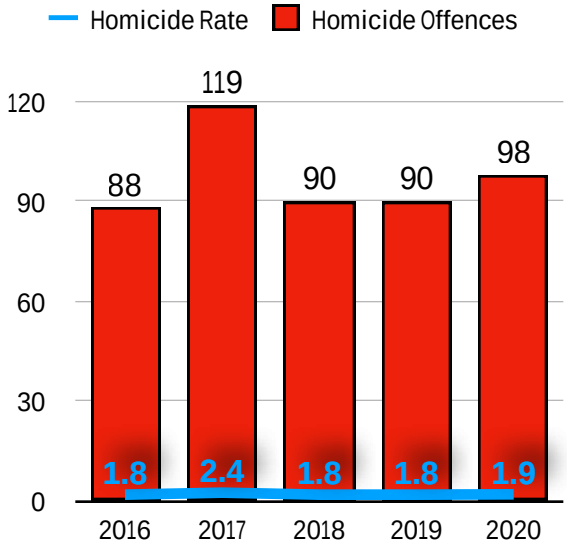
JUSTICE INSTITUTE of BRITISH COLUMBIA

IN SERVICE: 10-8

A PEER READ PUBLICATION

BC's HOMICIDE RATE RISES

BC's Ministry of Public Safety and Solicitor General, Policing and Security Branch, recently released its British Columbia Crime Trends, 2011-2020 report. Data indicates 2020 homicide offences rose **+8.9%** over 2019 numbers. In 2020 there were **98** homicides reported to police compared to **90** such offences reported in 2019. This was still below the 10-year high of **119** homicides reported in 2017. The homicide rate per 1,000 population was **1.9**.



More BC Crime Data at p. 46

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.

The 4 disciplines of execution: achieving your wildly important goals.

Chris McChesney, Sean Covey, & Jim Huling with Beverly Walker & Scott Thele.

New York, NY: Simon & Schuster, 2021.

HF 5549.5 G6 M33 2021

50 top tools for coaching: a complete toolkit for developing and empowering people.

Gillian Jones & Ro Gorell.

London, UK: KoganPage, 2021.

HD 30.4 J656 2021

Achieve beyond expectations: master the 5 intangibles to make the impossible possible!

Bill Blokker.

Los Angeles, CA: New Insights Press, 2020.

BF 637 S8 B56 2020

Adult learning basics.

William J. Rothwell.

Alexandria, VA: ATD Press, 2020.

LC 5225 L42 R68 2020

Also available in eBook format (JIBC login required)

Agile leadership for turbulent times: integrating your ego, eco and intuitive intelligence.

Sharon Olivier, Frederick Holscher & Colin Williams.

Abingdon, Oxon; New York, NY: Routledge, Taylor & Francis Group, 2021.

HD 57.7 O433 2021

Autism and the police: practical advice for officers and other first responders.

Andrew Buchan.

London; Philadelphia, PA: Jessica Kingsley Publishers, 2020.

HV 6133 B83 2020

Also available in eBook format (JIBC login required)

Bliss brain: the neuroscience of remodeling your brain for resilience, creativity, and joy.

Dawson Church.

Carlsbad, CA: Hay House, Inc., 2020.

QP 360 C4847 2020

Also available in eBook format (JIBC login required)

Brave talk: building resilient relationships in the face of conflict.

Melody Stanford Martin.

Minneapolis, MN: Broadleaf Books, 2020.

HM 1121 M39 2020

Also available in eBook format (JIBC login required)

Business continuity planning : increasing workplace resilience to disasters.

Brenda D. Phillips & Mark Landahl.

Oxford; Cambridge, MA; Amsterdam: Butterworth-Heinemann, 2021.

HD 49 P45 2021

Also available in eBook format (JIBC login required)

The conflict resolution toolbox: models and maps for analyzing, diagnosing, and resolving conflict.

Gary T. Furlong; foreword by Dr. Christopher Moore, partner, CDR Associates.

Hoboken, NJ: John Wiley & Sons, Inc., 2020.

