Charter*, his convictions set aside and a new trial ordered.

The Court of Appeal first reviewed the offence of possessing stolen property (s. 354(1) *Criminal Code*), aiding or abetting (s. 21 *Criminal Code*) and the definition of "possession" (s. 4(3) *Criminal Code*). ***"[Section] 4(3) of the Criminal Code contemplates three distinct types of possession: "personal possession", s. 4(3)(a); "constructive possession", s. 4(3)(a)(i) and (ii); and "joint possession", s. 4(3)(b),"*** said Justice Dickson speaking for the Court of Appeal. ***"The essential elements of joint possession are knowledge and consent. Where both knowledge and consent are established, possession is deemed under s. 4(3)(b). However, to establish consent the co-existence of a measure of control over the property is required."***

BY THE BOOK:

Criminal Code

Arrest without warrant

s. 495(1) A peace officer may arrest without warrant

(a) a person who has committed an indictable offence or who, on reasonable grounds, he believes has committed or is about to commit an indictable offence;

(b) a person whom he finds committing a criminal offence; ...

Lawful Arrest?

As for the law of arrest, Justice Dickson, speaking for the unanimous Court of Appeal, stated the following:

> Pursuant to s. 495(1) of the Criminal Code, a peace officer has authority to arrest without warrant a person who has committed an indictable offence, who, on reasonable grounds, the officer believes has committed or is about to commit an indictable offence or whom the officer finds committing a criminal offence. ...
>
> An arresting officer must subjectively believe that there are reasonable grounds upon which to base an arrest, and those grounds must be objectively reasonable. The officer's subjective

"An arresting officer must subjectively believe that there are reasonable grounds upon which to base an arrest, and those grounds must be objectively reasonable. The officer's subjective belief is what he or she personally believed at the time of the arrest and must include an honest belief that he or she has reasonable grounds to believe an offence has been committed, not mere suspicion. In assessing whether the grounds for arrest are objectively reasonable, the court considers the officer's observations through the lens of someone with the same experience, training, knowledge and skills and decides whether a reasonable person with the same lens would come to the same conclusion."

belief is what he or she personally believed at the time of the arrest and must include an honest belief that he or she has reasonable grounds to believe an offence has been committed, not mere suspicion. In assessing whether the grounds for arrest are objectively reasonable, the court considers the officer's observations through the lens of someone with the same experience, training, knowledge and skills and decides whether a reasonable person with the same lens would come to the same conclusion.

[...]

The standard applied by the court in assessing the grounds for a warrantless arrest is one of reasonable probability or credibly-based probability that an indictable offence has been committed. This standard is less than the criminal and civil standards of proof, but more than mere suspicion. It envisions a "practical, non-technical and common sense probability" as to the existence of the salient facts and inferences in question.

In assessing whether the grounds for arrest amount to a reasonable probability that an offence has been committed, the court must consider the totality of the circumstances. Reasonable grounds may be based on indirect evidence, partial information and reasonable inference drawn from personal observation or information provided by others and the key question is whether the officer's belief was reasonable at the time of arrest, not whether, in hindsight, it turns out to have been accurate. In conducting the assessment, the court should not examine the evidence in isolation or a piecemeal fashion. It should also be recalled that ... a decision to arrest may have been made quickly, based on available information which may be less than exact or complete.

Often, more than one officer will be involved in the events that lead up to an arrest without warrant. In such circumstances, the court is not limited to considering the observations, knowledge and testimony of the arresting officer, although the focus is on the officer who decided to effect the arrest and what that officer knew when the decision was made. To the extent that other officers may provide evidence regarding their knowledge and participation in the salient events, that evidence only relates to the grounds for arrest if it was communicated or otherwise known by the officer who effected the arrest. [references omitted, paras. 40-45]

Subjective Belief

Although it was conceded at trial that the arresting officer had the necessary subjective belief, on appeal the accused contended that the officer failed to turn his mind to the issue of control which undermined his subjective belief. The accused asserted that the arresting officer , at most, only had a mere suspicion that he was in unlawful possession of the vehicle. The Court of Appeal disagreed because the arresting officer testified, ***"I felt that I had the grounds — reasonable and probable grounds to believe that these two males were arrestable for possession of stolen property."*** And there was evidence that the officer honestly believed at the time of the arrest he had reasonable grounds to believe the vehicle's occupants, acting together in a joint venture, had committed the offence of possessing stolen property. Thus, the arresting officer had the necessary subjective belief.

"The standard applied by the court in assessing the grounds for a warrantless arrest is one of reasonable probability or credibly-based probability that an indictable offence has been committed. This standard is less than the criminal and civil standards of proof, but more than mere suspicion. It envisions a 'practical, non-technical and common sense probability' as to the existence of the salient facts and inferences in question."

Objective Grounds

The accused also argued that the trial judge erred in concluding that the arresting officer's grounds to arrest were objectively reasonable. He attacked the five factors noted by the trial judge as supporting reasonable grounds and submitted none of them could support a reasonable belief that he had a measure of control over the stolen vehicle. Again, however, the Court of Appeal disagreed. Justice Dickson wrote:

> In my view, the judge did not err in finding that [the arresting officer] had objectively reasonable grounds to arrest [the accused] for committing the offence of possession of stolen property based on the totality of the circumstances. As he determined, those grounds were objectively reasonable taking into account the cumulative effect of [the arresting officer's] own knowledge, experience and observations, including the information he received via police radio "on an ongoing basis" throughout the surveillance operation. ... [para. 55]

And further:

> The judge's finding that the circumstances could indicate "a degree of coordination and cooperation between" [the occupants] did not ignore, alter or supplement [the arresting officer's] testimony, nor did it amount to a determination of what, in hindsight, he might have believed when he arrested [the accused] for possession of stolen property. Rather, it distilled the overall import of [the arresting officer's] testimony in the context of a determination on whether he had reasonable grounds to effect the arrest. When he was asked why he arrested [the accused], the import of [the arresting officer's] testimony was that he believed [the accused's companion], a known auto thief, was the driver of the recently stolen vehicle, that [the accused] was the passenger and that, given their joint presence in the vehicle and seemingly coordinated actions in abandoning it in the alley, separating and converging within a block or two, there was a "good probability" they both knew it was stolen and together may have stolen it. In other words, the overall import of [the arresting officer's] testimony was that he believed [the men] were engaged in a joint venture knowingly to possess the recently stolen vehicle. While the driver ... had physical control, on that view its legal possession was shared.
>
> In my view, assessed through the lens of an experienced officer, there was an objectively reasonable probability in all of the circumstances, viewed cumulatively, that [the accused and his companion] had together committed the continuing offence of unlawfully possessing the stolen vehicle prior to its abandonment in the alley. This was so regardless of whether [the accused] was apparently in joint possession of the vehicle with [its driver] as a joint-venturer and co-principal or whether, as an apparently voluntary passenger, he encouraged and thus abetted [its driver] in his unlawful possession of the vehicle... . [reference omitted, paras. 57-58]

The judge did not err in concluding that the arresting officer had reasonable grounds to arrest the accused for unlawfully possessing the stolen vehicle based on the totality of the circumstances . The accused's appeal was dismissed.

Complete case available at www.courts.gov.bc.ca

Editor's Note: Additional details taken from *R. v. Harms*, 2018 BCSC 1599.

EXIGENT CIRCUMSTANCES BELIEF MUST BE MORE THAN VAGUE CONCERN

R. v. Pawar, 2020 BCCA 251

The police received a tip from a confidential informer that someone matching the accused's description was trafficking in cocaine and heroin. The police surveilled the accused and observed transactions and behaviours believed to be consistent with a dial-a-dope operation. Police then saw a woman speaking to the accused through the passenger-side window of his car in a bank parking lot, run to and access an ATM in the bank vestibule and return to his vehicle. The accused and the woman were then arrested. On a search incidental to arrest, police found a small quantity of cocaine on the accused and his cellphone was seized.

Following the arrests, but before the police applied for a warrant to search the accused's home, they attended at his residence, a location they knew he shared with his parents and his brother. The officer-in-charge of the investigation, relying on s. 11(7) of the *Controlled Drugs and Substances Act* (exigent circumstances), authorized entry into the residence. He feared evidence could be destroyed or moved before the search warrant was obtained. The officer-in-charge believed that exigent circumstances justified the warrantless entry because:

(1) the accused's mother was in the residence at the time of the arrest;

(2) the arrest took place in a public area of the downtown core and a witness to it could potentially alert the occupants of the house and direct them to move or destroy evidence; and

(3) he was concerned the accused was trying to contact his family members to instruct them to move or destroy evidence based on information that the accused said his mother was not home and he had asked to contact his mother or brother to get the name of a lawyer.

BY THE BOOK:

s. 11(7) *Controlled Drugs & Substances Act*

Where warrant not necessary

s. 11(7) A peace officer may exercise any of the powers described in subsection (1), (5) or (6) without a warrant if the conditions for obtaining a warrant exist but by reason of exigent circumstances it would be impracticable to obtain one.

Police knocked on the door and the accused's mother answered it. She was instructed to leave the residence, along with the accused's brother, until a warrant was obtained and executed. Police entered the residence and cleared it, taking about eight minutes to do so. Police then vacated the residence and waited outside until the search warrant arrived. When the warrant was executed, police found a substantial amount of drugs valued at $120,000 on the street.

British Columbia Supreme Court

The judge concluded that the officer-in-charge subjectively believed that exigent circumstances justified the warrantless entry on the basis of a need to preserve the evidence. However, the judge found the officer's subjective belief was not objectively reasonable. Thus, no exigent circumstances existed to justify the conduct of the police. The warrantless entry of the dwelling-house infringed the accused's rights under s. 8 of the *Charter*.

However, the judge admitted the evidence under s. 24(2). Among other things, she found the officer-in-charge acted in good faith by relying on the exigent circumstances doctrine, which mitigated the seriousness of the *Charter* breach. In her view, the officer had ***"a reasonable concern that evidence might be moved or destroyed"*** and ***"he honestly believed that he was acting lawfully in directing officers to enter the residence"***. Taking

"Theoretically speaking, there will always be a risk when the police make a public arrest in a case of this kind that drugs being kept by the arrestee at a 'stash house' may be moved or destroyed. There is nothing about this case that raised this risk from the general to the particular. If exigent circumstances existed in this case, they would exist in every case of this kind and warrantless entries into private dwelling-houses to preserve the scene would become the rule, not the exception."

steps to remove the accused's mother and brother from the residence was not unreasonable. The accused was convicted of four counts of possessing a controlled substance — cocaine, MDMA, psilocybin and marihuana — for the purpose of trafficking.

British Columbia Court of Appeal

The accused argued the evidence ought to have been excluded. He asserted, among other things, that the officer-in-charge did not act in good faith and therefore the trial judge's assessment of the seriousness of the *Charter* breach was flawed.

Good Faith?

A finding of good faith can mitigate the seriousness of a *Charter* breach provided an officer's belief in the lawfulness of their conduct is both honestly and reasonably held. The trial judge's finding that the officer's belief in exigent circumstances was not reasonably held precluded a finding that he was acting in good faith. Justice Fitch, speaking for the unanimous Appeal Court, noted:

> I can identify no evidence specific to this case capable of supporting an objectively reasonable belief that exigent circumstances required the warrantless entry of the [accused's] private dwelling-house. There was no evidence that anyone witnessed the arrests. There was no evidence that the [accused] was being assisted by anyone else in running the drug line. There was no evidence that the [accused'] mother or brother were aware of his drug-dealing activities. There was no evidence that the [accused] had the ability to contact any family member following his arrest. His cellphone had been seized and the [accused] was, throughout the relevant period of time, in the custody and control of the police. The female person suspected of purchasing drugs from the [accused] in the bank parking lot was also in police custody. There was no evidence of any movement within the [accused's] home after the arrest. There was no evidence that anyone attempted to enter the [accused's] residence after the [accused's] arrest. Indeed, the residence appears to have been in total darkness before the warrantless entry occurred.
>
> Theoretically speaking, there will always be a risk when the police make a public arrest in a case of this kind that drugs being kept by the arrestee at a "stash house" may be moved or destroyed. There is nothing about this case that raised this risk from the general to the particular. If exigent circumstances existed in this case, they would exist in every case of this kind and warrantless entries into private dwelling-houses to preserve the scene would become the rule, not the exception. [paras. 65-66]

Justice Fitch concluded that the officer ***"was not operating in unknown legal territory"*** and ***"the legal principles governing the authority of the police to enter a residence without a warrant are 'well-established',"*** he said. ***"There is a long line of judgments from the Supreme Court of Canada considering the circumstances in which exigent circumstances may justify the warrantless entry of a private dwelling-house. To justify such an entry, the Crown must show some case-specific urgency in the***

"[T]he legal principles governing the authority of the police to enter a residence without a warrant are 'well-established.' There is a long line of judgments from the Supreme Court of Canada considering the circumstances in which exigent circumstances may justify the warrantless entry of a private dwelling-house. To justify such an entry, the Crown must show some case-specific urgency in the pursuit of an investigative imperative—in this case the preservation of evidence—and a serious risk that waiting for a warrant would frustrate achievement of that imperative."

pursuit of an investigative imperative—in this case the preservation of evidence—and a serious risk that waiting for a warrant would frustrate achievement of that imperative." Here, the officer's concern was general, speculative, and vague. There was nothing specific to this investigation to objectively support the officer's subjective belief that delay would give rise to a serious risk evidence would be lost. ***"On the state of law that existed at the time of the warrantless entry, the police ought to have known they could not rely on vague and speculative concerns about the preservation of evidence to enter a private dwelling-house without a warrant,"*** said Justice Fitch. ***"They ought to have known that the investigative information available to them did not justify the warrantless entry of residential premises."***

After conducting a new s. 24(2) analysis, the Court of Appeal concluded that the admission of the evidence would bring the administration of justice into disrepute. The very serious *Charter* breach and its serious impact on the accused's *Charter*-protected interests strongly favoured exclusion which was not outweighed by the reliability of the evidence or its importance to the Crown's case:

> I conclude that the admission of the evidence, rather than its exclusion, would bring the administration of justice into disrepute. The violation reflects a serious breach of established constitutional principles. It resulted in the unjustified warrantless entry of the [accused's] private dwelling-house and, as a result, undermined a privacy interest that attracts the highest degree of Charter protection. There is a concern, rooted in [the officer-in-charge's] approach, that indiscriminate use of the exigent circumstances doctrine will give rise to unconstitutional privacy breaches in like cases in the future. To admit the evidence would, in my respectful view, be using s. 24(2) to excuse conduct which has in the past been found to be unlawful. In my view, this is a case where it is necessary for the Court to disassociate itself from the breach to preserve the repute of the administration of justice in the long term. [references omitted, para. 99]

The accused's convictions were quashed and acquittals were entered on all charges.