HM 1126 F873 2020

Also available in eBook format (JIBC login required)

Develop your leadership skills: fast, effective ways to become a leader people want to follow.

John Adair.

London; New York, NY: Kogan Page Ltd, 2019.

HD 57.7 A2746 2019

Forward-focused learning: inside award-win ning organizations.

edited by Tamar Elkeles; foreword by Kimo Kippen.

Alexandria, VA: ATD Press, 2021.

HD 58.82 E45 2021

Also available in eBook format (JIBC login required)

Great answers to tough interview questions.

Martin John Yate.

London, UK: KoganPage, 2021.

HF 5549.5 I6 Y27 2021

Group dynamics for teams.

Daniel Levi & David A. Askay.

Thousand Oaks, CA: SAGE Publications, Inc., 2021.

HD 66 L468 2021

Helping skills for human service workers: building relationships and encouraging productive change.

by Kenneth France, Ph.D. & Kim Weikel, Ph.D.

Springfield, IL: Charles C Thomas, Publisher, Ltd., 2020.

HV 43 F68 2020

Also available in eBook format (JIBC login required)

Inclusive leadership: transforming diverse lives, workplaces, and societies.

edited by Bernardo M. Ferdman, Jeanine Prime, & Ronald E. Riggio.

New York, NY: Routledge, Taylor & Francis Group, 2021.

HD 57.7 I53 2021

Also available in eBook format (JIBC login required)

Inquiry graphics in higher education: new approaches to knowledge, learning and methods with images.

Nataša Lackovic.

Cham, Switzerland: Palgrave Macmillan, 2020.

LB 2342.75 L33 2020

Leading the learning function: tools and techniques for organizational impact.

edited by MJ Hall, Laleh Patel; foreword by Tony Bingham.

Alexandria, VA: ATD Press, 2020.

HD 57.7 L4376 2020

Also available in eBook format (JIBC login required)

Learning in organizations: an evidence-based approach.

J. Kevin Ford.

New York, NY: Routledge, 2021.

HD 58.82 F67 2021

A little book about trauma-informed workplaces: we envision a world where everyone is trauma-informed.

Nathan Gerbrandt, Randy Grieser & Vicki Enns.

Winnipeg, MB: CTRI, Crisis & Trauma Resource Institute, 2021.

RC 552 T7 G47 2021

Managing your academic research project.

Jacqui Ewart & Kate Ames.

Singapore: Springer, 2020.

Q 180.55 M3 M36 2020

Mindfulness for warriors: empowering first responders to reduce stress and build resilience.

Kim Colegrove.

Coral Gables, FL: Mango Publishing, 2020.

RC 489 M55 C64 2020

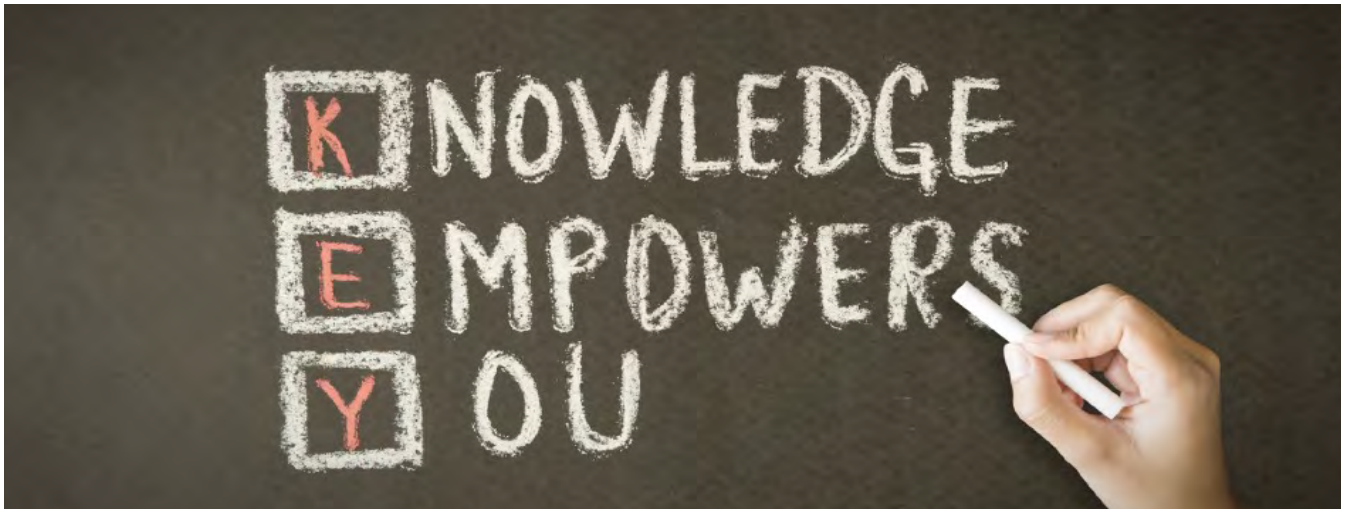
Also available in eBook format (JIBC login required)

The myth of multitasking: how "doing it all" gets nothing done.

by Dave Crenshaw.

Coral Gables, FL: Mango Publishing, 2021.

HD 69 T54 C74 2021



Online child sexual victimisation.
Corinne May-Chahal & Emma Kelly.
Bristol; Chicago, IL: Policy Press, 2020.
HV 6773.15 O58 M39 2020

Open source intelligence techniques: resources for searching and analyzing online information.
Michael Bazzell.
Bolton, ON: Inteltechniques.com, 2021.
JF 1525 I6 B39 2021

Overcoming avoidance workbook: break the cycle of isolation & avoidant behaviors to reclaim your life from anxiety, depression, or PTSD.
Daniel F. Gros.
Oakland, CA: New Harbinger Publications, 2021.
BF 575 A6 G76 2021

The persuasive negotiator: tools and techniques for effective negotiating.
Florence Kennedy Rolland.
London, UK: Routledge, Taylor & Francis Group, 2021.
BF 637 N4 K46 2021
Also available in eBook format (JIBC login required)

Statistics workbook for dummies.
Deborah Rumsey.
Hoboken, NJ: Wiley, 2019.
HA 29 R842 2019

Substance use and misuse: everything matters.
Rick Csiernik.
Toronto, ON: Canadian Scholars, 2021.
HV 5840 C2 C75 2021

Technical training basics.
Sarah Wakefield.
Alexandria, VA: ATD Press, 2020.
HF 5549.5 T7 W35 2020
Also available in eBook format (JIBC login required)

The trusted executive: nine leadership habits that inspire results, relationships and reputation.
John Blakey.
New York, NY: Kogan Page Ltd, 2021.
HD 57.7 B554 2021

When religion kills: how extremists justify violence through faith.
Phil Gurski.
Boulder, CO: Lynne Rienner Publishers, Inc., 2020.
BL 65 V55 G87 2020

You are not your brain: the 4-step solution for changing bad habits, ending unhealthy thinking, and taking control of your life.
Jeffrey M. Schwartz & Rebecca Gladding.
New York, NY: Avery, 2011.
BF 637 B4 S35 2011

JUSTICE INSTITUTE of BRITISH COLUMBIA

SCHOOL OF CRIMINAL JUSTICE & SECURITY

JUSTICE & PUBLIC SAFETY DIVISION

BACHELOR OF LAW ENFORCEMENT STUDIES (BLES)

Get Ahead of the Competition

Today's law enforcement and public safety environment is complex. Employees in public and private organizations are increasingly being called upon to perform inspections, investigations, security supervision, enforcement and regulatory compliance functions. The Bachelor of Law Enforcement Studies (BLES) provides expanded opportunities in the study of law enforcement and public safety and will position you to be a sought-after candidate in a highly competitive recruiting environment. Our education program will prepare you for success by developing your leadership skills, and enhancing your interpersonal communications, critical thinking and ethical decision making.

WHAT WILL I LEARN?

This comprehensive program will prepare you to contribute to a just and fair society as a member within a variety of criminal justice and public safety professions. Graduates will obtain:

- An in-depth knowledge of the Canadian criminal justice system.
- Analysis and reasoning skills informed by theory and research.
- Skills required to effectively work within a law enforcement agency.