Complete case available at www.courts.gov.bc.ca

"On the state of law that existed at the time of the warrantless entry, the police ought to have known they could not rely on vague and speculative concerns about the preservation of evidence to enter a private dwelling-house without a warrant. They ought to have known that the investigative information available to them did not justify the warrantless entry of residential premises."

CROWN MUST JUSTIFY CONTINUING WITH SEALING ORDER

R. v. Verrilli, 2020 NSCA 64

The applicant (Verrilli) was under investigation for allegedly possessing cocaine for the purposes of trafficking but was never charged. The police had obtained three search warrants under s. 11(1) of the *Controlled Drugs and Substances Act* which they used to conduct searches of his home, business and motor vehicles. Various items, including cellular telephones and cash were seized during the searches, but no cocaine was found. The ITOs in relation to all three search warrants were sealed under s. 487.3(1) of the *Criminal Code* by each issuing justice of the peace. The items that had been seized during the searches were returned to the applicant.

Nova Scotia Provincial Court

The applicant, as an interested non-accused party, applied under s. 487.3(4) of the *Criminal Code* to examine the sealed ITOs in order to determine why he had been the subject of the searches. He sought access to the ITOs to determine whether his rights under s. 8 (unreasonable search and seizure) or s. 9 (arbitrary detention or imprisonment) of the *Charter* had been breached.The judge denied his application to access the sealed ITOs. In the judge's view, the applicant had not satisfied the burden in justifying access by showing more than a mere suspicion that the warrant was unlawfully authorized.

Nova Scotia Supreme Court

The applicant sought judicial review of the decision refusing his access to the sealed ITOs, asking it be set aside. The Supreme Court judge found the Provincial Court judge incorrectly applied the test for accessing a sealed wiretap ITO, not a search warrant ITO. The Supreme Court judge stated:

BY THE BOOK:

s. 487.3 *Criminal Code*

Order denying access to information

s. 487.3 (1) On application made at the time an application is made for a warrant under this or any other Act of Parliament ... or at a later time, a justice, a judge of a superior court of criminal jurisdiction or a judge of the Court of Quebec may make an order prohibiting access to, and the disclosure of, any information relating to the warrant, order or authorization on the ground that

(a) the ends of justice would be subverted by the disclosure for one of the reasons referred to in subsection (2) or the information might be used for an improper purpose; and

(b) the reason referred to in paragraph (a) outweighs in importance the access to the information.

Reasons

(2) For the purposes of paragraph (1)(a), an order may be made under subsection (1) on the ground that the ends of justice would be subverted by the disclosure

(a) if disclosure of the information would

(i) compromise the identity of a confidential informant,

(ii) compromise the nature and extent of an ongoing investigation,

(iii) endanger a person engaged in particular intelligence-gathering techniques and thereby prejudice future investigations in which similar techniques would be used, or

(iv) prejudice the interests of an innocent person; and

(b) for any other sufficient reason.

[...]

Application for variance of order

(4) An application to terminate the order or vary any of its terms and conditions may be made to the justice or judge who made the order or a judge of the court before which any proceedings arising out of the investigation in relation to which the warrant or production order was obtained may be held.

> This application relates to the right of a non-accused target to access the ITOs that led to the issuance of three search warrants. The legislative provisions governing search warrants are very different than those involving wiretaps. There is no legislative provision placing the onus on an applicant seeking to unseal an ITO similar to the statutory onus placed on an applicant seeking to unseal a wiretap. ... Wiretaps are subject to very specific provisions in the Criminal Code that limit access to the presumptively sealed packet of information.
>
> The Criminal Code search warrant provisions do not mirror the wiretap provisions. However, a judicial officer may determine that an ITO should be sealed in accordance with s. 487.3 of the Criminal Code. I cannot conclude that Parliament intended these two regimes to be treated the same way.

Thus, the onus was not on the applicant seeking to unseal the search warrant ITOs to show evidence of an unlawful authorization. Rather the burden rested on the Crown to justify continuation of the sealing order. The matter was sent back to Provincial Court for a further hearing with the appropriate burden of proof placed on the Crown in accordance with s. 487.3(4) to determine whether the applicant should have access to a sealed ITOs.

Nova Scotia Court of Appeal

The Crown then argued the Supreme Court judge erred in applying the wrong legal test for the applicant to access the sealed ITOs.

Sealing Orders

Unlike a wiretap ITO, which is automatically confidential and placed under seal, a sealing order under s. 487.3 of the *Criminal Code* is discretionary. Under s. 487.3, the party requesting a search warrant may also seek an order prohibiting access to the ITO. ***"Search warrants are important investigative tools for police,"*** said Chief Justice Wood. ***"Their effectiveness depends upon secrecy in the sense that the target should not be aware that a warrant has been issued. Once a warrant has been executed, the concerns over secrecy are diminished."*** After reviewing case law, the Court of Appeal stated:

> [O]nce a warrant has been executed, there is a presumption that the ITO will become accessible to the public unless the party wishing to limit that access can justify the limitations being sought. This applies not just at the initial application for a search warrant where a sealing order may be requested, but also any subsequent application to vary or terminate that order under s. 487.3(4). [para. 33]

In this case, the accused had learned that he had been the target of a criminal investigation and searches, which ultimately did not result in charges. He then applied under s. 487.3(4) to access the ITOs that had been used to obtain the search warrants. An application under s. 487.3(4) placed the burden on the Crown to justify the continuation of the sealing orders.

Since the Crown opposed the application for unsealing, it bore the evidentiary burden of justifying the continuance of the sealing order. The applicant did not bear the burden of providing evidence that the warrants were unlawfully granted before permitting access to the ITOs.

The Crown's appeal was dismissed and the matter was remitted to Provincial Court for disposition.

Complete case available at www.canlii.org

Editor's Note: Additional details taken from *R. v. Verrilli*, 2019 NSSC 263

"[O]nce a warrant has been executed, there is a presumption that the ITO will become accessible to the public unless the party wishing to limit that access can justify the limitations being sought."

MORE ON SEALING ORDERS

The following excerpts were taken from the Public Prosecution Service of Canada Deskbook, 3.4 Sealing Orders and Publication Bans:

2.1. Mandatory sealing of documents supporting a wiretap authorization

Section 187 of the Code mandates that all documents relating to an application under Part VI (which generally deals with wiretaps) must be sealed and kept by the court in a place with no public access, subject only to further order of a court. A specific sealing order is therefore not required.

However where a wiretap authorization includes judicial authority for other investigative measures (for example a general warrant or an assistance order) wiretap agents normally should draft the proposed authorization to include a sealing order covering those aspects of the material.

[...]

2.2. Discretionary sealing in other cases of ex parte judicial authorization

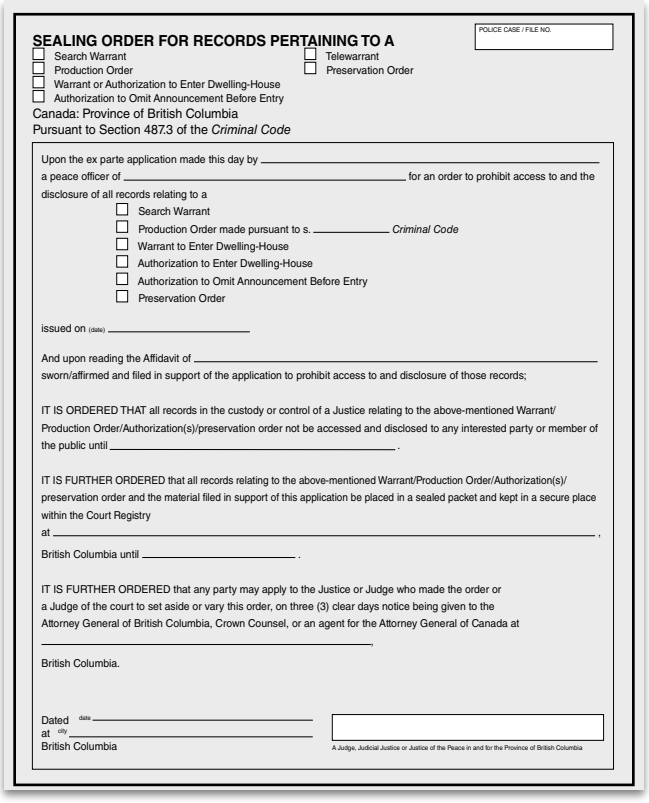
Section 487.3 of the Code gives the issuing justice authority to order the sealing of material filed in support of an ex parte application for a warrant under the Criminal Code or any other federal statute, a production order under ss. 487.012 or 487.013 of the Code, or a Feeney warrant under s. 529 of the Code. Sealing is not automatic. The application for the sealing order will usually be made by the peace officer applying for the warrant or order, at the same time, and can be granted on the grounds set out in s. 487.3 of the Code.

The peace officer applying for the warrant or production order in question is therefore expected to provide affidavit material that details how and why one or more of the grounds mentioned in s. 487.3(2) justifies a sealing order. The most common grounds will be: to protect an ongoing police investigation; and to protect informer privilege.

Where the peace officer has neglected to obtain a needed sealing order at the time the warrant was issued, or later decides that a sealing order should now be sought, s. 487.3 is still available as the section specifically says that the sealing order may be granted by the provincial court judge or justice ""on application made at the time of issuing a warrant [or other order]...or at any time thereafter"". In such a case, Crown counsel may be consulted to assist in the application.

Different courts across Canada have different procedures in place to handle sealing orders. In every case, however, the sealing order should result in the material being kept in a secure location not subject to public access.

In some jurisdictions the issuing justices grant sealing orders for a limited time, for example one year from the date of issuance. This is to be discouraged, as if the grounds for sealing are to protect informer privilege, it may never be safe to unseal the original unvetted material. Crown counsel are encouraged to advise their enforcement agencies to seek sealing orders of unlimited duration.



SEALING ORDER FOR RECORDS PERTAINING TO A

POLICE CASE / FILE NO.

☐ Search Warrant
☐ Production Order
☐ Warrant or Authorization to Enter Dwelling-House
☐ Authorization to Omit Announcement Before Entry
☐ Telewarrant
☐ Preservation Order

Canada: Province of British Columbia
Pursuant to Section 487.3 of the *Criminal Code*

Upon the ex parte application made this day by _____
a peace officer of _____ for an order to prohibit access to and the disclosure of all records relating to a

☐ Search Warrant
☐ Production Order made pursuant to s. _____ *Criminal Code*
☐ Warrant to Enter Dwelling-House
☐ Authorization to Enter Dwelling-House
☐ Authorization to Omit Announcement Before Entry
☐ Preservation Order

issued on (date) _____

And upon reading the Affidavit of _____
sworn/affirmed and filed in support of the application to prohibit access to and disclosure of those records;

IT IS ORDERED THAT all records in the custody or control of a Justice relating to the above-mentioned Warrant/ Production Order/Authorization(s)/preservation order not be accessed and disclosed to any interested party or member of the public until _____.

IT IS FURTHER ORDERED that all records relating to the above-mentioned Warrant/Production Order/Authorization(s)/ preservation order and the material filed in support of this application be placed in a sealed packet and kept in a secure place within the Court Registry
at _____,
British Columbia until _____.

IT IS FURTHER ORDERED that any party may apply to the Justice or Judge who made the order or a Judge of the court to set aside or vary this order, on three (3) clear days notice being given to the Attorney General of British Columbia, Crown Counsel, or an agent for the Attorney General of Canada at _____
British Columbia.