WHO SHOULD TAKE THIS PROGRAM

- Graduates of JIBC's two-year Law Enforcement Studies Diploma (LESD) or applicants a diploma or associate degree in a related field can begin in the third year of the Bachelor of Law Enforcement Studies program.
- Applicants who have completed a peace officer training program with a minimum of three years full-time service in a recognized public safety agency with a Prior Learning Assessment that would allow for 60 credits to be granted towards completion of the degree program.

CAREER FLEXIBILITY

The program will provide you with the in-depth knowledge, expanded skills and competencies to seek employment in a wide range of law enforcement, public safety, regulatory, and compliance fields offering you more career flexibility and professional development. Examples of potential roles include:

- police officer
- conservation officer
- animal cruelty officer
- border services agency official
- fraud investigator
- by-law enforcement officer
- regulatory enforcement officer
- gaming investigator
- correctional officer
- deputy sheriff
- intelligence services officer
- probation officer

BACHELOR OF LAW ENFORCEMENT STUDIES (BLES)

CURRICULUM AT A GLANCE

Courses in years one and two are offered through the Law Enforcement Studies Diploma. Years three and four build on these courses to complete the degree. Students can pursue their third and fourth year studies full-time or part-time to complete the final 60 credits.

Year 3

- Criminal & Deviant Behaviour
- Comparative Criminal Justice
- Leadership in a Law Enforcement Environment
- Search & Seizure Law in Canada
- Organizational Behaviour
- Investigations & Forensic Evidence
- Restorative Justice
- Project Management
- Data & Research Management

Year 4

- Aboriginal People and Policy
- Multiculturalism, Conflict and Social Justice
- Administrative and Labour Law in Canada
- Applied Research in Public Safety and Law Enforcement
- Professional Practice in Justice and Public Safety
- Crisis Intervention
- Research Project
- Governance and Accountability in Law Enforcement
- Terrorism and Society
- Organized Crime and Society

PROGRAM FORMAT

Students can pursue their studies full-time at the New Westminster campus or online. The full-time on-campus format consists of 60 credits completed over two years with courses over the fall and winter semesters (five courses per semester). The online format consists of 60 credits that must be completed within five years with the flexibility to take courses in the fall, winter and spring-summer semesters.

HOW TO APPLY?

Credit for the first two years of BLES will be granted to students who meet the program's admission requirements. For details on admission requirements and application deadlines please visit our website at jibc.ca/bles.

FOR MORE INFORMATION:

jibc.ca/bles

bles@jibc.ca
604-528-5778

STAY CONNECTED:

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Canada

Justice Institute of British Columbia (JIBC) is Canada's leading public safety educator recognized nationally and internationally for innovative education in justice, public safety and social services.

WHO ARE BC's PROVINCIAL COURT JUDGES?