Dated at (city) _____ (date) _____
British Columbia

A Judge, Judicial Justice or Justice of the Peace in and for the Province of British Columbia

PPSC Dispositions by Charge

Disposition	2015/16	2016/17	2017/18	2018/19	2019/20
Acquittal After Trial	**598**	**1,884**	**1,862**	**1,577**	**1,439**
Conviction After Trial	**1,151**	**3,185**	**2,557**	**1,947**	**1,673**
Guilty Plea	**17,876**	**27,330**	**25,332**	**23,208**	**17,833**
Judicial Stay of Proceedings	**21**	**201**	**305**	**109**	**118**
Withdrawn/Crown Stay of Proceeding	**10,835**	**48,182**	**48,033**	**43,571**	**35,519**
Other (eg. discharge at preliminary hearing/mistrial)	**357**	**625**	**137**	**108**	**137**

PPSC RELEASES ANNUAL REPORT

The Public Prosecution Service of Canada (PPSC) has released its 2019-2020 Annual Report. The report outlines a number of statistics related to the activities of the service, including the following.

PPSC Top 10 Federal Statutes

Statute	# Charges Laid
CDSA	**110,553**
Criminal Code	**109,383**
Fisheries Act	**5,713**
Cannabis Act	**4,628**
Immigration & Refugee Protection Act	**1,693**
Employment Insurance Act	**1,624**
Income Tax Act	**1,415**
Customs Act	**1,078**
Excise Tax Act	**959**
Excise Act, 2001	**601**

CRIME DOWN DURING PANDEMIC BUT DOMESTIC DISTURBANCE CALLS UP

According to a recent Statistics Canada release, 17 police services reported a 16% decrease in selected criminal incidents compared to same period in the previous year. However, the number of calls for wellness checks and domestic disturbances increased 4%.

Crime/Call for Service	% change Mar-Jun 2019 to Mar-Jun 2020
Assaults	-11.5%
Sexual Assaults	-19.0%
Uttering Threats	-10.4%
Robbery	-20.2%
Break & Enter	-12.9%
Motor Vehicle Theft	-15.2%
Shoplifting	-46.0%
Domestic Disturbances/Disputes	+11.6%
Mental Health Apprehensions	+2.8%
Mental Health Other	+10.6%
Child Welfare Check	+18.8%
Suicide/Attempt Suicide	-9.4%

COURT SPLIT ON LEGALITY OF STRIP SEARCH

R. v. Ali, 2020 ABCA 344

Police received information from two confidential informers about two men trafficking crack cocaine from a van and an apartment complex. Police conducted surveillance and corroborated the tips, making observations consistent with drug trafficking. A search warrant was obtained for the apartment. When the search warrant was executed, police found three people, including the accused, inside the apartment. The accused did not immediately comply with the arresting officer's commands. He was wearing baggy pants pulled partly down showing athletic shorts worn underneath, and he was seen reaching towards his nether region or back of his pants during the arrest.

The arresting officer searched the accused. He found the accused in possession of a large amount of cash, a cell phone, and a small bag of marijuana. But no cocaine was located. A scale was also found in the apartment. When advised of his right to counsel, the accused said that he wanted to talk to a lawyer. The accused was transported to the police station. The arresting officer told the lead investigator about his observations. The lead investigator then phoned the Staff Sergeant at the jail, explained the circumstances of the arrest, and requested a strip search of the accused. A strip search was conducted in a private room and police found three white baggies containing cocaine in his "butt crack area". After the strip search, the accused was allowed to speak to counsel. He was subsequently charged with cocaine trafficking

Alberta Provincial Court

The lead investigator testified he had received information from the arresting officer about the accused making adjustments to the area near his buttocks. The lead investigator said the accused had very little time to hide anything when the police first entered the residence, but, based on his actions, it was believed he had concealed or was always concealing drugs on his person. ***"His clear adjustments kind of on his back end towards his -- his buttocks area lead me to believe that he may be concealing evidence in that area,"*** said the lead investigator. He was concerned with the accused's safety, stating the cocaine could be ingested anally through the body which could lead to an overdose or death.

The judge recognized that the police must have both a subjective and an objective basis for a strip search. He found there were both subjective and objective reasons for the police to believe that they could find evidence by way of a strip search given the totality of circumstances, including the facts outlined in the search warrant as well as the accused's actions upon arrest. The accused was convicted of trafficking in cocaine.

Alberta Court of Appeal

The accused conceded there were reasonable and probable grounds to arrest and search him, but there were insufficient reasonable and probable grounds to extend the search incidental to arrest to a strip search. In his view, the trial judge improperly used inadmissible hearsay in deciding whether the police objectively had reasonable grounds for the strip search and applied the wrong test in justifying it. In addition, he asserted the trial judge did not consider the higher threshold required to establish that the police had reasonable and probable grounds to believe that they would find evidence from a strip search.

The Crown suggested there were reasonable and probable grounds justifying the strip search. In the Crown's view, the following factors provided justification: the observation the accused was adjusting his clothing around his buttocks; his non-immediate compliance with police requests; the information from the informers that the traffickers kept the drugs on their person; the cell phone,

"Police work is a team undertaking. In this case the execution of the search warrant, the resulting arrest, and the decision to conduct a strip search, were made as a result of information gathered by the team."

scale, and cash found as well as the absence of cocaine found on the pat down and pocket search of the accused; and the extremely minimal time that the accused had to hide things when the police entered the premise.

Inadmissible "Hearsay"?

The accused submitted that there was insufficient admissible evidence on the *voir dire* to justify the strip search. The lead investigator never actually saw the accused touch his buttocks. Rather, he was relying upon what the arresting officer told him. But the arresting officer did not testify about this observation. Therefore, the accused suggested this information was "hearsay" and could not be used to justify the strip search.

The majority of the Court of Appeal noted that the information the lead investigator was providing was not actually hearsay. ***"The essence of the hearsay rule is that an out-of-court statement is tendered as evidence to prove the truth of its contents,"*** said the majority. It continued:

> The out-of-court statement is not tendered through the party who made it, but some other party who heard it. Hearsay is inadmissible as evidence, subject to a number of exceptions.
>
> "Hearsay", however, is a rule of evidence. It is only of significance to decision makers who are bound by the rules of evidence, generally speaking courts and tribunals that are required to make their decisions solely based on admissible evidence. Police officers conducting an arrest or search, or otherwise involved in an investigation, are not conducting a "hearing" or "trial", and they are not bound by the "rules of evidence". They are entitled to rely on any information they receive, so long as it is credible and reliable.
>
> Police work is a team undertaking. In this case the execution of the search warrant, the resulting arrest, and the decision to conduct a strip search, were made as a result of information gathered by the team. This "information" was not necessarily all "admissible evidence". As noted, [an officer] reported he observed the [accused] "reaching towards his nether region or the back of his pants" during the arrest. [The lead investigator] did not directly observe the [accused] "reaching towards his nether region", but he received that information from [his fellow officer]. The decision to conduct the strip search was actually made by the Staff Sergeant on duty following a telephone conversation with [the lead investigator] The Staff Sergeant was not even on the scene of the arrest, but he was not conducting a hearing or a trial, and he was not bound by the rules of evidence. He was entitled to rely on information he thought was reliable and credible, and one police officer is entitled to rely on information provided by another. If, for example, [the lead investigator] had expressly told the Staff Sergeant: "I did not see it myself, but [my colleague] says he was reaching towards his nether region", the Staff Sergeant would still have been entitled to rely on that information. The Staff Sergeant was not required to disregard that information on the basis that it was "hearsay".
>
> The issue on the voir dire was whether the police had reasonable and probable grounds justifying the strip search. This requires that the police officers subjectively believed that they had such grounds, and that there was an objective basis for that belief. The focus is on the information known to the police at the time the decision was made to conduct the search. Was that information sufficiently credible to justify reliance on it, and assuming it was reliable was it sufficient to objectively support the police's conclusion that they had reasonable and probable grounds for the search? It is obviously prudent for the Crown to introduce as much evidence as is reasonable on the voir dire, but gaps in the admissible

"[R]easonable and probable grounds justifying the arrest, or justifying an ordinary search incidental to that arrest, are not sufficient. The test of "reasonable and probable grounds" does not require proof on a balance of probabilities. Rather, that standard requires a factually based likelihood that there are grounds for the strip search, rising above mere suspicion, but not necessarily demonstrating grounds on a balance of probabilities. Reasonable and probable grounds exist where, for reasons above mere suspicion, it is not unlikely that evidence will be found during the search."

> evidence on the voir dire do not mean that there were gaps in the information available to the police when the decision was made to conduct the search. This appeal is a good example of that situation.
>
> In this case, the trial judge was not required to find, as a matter of fact, that the [accused] "reached towards his nether region". If such a finding had been necessary to sustain a conviction, it could only have been made based on admissible evidence. The trial judge, however, was only required to decide if, at the time the decision was made to conduct a strip search, the police team had "reasonable and probable grounds" to conduct that search. That depended on the information known to, believed, and reasonably relied on by the police team, specifically the Staff Sergeant. The fact that some of it may have been inadmissible as evidence at a trial was irrelevant. [reference omitted, paras. 11-15]

The information relied on by the police was properly introduced on the *voir dire* and the trial judge was permitted to consider it when deciding whether there were reasonable and probable grounds to conduct the strip search.

Reasonable Grounds Justifying the Strip Search?

The accused again argued that he was unjustifiably subjected to a strip search. The Crown, on the other hand, asserted that there were reasonable and probable grounds for the strip search considering the entire context. At the time of his arrest, the accused's pants were observed partly down and he was seen "reaching around his nether region, the back of his pants". This, in the Crown's view, supported a reasonable belief that the accused was concealing something in that location.

The Supreme Court of Canada, in *R. v. Golden*, 2001 SCC 83, determined that a strip search could be conducted incidental to a lawful arrest for the purpose of discovering weapons in the arrestee's possession or evidence related to the reason for the arrest provided the police could establish reasonable and probable grounds justifying the strip search beyond the reasonable and probable grounds justifying the arrest.

In describing the test in *Golden* for reasonable and probable grounds justifying the strip search, the majority of the Court of Appeal stated:

> [R]easonable and probable grounds justifying the arrest, or justifying an ordinary search incidental to that arrest, are not sufficient. The test of "reasonable and probable grounds" does not require proof on a balance of probabilities. Rather, that standard requires a factually based likelihood that there are grounds for the strip search, rising above mere suspicion, but not necessarily demonstrating grounds on a balance of probabilities. Reasonable and probable grounds exist where, for reasons above mere suspicion, it is not unlikely that evidence will be found during the search. [reference omitted, para. 19]

The trial judge's decision that the police had the necessary reasonable and probable grounds to justify the strip search was upheld. The overall context of the investigation, the execution of the search warrant and the observed movements of the accused justified it. The majority stated:

> The police team was entitled to conclude from the whole context that there were reasonable and probable grounds for a strip search. Surveillance and confidential informants had indicated there was drug trafficking from the building, and that someone fitting the description of the [accused] was involved. When the search warrant was executed, the [accused] was found on the premises. ...
>
> The [accused] was observed reaching towards his "nether region" and the back of his pants, which were below his waist. That certainly invited an inference that he was trying to hide something there. No specific evidence is needed that drug dealers sometimes conceal drugs in their body cavities; police experience is undoubtedly consistent with the hundreds of reported decisions recording such behaviour. The observed behavior was consistent with an inference that the drugs usually kept in his pocket were being relocated because of the police search. That may not have been the only available inference, but it was certainly an objectively reasonable inference that the police were entitled to rely on. The "reasonable and probable grounds" test does not require that the police eliminate all other reasonable inferences. ... That would come close to "proof beyond a reasonable doubt". Just because there might be an innocent explanation for observed behaviour does not preclude the police forming an objectively reasonable belief that a search will uncover drugs.
>
> The reasonable and probable grounds test in Golden also does not require, for example, that the police have direct information that the accused person has a history of hiding drugs on his person before a strip search is justified. ... Requiring such specific information would amount to a much higher standard than reasonable and probable grounds. Here the police had information that the [accused] would carry drugs in his pockets. The absence of any direct evidence of him concealing drugs in his person does not preclude the police reasonably inferring that, when confronted with the unexpected execution of a search warrant, the [accused] would hide his drugs anywhere he could. [paras. 20-22]

The strip search was lawful and the accused's appeal was dismissed.

A Second Opinion

Justice Veldhuis, in dissent, found the trial judge did not turn her mind to the proper test for a strip search - whether the police had reasonable and probable grounds for concluding that the strip search was necessary in the particular circumstances of the arrest. ***"Charter-compliant reasonable and probable grounds have a subjective and an objective component,"*** said Justice Veldhuis. ***"The officer directing the strip search must subjectively have reasonable and probable grounds to conclude that the strip search is necessary in the circumstances; and ... the grounds must also be justifiable from an objective point of view such that a reasonable person placed in the position of the officer must be able to conclude that there were reasonable and probable grounds for the strip search."***

Justice Veldhuis agreed with the majority that ***"an officer can rely upon out-of-court statements and other information to formulate reasonable and probable grounds."*** But she did not agree that the lead investigator's evidence about the accused adjusting the clothing around his buttocks was reliable. The arresting officer had the opportunity to testify about his observations but never said he saw the accused adjust his clothing by his buttocks, nor did he say he told the lead investigator such behaviour occurred.