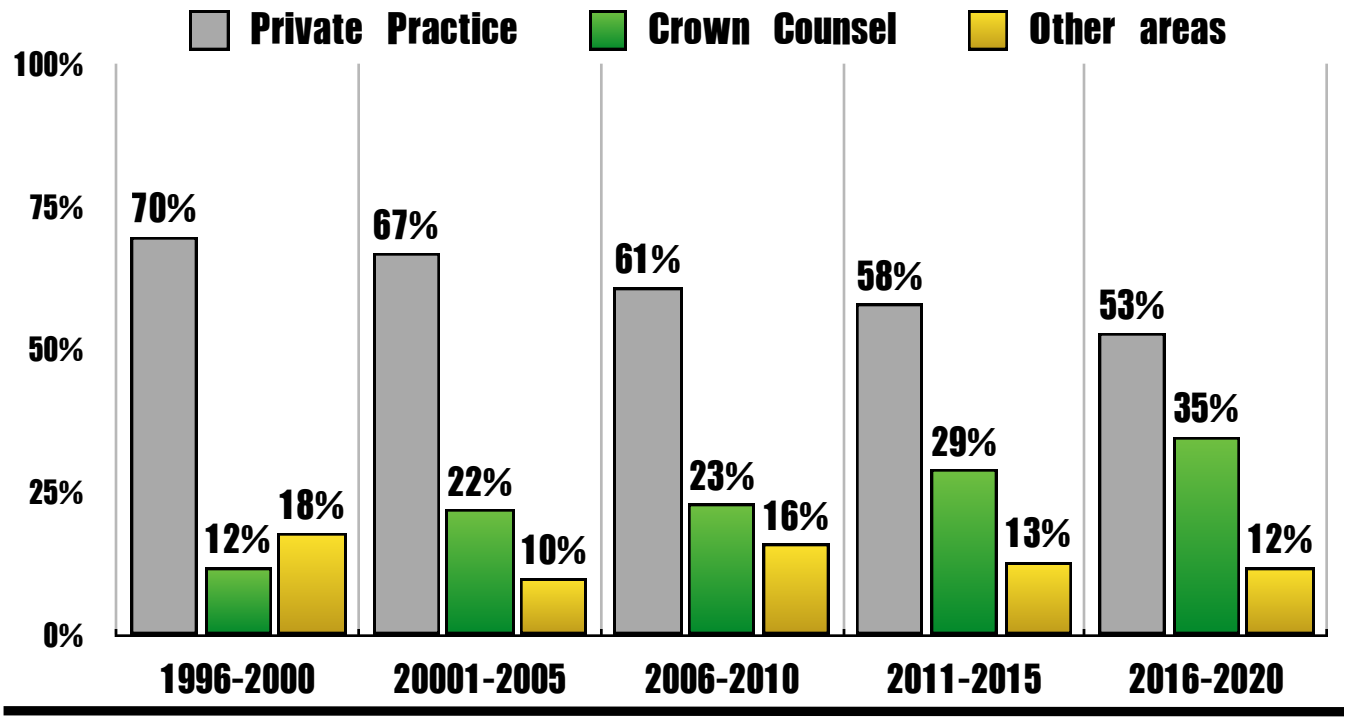
In a recent report — Judicial Council of British Columbia Annual Report 2020 — statistical and demographic information about applicants for appointment as BC Provincial Court judges (PCJs) and judicial justices was released. Highlights include:

1,318 The number of applications for PCJ received since 1995.

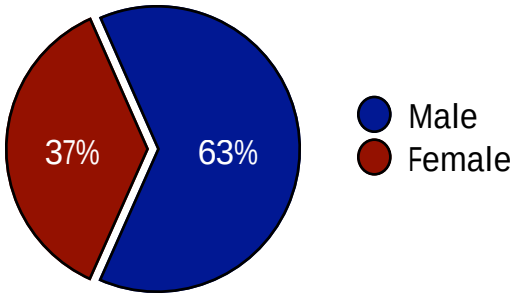
35% The percentage of PCJ applicants from Crown Counsel in the last five years (2016-2020). This has risen **6%** over the previous five year period (2011-2015). From 1995-2020, on average, **24%** of PCJ applicants came from Crown Counsel.

53% The percentage of PCJ applicants from the private practice in the last five years (2016-2020). This has dropped **5%** over the previous five year period (2011-2015). From 1995-2020, on average, **62%** of PCJ applicants came from private practice.

Applicants for PCJ by Area of Practice (%)



63% The percentage of applicants for PCJs identifying as male since 1995. From 1995-2020, **834** applicants were male, while **484** identified as female.



17 The number of PCJ applicants in 2020 identifying as female. Thirteen (**13**) applicants identified as male.

48-years-old The average age for a female PCJ applicant from 1995-2020. The average age for males was **49**. The highest average age for male applicants was **56** in 2012 and 2019 while the youngest age was **41** for female applicants in 1996.

6 The number of PCJs appointed in 2020. Four (**4**) were female and two (**2**) were male.

30 The number of 2020 applications for appointment as a PCJ. Seventeen (**17**) applicants were female and **13** applicants were male. Of the **30** applicants, **16** volunteered diversity factors:

- ➡ **5** = Indigenous.
- ➡ **8** = Ethnic or visible minority group.
- ➡ **6** = Diverse group.