Justice Veldhuis held the presence of the cell phone, scale, cash, marijuana and the lack of cocaine found on the accused after his pat down and pocket search; the information from the informers; and the short period of time between police entry and their observations, did not support reasonable and probable grounds for a strip search. ***"There was no objective evidence to establish reasonable and probable grounds that drugs would be found there,"*** she said. ***"Given the serious implications of strip searches on the personal freedom and dignity of individuals, a better evidentiary foundation must be laid. In my view, there was no legal basis for carrying out the strip search, and therefore find that s. 8 of the Charter was breached."***

Since the accused had already served his sentence, Justice Veldhuis found there was no need to determine whether the evidence should have been excluded under s. 24(2) of the *Charter*. She would have allowed the accused's appeal and entered an acquittal.

Complete case available at www.canlii.org

RCMP RELEASE FINAL REPORT ON STRIP SEARCHES

The Civilian Review and Complaints Commission for the RCMP released its "Review of the RCMP's Policies and Procedures Regarding Strip Searches" in October 2020. Things to note concerning the Commission's review included the following:

- The RCMP's national personal search policy (including cell block searches) was unclear and inadequate.
- Division policies pertaining to strip searches were either inadequate or inappropriate.
- Inadequate articulation and file documentation of the grounds for a strip search.
- Inadequate training for members and supervisors.
- There was a practice of routinely removing and/or searching a prisoner's undergarments, which was inconsistent with RCMP strip search policies and relevant jurisprudence.

"During interviews with members and supervisors, the Commission also found that ongoing training in relation to strip searches was non-existent." [p. 19]

"[T]he Commission determined that RCMP divisions do not currently provide training with respect to strip search policy or require members to undergo such training." [p. 20]

"Overall, the Commission found a dearth of adequate articulation, a lack of documented supervisory authorization of strip searches, and significant under-reporting of bra/undergarment removals as strip searches where removal of intimate clothing occurs as a matter of course. The extent of member non-compliance with RCMP strip search policies and relevant jurisprudence was significant." [p. 28]

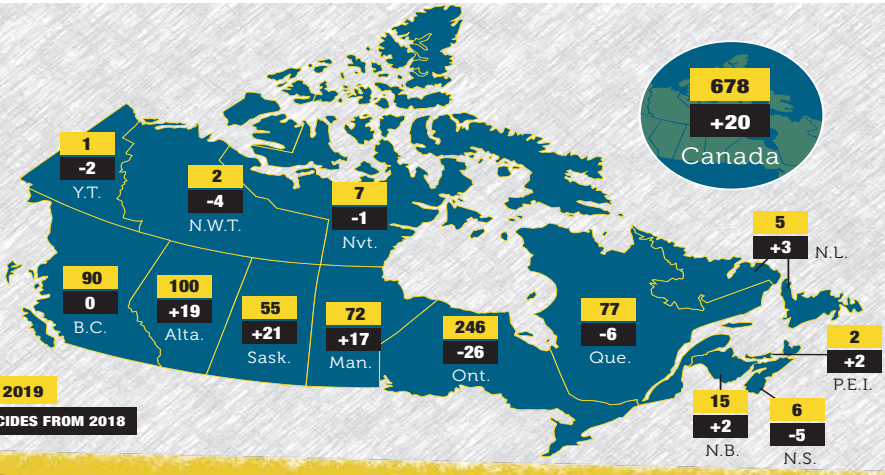
"Members commented that they did not consider the act of stripping a prisoner of their clothing for safety or self-harm reasons as being a strip search, and consequently would not document the event." [p. 30]

"Inadequate articulation and documentation pertaining to the member's grounds for conducting a strip search, and the manner in which it was conducted, were recurring themes throughout the review. Lack of knowledge of what constitutes a strip search and inadequate supervision risk the violation of an individual's Charter rights." [p. 42]

Nationwide, there were **678** homicides, at a rate of **1.80** per 100,000 population.

486 male victims

144 female victims

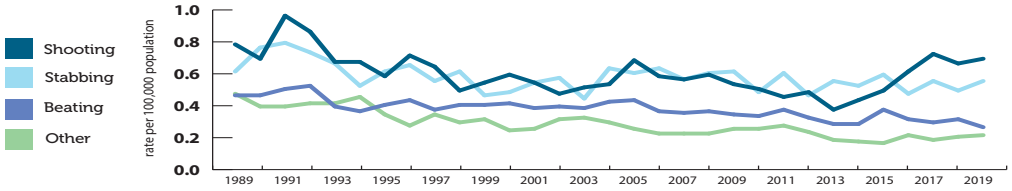


HOMICIDE IN CANADA, 2019

Almost 1 in **4** homicides in Canada was gang-related.

The number of gang-related homicides increased in 2019 to its **2nd highest rate ever.**

In Canada, **261 homicides** were committed with a firearm, or **2 in every 5 homicides**. Over half (60%) of these were committed with a handgun.



Indigenous peoples[1] represented about **5%** of Canada's total population in 2019 yet accounted for **27%** of homicide victims and **38%** of accused persons. The rate of homicide for Indigenous peoples was **six-and-a-half times higher** than for non-Indigenous people.

	Indigenous		Non-Indigenous	
	Male	Female	Male	Female
Homicide victims[2]	11.89	4.01	2.04	0.55
Persons accused of homicide[2]	13.73	2.21	1.55	0.17

rate per 100,000 population

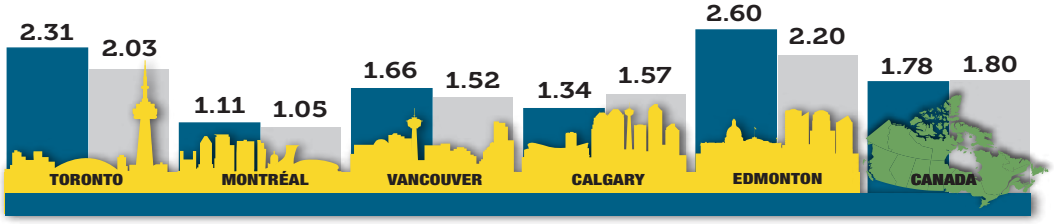
One-third of homicide victims were identified as **visible minorities, 44%** of whom were identified as **Black**.

The proportion of **female victims** killed by a spouse or intimate partner was over **8 times greater** than the proportion of male victims.

Of solved homicides, almost **9 in 10** victims knew their accused.

Homicide victims by accused-victim relationship[3]

	Spousal or intimate relationship[4]	Family relationship (non-spousal)	Acquaintance[5]	Criminal relationship	Stranger	Other relationship	Unknown relationship
Percentage of **male** victims	6	15	41	11	13	3	10
Percentage of **female** victims	47	26	12	1	7	0	6



Homicide rate for every 100,000 people living in the **5 largest** census metropolitan areas (CMAs)

2018 2019

1. The term "Indigenous" is used instead of "Aboriginal" for this product. Aboriginal identity is reported by police for the Homicide Survey. Aboriginal identity includes victims and accused persons identified as First Nations people (either status or non-status), Métis, Inuit, or an Aboriginal identity where the Aboriginal group is not known to police.
2. Excludes 12% of homicide victims and 14% of accused persons where gender or Indigenous identity was unknown. The total may not add up to 100% due to rounding.
3. Excludes 34% of homicides where the accused was not identified. The total may not add up to 100% due to rounding.
4. Includes boyfriend, girlfriend, same-gender relationship, extra-marital lover, ex-boyfriend/girlfriend and other intimate relationships. Intimate relationship homicide counts include victims of all ages.
5. Includes close friend, neighbour, authority or reverse authority figure, business relation, and casual acquaintance.

Source: Statistics Canada, Canadian Centre for Justice and Community Safety Statistics, Homicide Survey.

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s. 10(b) CHARTER BREACH BY NOT FOLLOWING-UP WITH DETAINEE WHEN LAWYER OF CHOICE NOT AVAILABLE

R. v. Moore, 2020 ONCA 662

The accused was arrested at 3:00 p.m. for drug trafficking. He was given his right to counsel and cautioned. He never asked to speak to a lawyer at the scene of the arrest and, after a lengthy delay, he was transported to the police station for processing. When he arrived at the police station, the accused declined a lawyer at 6:48 p.m. Later, while being served with some documents, the accused expressed a desire to call his lawyer. He provided a lawyer's name and an officer called the lawyer. A message was left for the accused's lawyer, but no call back was received. The officer never followed up with the accused by telling him he could speak with duty counsel if his own lawyer was not available. The accused was subsequently charged with trafficking fentanyl.

Ontario Court of Justice

The judge found the accused had been properly informed of his right to counsel at the time of his arrest, but chose not to exercise that right until many hours later. When the accused finally decided to speak with a lawyer at 1:30 a.m., the police tried to call his lawyer of choice, but he could not be contacted. At this point, the police should have followed up with the accused to determine whether he wanted to speak to another lawyer. In failing to do so, the accused's right to counsel was breached from 1:30 a.m. onwards. The judge stated:

> It is axiomatic that an arrestee is afforded rights to counsel under s. 10(b) of the Charter. There is an informational component which mandatory upon each arrest. This extends to being informed of the reasons for arrest under s. 10(a). Implementation of rights to counsel is only engaged once the arrestee makes such a request. If the person doesn't ask to speak to a lawyer after being advised of that right, the police have no further obligation to facilitate contact. I find that [the accused] was given his rights to counsel when he was arrested for trafficking at 3pm and then again when he was transported in custody later. He was also given his rights to counsel again when he was booked into the police station at 6:48 pm. At no time did he ever invoke his rights to counsel. There is no s. 10(b) Charter breach in the facts up to that point.
>
> [The accused] did ... ask for a lawyer at 1:30 am on March 16, when he asked to be put in contact [his counsel of choice]. [The officer] left a message for [the lawyer]. When no call was returned to [the accused], there is no evidence that any follow up was done either with [the accused] or any other lawyer. ...
>
> The intermediate step, namely going back to the detainee and asking what further steps he or she would like to take was never done in this case. I have no evidence that [the accused] ever spoke with a lawyer after 1:30am. ... [references omitted, paras. 56-57, *R. v. Moore*, 2017 ONCJ 496]

The judge, however, held this breach to be minor in nature and none of the evidence was excluded. The accused was convicted of trafficking in fentanyl and he was sentenced to six years imprisonment less time served in pre-trial custody.

Ontario Court of Appeal

The accused argued, in part, that the trial judge erred in concluding that his s. 10(b) *Charter* rights were not breached shortly after his arrest. In the accused's view, his right to counsel had been violated long before the police attempted to facilitate contact with his lawyer of choice.

But the Court of Appeal disagreed:

> There was ample evidence to have enabled the trial judge to conclude that the [accused] was informed immediately upon arrest and

> repeatedly of his right to counsel and repeatedly waived that right until he requested to speak with his counsel around 1:30 a.m. In these circumstances, we do not accept the argument that his right to counsel was breached prior to the time when he requested to speak with counsel.
>
> The s. 24(2) ruling is entitled to deference from this Court. There was a factual basis upon which the trial judge could conclude as he did, that the Charter breach at 1:30 a.m. was an isolated incident, and that the impact of the breach was minimal. [paras. 5-6]

The accused's appeal was dismissed.

Complete case available at www.ontariocourts.on.ca

Editor's Note: Additional details taken from *R. v. Moore*, 2017 ONCJ 496 and *R. v. Moore*, 2017 ONCJ 801.

INFORMER INFORMATION: HOW COMPELLING, CREDIBLE & CORROBORATED IS IT?

R. v. Protz & Ford, 2020 SKCA 115

A police officer received information from three confidential informers (sources A, B and C) that the accused Protz was selling cocaine and the accused Ford was working with him. Police were also told Ford had sold her house and intended to use the money to buy a large amount of substance. The source information also revealed that Protz and Ford had left for the west coast to pick up "product", had been involved in an accident, and were on their way back to Yorkton with it. Police were able to corroborate some of the information provided.

The lead investigator came to believe that Protz and Ford were now travelling back to Yorkton in a rental vehicle. She set up a team of officers to intercept the two suspects. When police located a rental van, they stopped it. They confirmed Protz (driver) and Ford (passenger) were its occupants and arrested them for possessing drugs for the purpose of trafficking. The vehicle was searched and police found, among other things, bags containing 140 grams of cocaine and 198 grams of methamphetamine.

Saskatchewan Provincial Court

The lead investigator testified that she believed the information provided by all three confidential sources was within their first–hand knowledge and was not rumour. She believed they all were reliable and credible. Source A had been a confidential informer for two years and information they had provided had led to three search warrants. Source A had received payment for information but was also motivated to assist in protecting the community. Source B had provided information for 18 months, had received payment for this information, and the information they provided had led to two search warrants. Source B's information corroborated source A's information. Source C had been an informer for seven months and had received payment for information they had previously provided. Source C had never been used in a search warrant application, but the information provided by source C was consistent with, and similar to, the information received from sources A and B. The lead investigator personally knew sources B and C, but source A was handled by a different officer who did not testify.

Both accused submitted that their arrests were unlawful because the police did not have the necessary reasonable grounds. In their view, their rights under ss. 8 and 9 of the *Charter* had been breached and the drug evidence ought to have been excluded under s. 24(2).

The judge noted that s. 495(1)(a) of the *Criminal Code* authorizes a police officer to arrest a person without warrant who they believe, on reasonable grounds, to be committing, or is about to commit, an indictable offence. Much of the information the lead officer had to support the grounds for the arrest came from the three informers. The judge found the arrest to be lawful. He was satisfied the

"Where officers are acting as a team, it is not necessary that the arresting officer personally know each and every fact necessary to establish reasonable grounds; the collective knowledge of the entire group is relevant."

officer had a subjective belief that both accused had committed the offence of possession for the purpose of trafficking and, considering all the circumstances cumulatively, her belief was reasonable. It clearly was more than a suspicion or a hunch. Much, although not all, of the informers' information was corroborated, both between the informers and externally. Since there were no violations under the *Charter*, the application to exclude evidence under s. 24(2) was dismissed. Both accused were convicted of possessing cocaine and methamphetamine for the purpose of trafficking and were each sentenced to 40 months imprisonment concurrent for each offence less time spent on remand.

Saskatchewan Court of Appeal

Both accused argued the trial judge erred in finding the police had reasonable grounds to arrest for possessing drugs for the purpose of trafficking.

Reasonable Grounds For Arrest

Justice Ottenbreit, authoring the unanimous Court of Appeal opinion, noted a police officer's power of arrest is found in s. 495(1)(a) of the *Criminal Code*: ***"A peace officer may arrest without warrant (a) a person who has committed an indictable offence or who, on reasonable grounds, he believes has committed or is about to commit an indictable offence."*** In addition, relying on prior case law, noted the following considerations:

- *An arresting officer must subjectively hold reasonable grounds to arrest and those grounds must be justifiable from an objective point of view – in other words, a reasonable person placed in the position of the arresting officer must be able to conclude there were indeed reasonable grounds for the arrest.*
- *An arresting officer is not required to establish the commission of an indictable offence on a balance of probabilities or a prima facie case for conviction before making the arrest; but an arresting officer must act on something more than a "reasonable suspicion" or a hunch.*
- *An arresting officer must consider all incriminating and exonerating information which the circumstances reasonably permit, but may disregard information which the officer has reason to believe may be unreliable.*
- *A reviewing court must view the evidence available to an arresting officer cumulatively, not in a piecemeal fashion.*

Justice Ottenbreit also said:

> To establish reasonable grounds, it is not necessary that the belief of the arresting officer was correct or that the inference drawn by the police officer from the available information be the only or most compelling inference. [para. 39]

"Where officers are acting as a team, it is not necessary that the arresting officer personally know each and every fact necessary to establish reasonable grounds; the collective knowledge of the entire group is relevant," Justice Ottenbreit added. ***"In assessing whether reasonable grounds existed, the trial judge must ask 'whether the inference drawn by the arresting officer was a reasonable one to have made at the time of arrest based on the circumstances known to the officer at***

"To establish reasonable grounds, it is not necessary that the belief of the arresting officer was correct or that the inference drawn by the police officer from the available information be the only or most compelling inference."

"Where a decision to arrest is based on information provided by confidential informants, courts must explore three lines of inquiry: the compelling nature of the information, the credibility of the informant, and the corroboration of the information provided,"

that time'. The trial judge must examine the 'indicators' of criminal activity as a constellation, or cluster, leading or tending to a general conclusion. If the conclusion is objectively reasonable, the arrest will be lawful."

The Three Cs

"Where a decision to arrest is based on information provided by confidential informants, courts must explore three lines of inquiry: the compelling nature of the information, the credibility of the informant, and the corroboration of the information provided," said the Court of Appeal. These three Cs are also known as the *Debot* factors (*R. v. Debot*, [1989] 2 SCR 1140). Justice Ottenbreit explained the *Debot* factors as follows (references omitted):

- *The Debot factors are not to be examined in isolation and the test is not to be applied formulaically*
- *It is the totality of the circumstances that determines whether the information substantiates reasonable grounds for arrest: "it is not necessary that all three conditions of the Debot test be entirely satisfied, as a weakness in one component can be overborne by strengths in others"*
- *The totality of the circumstances provides the important contextual information as "what is suspicious in one context may tend to be neutral or exculpatory in a different setting".* [references omitted]

Compelling Nature of the Information

- *The first Debot factor concerns the compelling nature of the information. The court will look at the level of detail and precision of the tip: "the degree to which a confidential tip is compelling is a function of its detail".*
- *The "more detail a tip includes the more compelling it will be, and this is particularly so if the tip includes information not publicly known". This factor also involves an examination of how the informant purports to have acquired the information; that is whether the information was obtained first-hand or through hearsay.*
- *The information cannot simply be in the form of "bald conclusory statements" and must be more than "mere rumour or gossip". However, this does not mean that the Crown is "required to show that the detail and precision of a tip 'excludes' or 'rules out' the possibility of mere rumour or gossip or of coincidence".*
- *Dated information is less compelling, as is more general information and information in the public domain.*
- *No individual piece of information may be compelling but the information looked at in totality may meet the "compelling" criterion.*
- *The compelling nature of information predicting the commission of an offence is a function of its content, detail and precision taken as a whole ... . The more detailed it is, the more compelling it is. However, it may be expected that the detail from multiple sources will not necessarily be exact. If the detail provided by two informants, although not exactly the same, is similar and consistent in crucial respects that bear on the question of "what, when, where, how and why" something is happening, the compelling nature of the information is not necessarily diminished. It is open to a court to infer the two versions of the information refer to the same event or provide information about the same action.*

"Dated information is less compelling, as is more general information and information in the public domain."

"The history of the informant's tips is also relevant in assessing credibility, such as whether these previous tips had contained reliable information. The length of the relationship between the informant and the police officer involved can enhance credibility as can the volume of tips provided during the relevant period. Further, a tipster's credibility is increased if the previous tips related to the same type of offence as the current information."

Credibility of the Informer

- *The second Debot factor concerns credibility. An assessment of this factor involves scrutiny of the informant. The informant's criminal record, particularly if this involves perjury or crimes of dishonesty, is a relevant consideration as is the existence of outstanding charges or investigations pending against the informant.*
- *The history of the informant's tips is also relevant in assessing credibility, such as whether these previous tips had contained reliable information. The length of the relationship between the informant and the police officer involved can enhance credibility as can the volume of tips provided during the relevant period. Further, a tipster's credibility is increased if the previous tips related to the same type of offence as the current information.*
- *The informant's reason or motivation for offering the tip is also relevant.*
- *Credibility must be established either on the testimony of the officer dealing with the informant or some other evidence.*
- *The lack of evidence about an untried informant can be overcome on the balance of the Debot test if the information provided in the tip is sufficiently precise and corroborated.*

"The criminal record of a suspect can often provide corroboration although 'the cogency of the criminal record depends on its similarity to the criminal activity alleged by the tipster and the age of the record'."

Corroboration of the Information

- *The third Debot factor concerns corroboration. This factor does not require the police to substantiate each aspect of the tip in their subsequent investigation and surveillance "so long as the sequence of events actually observed conforms sufficiently to the anticipated pattern to remove the possibility of innocent coincidence".*
- *Corroboration evidence need not confirm illegal activities. However, while there is no general requirement "to corroborate any criminal activity, or any activity that, although not illegal, could be viewed as reasonably anticipatory to illegal activity", a lack of this evidence can, depending on the totality of the circumstances, undermine the case for an objectively reasonable grounds for arrest.*
- *The criminal record of a suspect can often provide corroboration although "the cogency of the criminal record depends on its similarity to the criminal activity alleged by the tipster and the age of the record".*
- *Corroboration may, depending on the circumstances, be provided from "confirmation of neutral data".*
- *Information from multiple informants can be corroborative inter se.*

Were There Reasonable Grounds?

In this case, the Court of Appeal concluded that the police had the necessary grounds to make the arrest. The information as a whole was compelling. ***"I am satisfied that each informant referred to the same trip, the same people and the same impending return, as well as their possession of drugs,"*** said Justice Ottenbreit. ***"The information of***

all three informants, while not exact and while differing in detail, is consistent." While some of the information provided was capable of being known from public sources, some of it was not common knowledge or widely known, making it more compelling. As was the information speaking to the imminent actions of the accused. These were not bald assertions. This information was detailed enough to allow for a conclusion that the information was more than gossip. And further, the informers acquired the information first-hand. It was not rumour. ***"Taken as a whole, the content of the information and detail provided by the informants was compelling,"*** said the Court of Appeal. ***"It spoke of a past trafficking of a controlled substance by [both accused]. It predicted an ongoing trafficking of a controlled substance and an imminent arrival of that substance in Yorkton. It predicted that Mr. Protz would be driving a rental vehicle on the way back to Yorkton. Most, if not all of it, was confirmed directly or indirectly. There was sufficient assurance that the information was reliable and was first-hand."***

The information was also credible. There was more than a bald statement that the sources were credible. There was evidence about the sources involvement with the police which provided an evidentiary basis for the court to assess their credibility and reliability. ***"Evidence that a source previously provided accurate information about criminal conduct demonstrates the reliability and credibility of the source,"*** said Justice Ottenbreit. ***"The sources in this case were not anonymous tipsters. Each had a 'track record' with the police in providing information about criminal conduct. At least two of them had a financial motivation to provide accurate and therefore reliable information because the amount they were paid depended on how helpful the information was."*** Moreover, other informers or investigative avenues can confirm part, or all, of the information provided. Two of the informers had knowledge of information that was not widely known and supported the view that they were both closely acquainted with both accused and were thus more likely to be privy to the criminal activity they reported. Their information would be seen to be reliable and credible as a result. Further, their information was confirmed by police investigation further enhancing their accuracy as informers.

Finally, the information was corroborated. ***"A substantial portion of the information provided by the informants overlapped and therefore corroborated each other,"*** said the Court of Appeal. ***"Some of the source information was confirmed by the police. ... There was, as a whole, sufficient corroboration of the information of A, B and C by each other and by way of other investigative evidence."***

The trial judge did not err in concluding there were reasonable grounds for arrest and in finding no ss. 8 or 9 *Charter* violations. The appeal was dismissed.

Complete case available at www.canlii.org

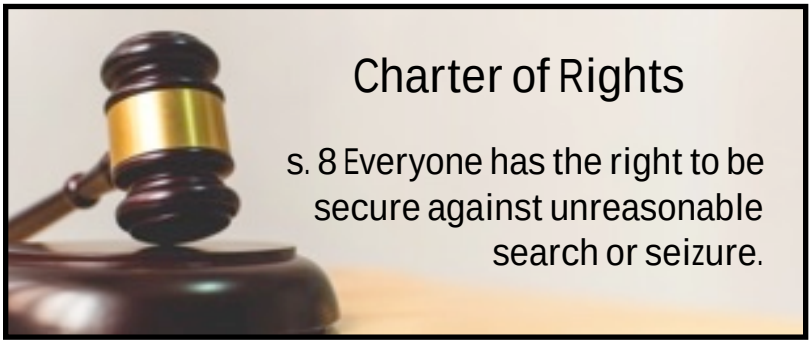
Editor's note: The actual case contains many details provided by the sources and the efforts made by police to corroborate those details.

NO STANDING TO ARGUE s. 8 CHARTER BREACH IN ABANDONED MACHINE SHOP

R. v. Herntier, 2020 MBCA 95

A transgender sex-trade worker was reported missing by her sister on October 18, 2004. On November 3, 2004, her naked body was discovered wrapped in plastic shrink wrap and plastic garbage bags, held together with tape, laying in the bushes at a rest stop. A friend and co-worker of the deceased told police about a man the deceased had been with six times, provided a description of the man and his truck, including its licence plate number. An address of the man's shop was also provided. The police began an investigation of the accused as a suspect in the murder.

The police obtained a general warrant to search the machine shop at 755 Walsh Street the accused had



leased and conducted a search of it on February 17, 2005. They were looking for the location where the deceased had been killed. They found what they believed to be drops of blood projected on a wall. Based on these observations, police obtained a second warrant to conduct a further search the next day. They seized evidence, which turned out to be the deceased's blood. This, along with other evidence, resulted in a charge of second degree murder.

Manitoba Court of Queen's Bench

The accused testified he did not know the deceased and denied that he had killed her. He said he ran a machine shop but that he moved out on October 15, 2004, because his business was not doing well. The accused postulated that, if the deceased was killed at his former machine shop, it was after he vacated the premises on October 15, 2004.

Among other challenges to the evidence, the accused applied under s. 8 of the *Charter* to exclude the evidence seized pursuant to the general warrant and the search warrant executed at the machine shop. He suggested, in part, that the warrant did not contain the required reasonable grounds to justify its issuance. The Crown asserted that the accused lacked standing to bring the motion for exclusion.

The accused's motion was dismissed and the evidence was admitted. The judge found that the accused lacked standing to challenge the admissibility of the evidence seized from the machine shop because he had abandoned the premises and, therefore, had no reasonable expectation of privacy in it. The judge stated:

> Based on the totality of the evidence before the court it is clear to me that the accused had closed his West End Machine shop business at 755 Wall Street. He had not communicated with the building owner since November 2004 and was behind on his rent payments prior to the execution of the General Warrant. All available evidence shows he was working in Alberta. His brother Sterling who was running a vacuum shop in the front of the premises confirmed to the building owner that the accused was gone and he himself had also moved out and returned the key to 755 Wall to the owner. In fact, the space was being advertised for rent to the public as early as February 18, 2005. By his actions the accused had abandoned the space that is the area containing the four walls of 755 Wall that were searched, thereby relinquishing any privacy interests he had. I must add that, although an applicant is not required to testify in order to establish an expectation of privacy, the fact remains that the accused in this case did not do so. I am therefore left with no evidence of the accused's subjective expectation of privacy. As a result, for all these reasons, I find that the accused has no standing to challenge the search warrant for 755 Wall Street of February 17, 2005.

The accused was convicted by a jury of second degree murder.

Manitoba Court of Appeal

The accused argued, among other things, that the trial judge erred in admitting evidence obtained pursuant to the warrants related to the machine shop. He asserted that he had standing to challenge the warrant because he had the legal status as a tenant of the premises with a valid lease that did not expire until March 31, 2005. He said that it had not been terminated by the landlord and, since it had not been terminated, he had an automatic one-year renewal provision. He suggested that, as a tenant, his lawful right to possession was still in effect and he continued to have a reasonable expectation of

"Section 8 is available to confer standing on an accused who had a reasonable expectation of privacy in the premises where the seizure took place, and the burden of proving an evidentiary basis for any violation rests on the accused."

privacy that was sufficient to give him to standing to challenge the search.

The Crown, on the other hand, contended that the trial judge did not err in finding that the accused had abandoned the premises prior to the search and, therefore, had no standing to challenge the search.

Standing

Before a person can argue they were subjected to an unreasonable search or seizure they must first establish standing. If an accused can establish personal exposure to the consequences of an unreasonable search or seizure, they will be given the right to challenge the admission of the evidence obtained therefrom. ***"Section 8 is available to confer standing on an accused who had a reasonable expectation of privacy in the premises where the seizure took place, and the burden of proving an evidentiary basis for any violation rests on the accused,"*** said Justice Beard. ***"Whether the accused had a reasonable expectation of privacy is to be determined on the basis of the totality of the circumstances."***

> While one could quibble over whether it was technically correct to say that the accused was "formerly renting" the space ... , given that the lease had not expired, it is difficult to see how he could claim to be still renting the property when he had moved out, had not paid rent for two months and had returned the key to the landlord.
>
> In my view, any right that the accused may have had in the premises arising out of the unexpired portion of the lease (if, in fact, he had any rights) is no different from the right of the accused in [*R. v. Patrick*, 2009 SCC 17] to retrieve items from his garbage before it was picked up. That does not change the fact that, at the time the police seized the garbage in Patrick, and the time that the police obtained the general warrant in this case, the accused's interest and, therefore, his reasonable expectation of privacy, had been abandoned.
>
> [...]
>
> ... The accused had done all that he could to abandon the lease. While he could have given notice to terminate the lease, that was not going to happen because he was skipping out on two months of rent. In my view, he was clearly acting in a manner inconsistent with the reasonable assertion of either a tenancy interest in the property or a continuing privacy interest. [paras. 204-207]

The Court of Appeal concluded the trial judge was correct in finding the accused had abandoned the premises and, therefore, had no standing to challenge the search warrant. The accused's appeal was dismissed.

Complete case available at www.canlii.org

POLICE LAWFULLY IN RESIDENCE: NO FEENEY WARRANT REQUIRED FOR ARREST

R. v. Stairs, 2020 ONCA 678

A citizen called 9-1-1 about 15 minutes after he claimed he saw the male driver of another vehicle striking a female passenger. The caller described the make, model and colour of the car, and provided a licence plate number of either "BEWN 480" or "BEWN 483". He also described the driver as a white male, between the ages of 25 to 35, with a buzz cut or shaved head. Police located a suspect vehicle parked in the driveway of a residential address, close to where the 9-1-1 caller had made his observations. The vehicle provided matched the make and model but bore licence plate "BEWN 840". The attending

"[T]here is both a subjective and objective component to the test for a warrantless arrest on an indictable offence. The subjective component requires that the police hold an honest belief that the person committed the offence. ... The objective component requires that the officer's belief be objectively reasonable in the circumstances known to the officer at the time of the arrest."

officers believed this was the correct vehicle. A person listed as a driver of the vehicle showed cautions for violence, family violence and being a flight risk.

An officer at the location of the vehicle contacted the 9-1-1 caller and confirmed the information provided to the police. The caller also explained that the female had been struck multiple times – in a "flurry of strikes" – and had been placed in a headlock and was "turtling" from the strikes. The police repeatedly knocked at the front door of the residence and announced their presence, but no one came to the door. Concerned for the safety of the female passenger, the police entered the home without a warrant through a side door they found unlocked and loudly announcing "police".

One of the officers looked down the basement steps and saw a man run by, from the right to the left side of the basement. The officer instructed all those present in the basement to come upstairs. Eventually, a woman came up the steps. She had fresh injuries to her face. Two officers then descended into the basement. At the bottom of the stairs a living room was to the right and a laundry room was to the left. The accused was found in the laundry room and arrested. One of the officers then conducted a "sweep" search of the living room area. He was not looking for evidence, but rather was clearing it for safety reasons. During his visual sweep of the living room, the officer saw a plastic container behind a sofa. The container was coloured, but transparent, and it was sitting out in the open on the floor. He saw what looked like glass shards inside the container, believed to be methamphetamine. And, as he was finishing his sweep of the room, the officer also saw a plastic Ziplock bag lying near a pizza box, also containing what he believed was methamphetamine. The accused was charged with possessing methamphetamine for the purpose of trafficking, assault and failing to comply with a probation order.

Ontario Superior Court of Justice

The judge concluded that the police entered the home because they were legitimately concerned with the safety of the female and police entry was justified under the common law ancillary powers doctrine. The accused's arrest in the home was lawful. The safety sweep was also lawful as a search incident to arrest. The police entered the living room after the arrest to ensure that there were no safety hazards. This was a "valid objective," to make sure that "no one else was there and that there were no other hazards." The drugs were located in plain view and could be seized. The methamphetamine was sitting out in the open when the officer did a brief sweep of the room for safety purposes. The accused was convicted of assault, breach of probation, and possessing methamphetamine for the purpose of trafficking.

Ontario Court of Appeal

The accused appealed his conviction for possessing methamphetamine for the purpose of trafficking. Although he accepted the lawfulness of police entry, he suggested the police had insufficient grounds to arrest him and needed a *Feeney* warrant to make the arrest inside the home. Further, the accused argued that, after he was arrested, the police conducted an unlawful search of a basement living room. Thus, the drugs ought to have been excluded under s. 24(2) of the *Charter*.

The Arrest

Justice Fairburn, writing the decision for a two member majority, agreed with the trial judge that the police entry was authorized under the common law ancillary powers doctrine. She stated:

> The officers on scene, whose evidence the trial judge accepted as credible and reliable, repeatedly knocked at the front door to the residence, yet were met with silence. That silence was concerning. At the time, all the police knew was that a female had been seriously assaulted in a motor vehicle that was now sitting in the driveway of the home. With the car present, it was reasonable to expect that the car occupants were in the home and to fear that the door was not being answered because the victim was suffering further violence.
>
> It is against that backdrop that the police had to make a decision. The consequences of not responding quickly and decisively could have been grave. While the female in this case eventually walked out of the basement, in another case, she might not have. The luxury of time was not on offer. The police had a duty to ensure safety and their exercise of powers – entering the home without a warrant in order to locate the female occupant that had been seen by the 9-1-1 caller – was a justifiable exercise of power associated with that duty. [paras. 18-19]

As for the arrest, the police had valid grounds to make it:

> [T]here is both a subjective and objective component to the test for a warrantless arrest on an indictable offence. The subjective component requires that the police hold an honest belief that the person committed the offence. The trial judge accepted that the officers in this case subjectively believed that they had reasonable grounds to arrest. The objective component requires that the officer's belief be objectively reasonable in the circumstances known to the officer at the time of the arrest.
>
> In my view, the circumstances of this case amply justified the arrest from both a subjective and objective perspective. I would not give effect to the [accused's] suggestion that the objective grounds were weakened by the fact that there was no direct evidence that the woman and man in the residence were the people from the car. The fact is that there is no requirement that an arrest rely upon direct, as opposed to circumstantial, evidence. In this case, there was very strong circumstantial evidence that the people located in the home were the ones seen by the 9-1-1 caller.
>
> From the first floor, one of the officers saw a man matching the description given by the 9-1-1 caller (white, 25-35 and shaved head). The female had visible injuries to her face, described as cuts, scratches, bruising, markings and swelling, all consistent with the assault that the 9-1-1 caller had described. With a minor variation to the licence plate number, the car in the driveway matched the description given by the 9-1-1 caller. The [accused] was also associated to that vehicle through a police record check. [references omitted, paras. 24-26]

The trial judge did not err in holding that a reasonable person in the position of the arresting officers would be able to conclude that there were objectively reasonable grounds to arrest.

Feeney Warrant?

The majority also rejected the accused's contention that, even if the police had sufficient grounds to arrest him, they were required to obtain a *Feeney* warrant before doing so. He had argued that, once the female had been isolated from the accused, she was safe and the police were required to leave the residence to obtain the *Feeney* warrant to effect his arrest. Moreover, he opined that if the female did not wish to go with police when they left to get the *Feeney* warrant, an officer could have stayed with her in the kitchen and left the accused in the basement until the *Feeney* warrant arrived.

Although it was decided in *R. v. Feeney*, [1997] 2 S.C.R. 13 that a warrant is generally necessary to

"Although the police originally entered the home over safety concerns, once they found a female inside of the residence and concluded that she was the victim of the assault witnessed by the 9-1-1 caller, it was open to them to go into the basement to effect the arrest."

effect an arrest inside a residence, a *Feeney* warrant was not necessary in this case. ***"Although the police originally entered the home over safety concerns, once they found a female inside of the residence and concluded that she was the victim of the assault witnessed by the 9-1-1 caller, it was open to them to go into the basement to effect the arrest,"*** said Justice Fairburn. She continued:

> The officers were understandably concerned about what the [accused] was doing in the basement when he refused to come upstairs in response to the police commands. As one of the officers explained, in evidence accepted by the trial judge: "I don't know what he's doing, if he's grabbing a weapon in that room, so no, … she's not a hundred per cent safe at that point, … I don't know what he's doing in that room so she's, in my mind she's, she's not a hundred per cent safe." In that officer's view, the best way to ensure the woman's safety, and officer safety, was to effect the arrest: "I didn't spend too much time talking to her. I didn't know what he was doing so my main focus was on him. If I stopped to talk to her and he came out with a weapon, I'd be at a disadvantage."
>
> In any event, as important as a Feeney warrant is for protecting the privacy of those inside of private dwellings when the police come to effect arrests, they authorize the police to "enter a dwelling-house described in the warrant for the purpose of arresting or apprehending" a person: Criminal Code, ss. 529(1), 529.1. The whole purpose of the Feeney warrant is to protect the elevated privacy interests in a home, requiring certain grounds to be met before entry can be made to effect an arrest. Yet, in this case, the police had already legitimately entered a dwelling-place under the ancillary powers doctrine. They were lawfully inside of the residence and it would make no sense to require them to leave to obtain an authorization to enter again, only to effect an arrest that they could clearly make without warrant if it was anywhere other than a private dwelling.
>
> Moreover, it would be impractical in circumstances like this case to require the police to leave and obtain a home entry warrant to make an arrest in a home that they were already lawfully in. This is particularly true in this case, where the [accused] acknowledges that, if the complainant had been unprepared to leave, an officer would have had to wait inside of the residence with her while other officers did the work to obtain a Feeney entry warrant. Any such approach would have the effect of potentially aggravating – not assuaging – privacy concerns. [paras. 31-33]

Nor did the police need to limit their activity in the home to providing assistance to any possible victim. The police had entered in exigent circumstances, concerned for the safety of a person possibly in need of assistance, and were permitted to effect the arrest once those grounds for arrest crystalized.

"The whole purpose of the Feeney warrant is to protect the elevated privacy interests in a home, requiring certain grounds to be met before entry can be made to effect an arrest. Yet, in this case, the police had already legitimately entered a dwelling-place under the ancillary powers doctrine. They were lawfully inside of the residence and it would make no sense to require them to leave to obtain an authorization to enter again, only to effect an arrest that they could clearly make without warrant if it was anywhere other than a private dwelling."

"[W]hen considering whether a search is lawful incident to arrest, the court must consider: (a) the purpose of the search; (b) whether that purpose was a valid law enforcement purpose that was connected to the arrest; and (c) whether the purpose identified for the search was objectively reasonable in the circumstances."

Incidental Search

The majority also rejected the accused's suggestion that the police needed reasonable grounds to believe that officer safety was at stake and that a search was necessary to address their specific concern before searching the basement living area:

> Had the [accused] been arrested outside of his home, there is no question that the well-known and often applied search incident to arrest doctrine would have been available to conduct a search. A search incident to arrest must be "truly incidental to the arrest," meaning that the police must have a "reason related to the arrest for conducting the search" at the time that it is carried out. The search must also be objectively reasonable in nature.
>
> The purposes for a search incident to arrest include that the police are searching the immediate surroundings to the arrest to: (a) ensure the safety of the police, the public and the accused; (b) preserve evidence; and (c) discover evidence that may be used at trial. Therefore, when considering whether a search is lawful incident to arrest, the court must consider: (a) the purpose of the search; (b) whether that purpose was a valid law enforcement purpose that was connected to the arrest; and (c) whether the purpose identified for the search was objectively reasonable in the circumstances.
>
> I do not accept the [accused's] core proposition that the only way that the police could enter the basement living room, and look behind the sofa located closer to the centre of the room, was if they had reasonable grounds to believe that their safety was at risk. If that were the test to be applied in circumstances such as these, the police would often be at grave risk. [references omitted, paras. 50-52]

And further:

> [A] person who is under lawful arrest has a lower reasonable expectation of privacy. In the context of an arrest, the key consideration is not whether there exist reasonable grounds to believe, but whether the objective of the search is connected to the arrest and whether it is reasonable in the circumstances. ...
>
> Searching for safety at the scene of an arrest has long been understood to be of critical importance. The ability of the search incident to arrest doctrine to permit the police to respond to the dynamic and often dangerous nature of arrest scenes has remained a staple in s. 8 jurisprudence. ...
>
> I accept the [accused's] suggestion that when the police enter a residential address in circumstances such as this, in fulfillment of their obligation to protect life, they are highly constrained in what they can do. The law must not develop in a way that allows the police to use a home entry in urgent circumstances to create the opportunity for a windfall search.
>
> At the same time, the law must be practical. The police can be placed at serious risk when

Searching for safety at the scene of an arrest has long been understood to be of critical importance. The ability of the search incident to arrest doctrine to permit the police to respond to the dynamic and often dangerous nature of arrest scenes has remained a staple in s. 8 jurisprudence."

"[T]he plain view doctrine is a seizure doctrine, not a search doctrine."

> they enter a private residence. So too may civilians be placed at serious risk. In this case, the police were essentially in the basement of a home, with a man in handcuffs, and no way of knowing whether someone with access to a weapon was hiding behind the sofa in the room that they would have to pass in order to ascend the stairs with the handcuffed man and to exit the residence. This was a potentially dangerous situation.
>
> In my view, when the police are present in a residence without judicial authorization, it may well be that the full panoply of police powers that are typically available under the search incident to arrest doctrine are not available with the same force as they would otherwise be. In particular, it may be that a search for evidence that may be permitted outside of the residence, would not be permitted in this situation.
>
> That is not this case, though. Here, the trial judge accepted as a fact – a fact to which we must show deference on appeal – that the police only swept the room looking for safety hazards. It is in the context of that sweep that she accepted that the officers found the methamphetamine in plain view.
>
> Of course, the plain view doctrine is a seizure doctrine, not a search doctrine. ... [T]here are four criteria to be applied in determining whether the doctrine is operative: (a) whether the police were lawfully positioned relative to where the item(s) were found; (b) whether the nature of the evidence was immediately apparent as constituting an offence; (c) whether it was discovered inadvertently; and (d) whether the item(s) were visible without any exploratory search. [references omitted, paras. 56-62]

In upholding the trial judge's conclusion that the police actions were supported by the search incident to arrest and plain view doctrines, Justice Fairburn summarized as follows:

> In the end, the police were able to articulate why they had safety concerns. That articulation made sense. They had descended into a basement where they had never been before, in a house they had never been in before. While the 9-1-1 caller said that there were two people in the car that he observed, that did not mean there were only two people in the home. Nor did it mean that there were no other safety concerns hiding around corners.
>
> In particular, the police could not see behind the sofa from the doorway to the living room. It was not unreasonable to take a quick visual scan of the room in the circumstances. They had a person in handcuffs and needed to ascend the stairs, which were located right beside the living room, to safely get him out of the residence, all while the female remained on the first floor. The fact that the methamphetamine was sitting out in plain view meant that it could be seized. [paras. 67-68]

The accused's appeal was dismissed.

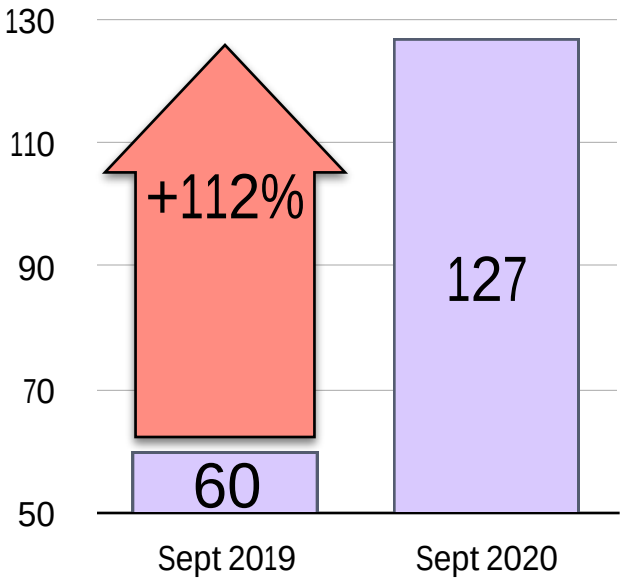
Another View

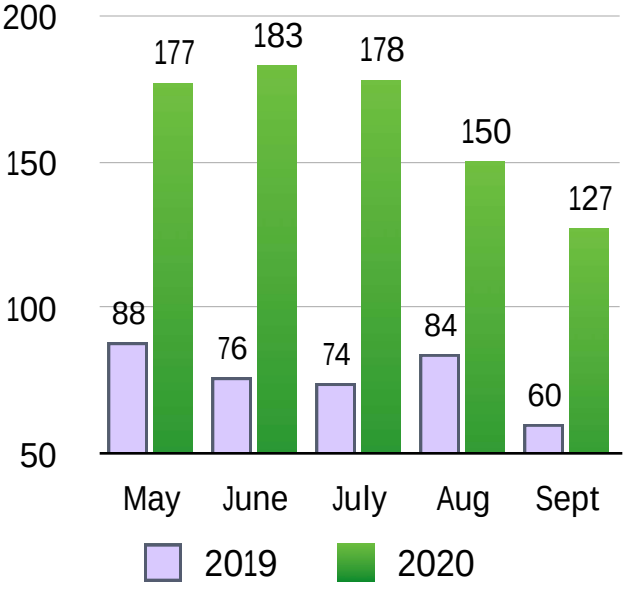
Justice Nordheimer agreed with majority's opinion about the legality of the police entry into the residence, that valid grounds to arrest existed, and that police did not require a *Feeney* warrant. However, he did not agree that the warrantless *"safety search"* of the basement living area was reasonable. He was unconvinced the police demonstrated *"objectively verifiable necessity"* to conduct the search. In his view, the officers did not have sufficient objectively reasonable grounds to conduct a safety search of the basement living area. Thus, the search breached s. 8 of the *Charter* and Justice Nordheimer would have excluded the evidence under s. 24(2). He would have allowed the appeal, set aside the accused's drug conviction and entered an acquittal.

Complete case available at www.ontariocourts.on.ca

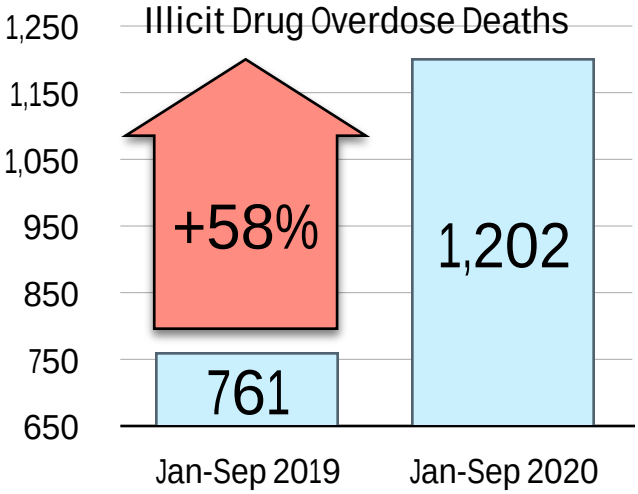
2020 BC ILLICT DRUG TOXICITY DEATHS ALREADY OUTPACE PREVIOUS YEAR

The Office of BC's Chief Coroner has released statistics for illicit drug toxicity deaths (formerly known as illicit drug overdose deaths) in the province from **January 1, 2010 to September 30, 2020**. In September 2020 there were **127** suspected drug toxicity deaths. This represents a **+112%** increase over the number of deaths occurring in September 2019 (**60**).





In 2020, there have been a total of **1,202** suspected drug overdose deaths from January to September. This is more that all of 2019's total and represents an increase of **441** deaths over the 2019 numbers for the same time period (**761**).



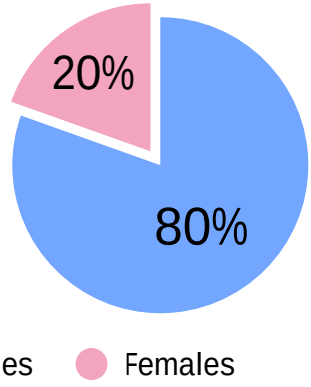
People aged 40-49 have been the hardest hit in 2020 with **288** illicit drug toxicity deaths followed by 30-39 year-olds (**286**) and 50-59 years-old (**267**). People aged 19-29 had **224** deaths while 60-69 year olds had **113** deaths. Vancouver had the most deaths at **291** followed by Surrey (**142**), Victoria (**102**), Kamloops (**43**), Abbotsford (**39**), and Kelowna and Prince George each with **88**.

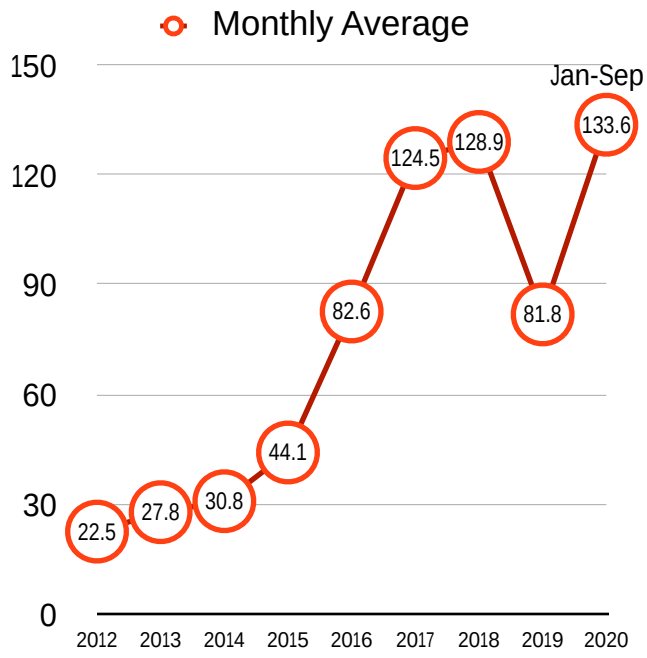
Overall, the 2020 statistics amount to about four (**4**) **people dying every day of the year.**

Deaths by gender

Males continue to die at a **4:1** ratio compared to females. From January to September 2020, **967** males had died while there were **235** female deaths.

The January to September 2020 data indicated that most illicit drug toxicity deaths (**84%**) occurred inside while **14.5%** occurred outside. For **21** deaths, the location was unknown.



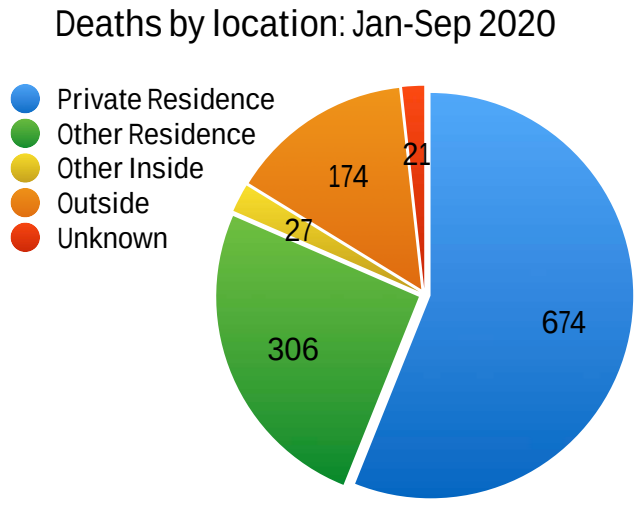


"**Private residence**" includes residences, driveways, garages, trailer homes.

"**Other residence**" includes hotels, motels, rooming houses, shelters, etc.

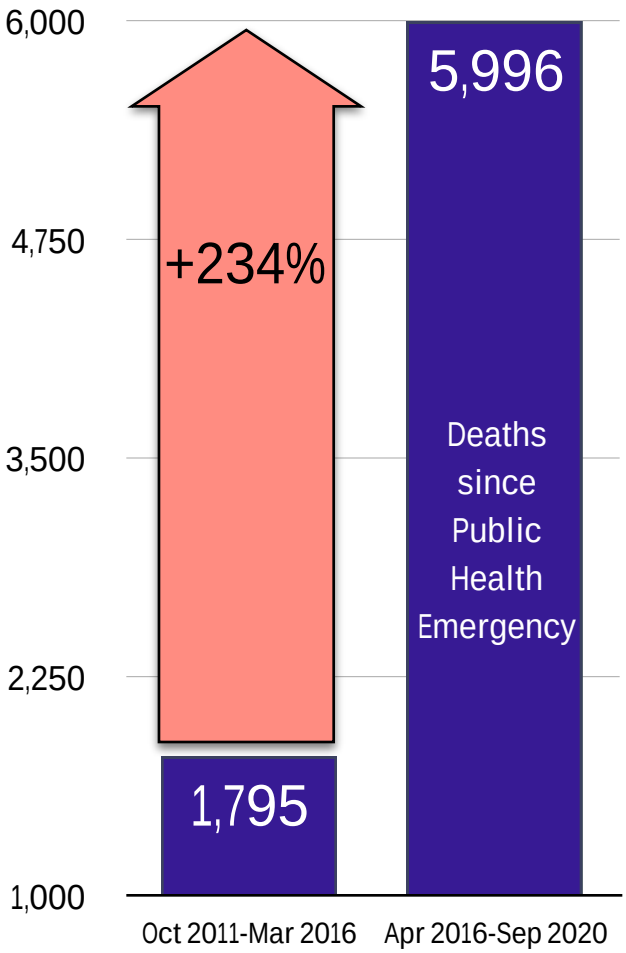
"**Other inside**" includes facilities, occupational sites, public buildings and businesses.

"**Outside**" includes vehicles, streets, sidewalks, parks, wooded areas, campgrounds and parking lots.



DEATHS SINCE PUBLIC HEALTH EMERGENCY

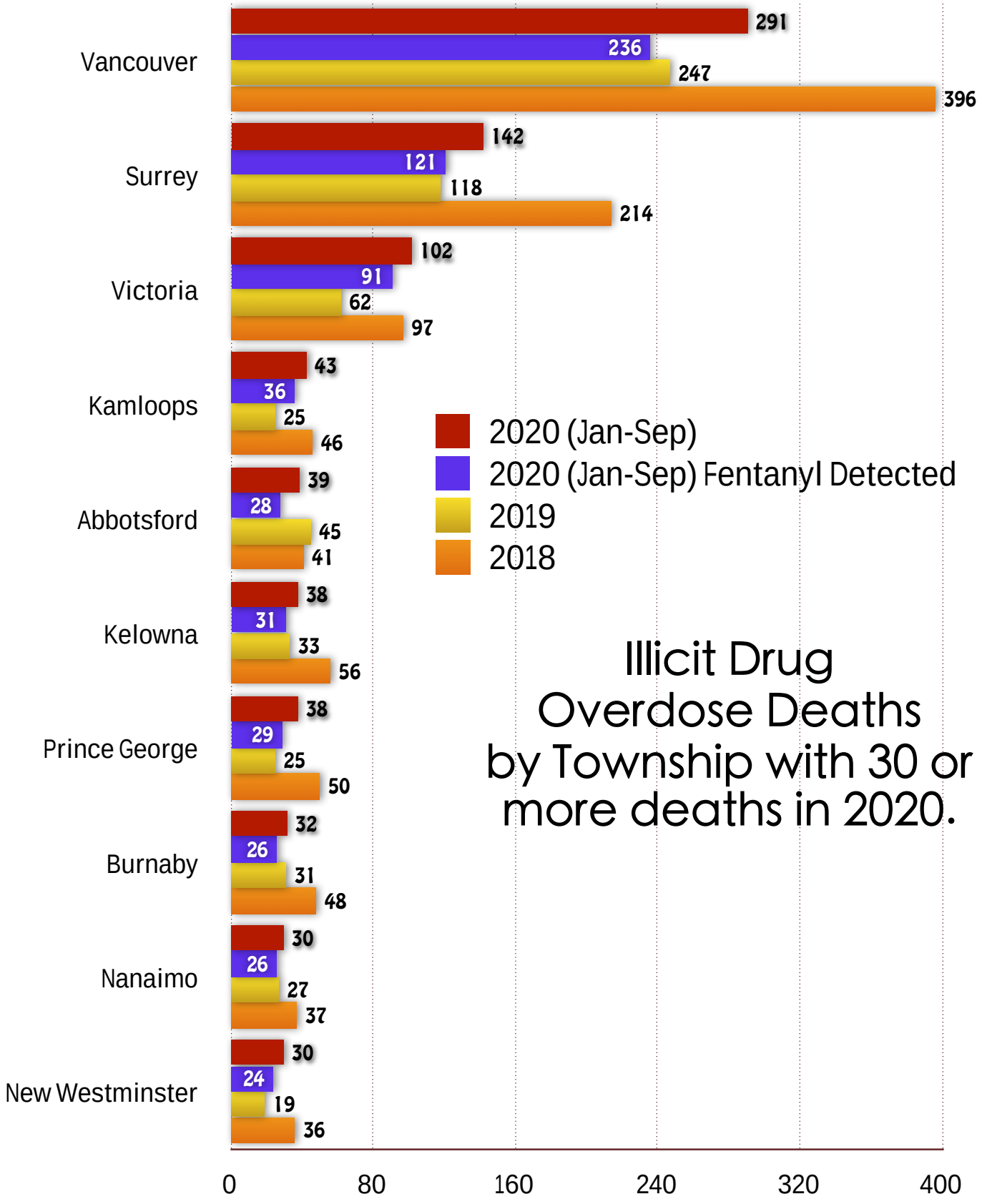
In April 2016, BC's provincial health officer declared a public health emergency in response to the rise in drug overdoses and deaths. The number of overdose deaths in the **52** months preceding the declaration (Oct 2011-Mar 2016) totaled **1,795**. The number of deaths in the **54** months following the declaration (Apr 2016-Sep 2020) totaled **5,996**. This is an increase of more than **234%**.



Source: Illicit Drug Toxicity Deaths in BC - January 1, 2010 to September 30, 2020. Ministry of Public Safety and Solicitor General, Coroners Service. October 20, 2020.

TYPES OF DRUGS

The top five detected drugs relevant to illicit drug overdose deaths from 2016 - 2019 were fentanyl and its analogues, which was detected in **82.9%** of deaths, cocaine (**49.8%**), methamphetamine/amphetamine (**34.2%**), ethyl alcohol (**27.9%**), heroin (**14.6%**) and methadone (**6.7%**). Other opioids (**17.3%**) and other drugs (**16.5%**) were also detected.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Victoria
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Prince George
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Burnaby
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Nanaimo
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New Westminster
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36
2020 (Jan-Sep)
2020 (Jan-Sep) Fentanyl Detected
2019
2018
Illicit Drug Overdose Deaths by Township with 30 or more deaths in 2020.
0
80
160
240
320
400

POLICE-REPORTED HUMAN TRAFFICKING IN CANADA, 2009 to 2018

Human trafficking involves **recruiting**, **transporting**, **transferring**, **holding**, **concealing** or **exercising control** over a person, for the purposes of **exploitation**.

Since 2009:

Number of police-reported incidents of human trafficking: **1,708**

Percentage of incidents involving international trafficking: **32%**

Percentage of police-reported incidents in major cities: **90%**

Human trafficking often involves victims and witnesses in vulnerable situations who are fearful or distrustful of authorities or who are facing threats from the traffickers. This means that

the true scope of human trafficking in Canada is underestimated.

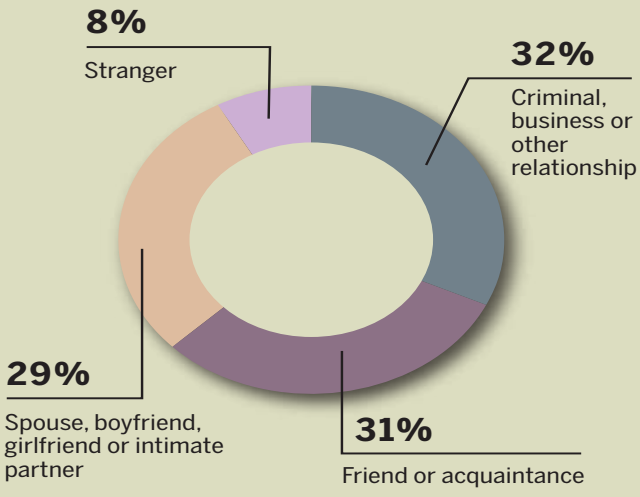
Almost all human trafficking victims are women and girls

Gender of victim
- 97% women
- 3% men

Age of victim
- 28% under 18
- 45% 18 to 24
- 26% 25 and older

Gender of accused person
- 19% women
- 81% men

92% of human trafficking victims knew their trafficker



44% of human trafficking incidents involved other offences

Of these:

- **63%** involved offences related to the sex trade
- **39%** involved physical assault
- **21%** involved sexual assault or other sexual offences

Source: Statistics Canada, Canadian Centre for Justice and Community Safety Statistics, Uniform Crime Reporting Survey.

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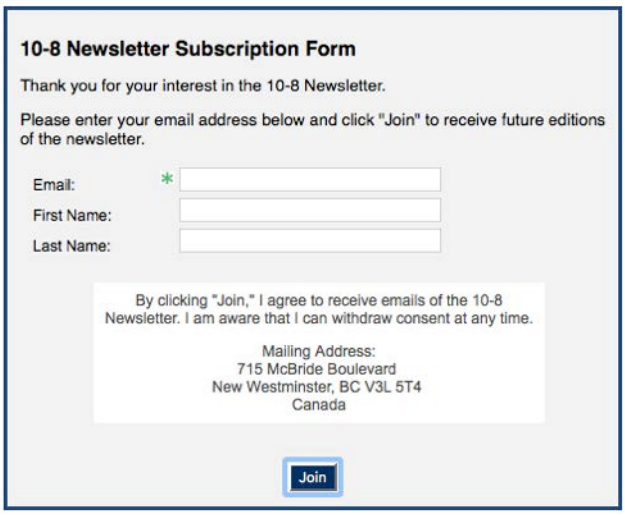

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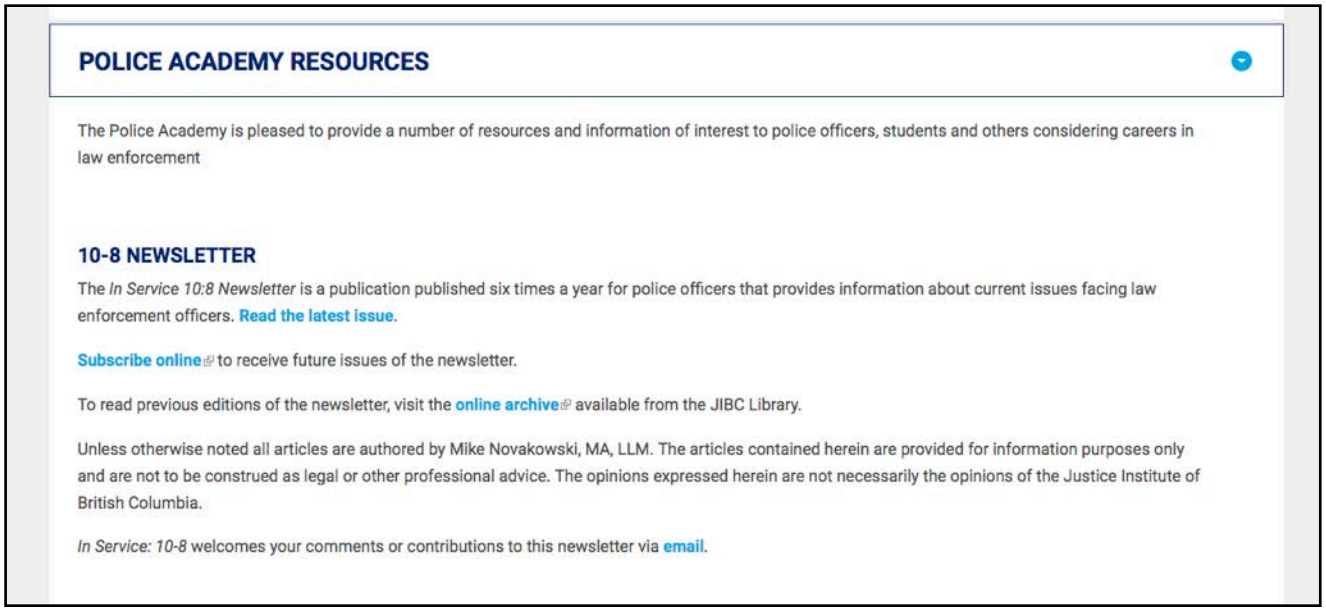

POLICE ACADEMY RESOURCES

The Police Academy is pleased to provide a number of resources and information of interest to police officers, students and others considering careers in law enforcement

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