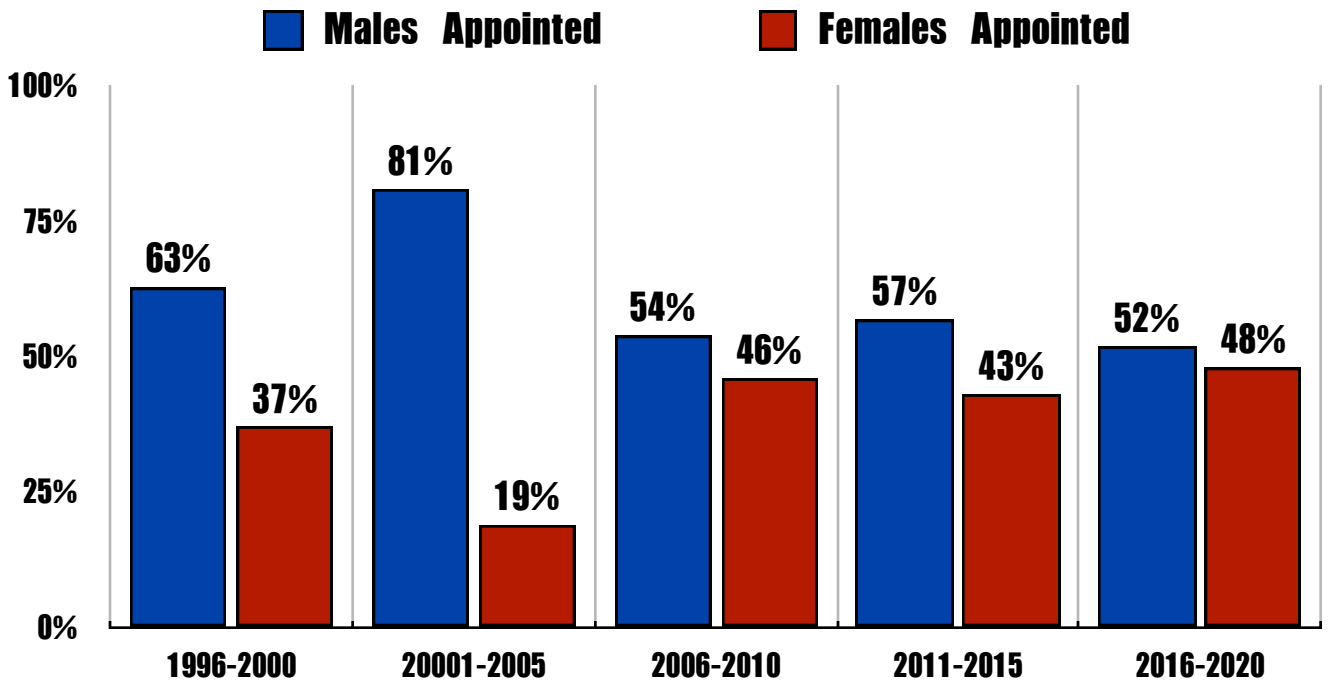
(total exceeds 16 as some applicants made more than one selection)

40% Percentage of 2020 PCJ applicants coming from Crown Counsel. Another **50%** came from private practice and **10%** from other areas of legal practice.

50-years-old The average age of an applicant for a PCJ.

20 A PCJ applicant's average years of legal practice experience.

Appointments of PCJ by Gender (%)



s. 83.3 CRIMINAL CODE WARRANTLESS ARREST POWER NOT USED DURING LAST TWO REPORTING PERIODS

Each year the Minister of Public Safety and Emergency Preparedness must prepare and publish or otherwise make available to the public an annual report for the previous year on the operation of s. 83.3 of the *Criminal Code*. This reporting must include:

(a) the number of arrests without warrant that were made under subsection 83.3(4) and the period of the arrested person's detention in custody in each case; and

(b) the number of cases in which a person was arrested without warrant under subsection 83.3(4) and was released
  (i) by a peace officer under paragraph 83.3(5)(b), or
  (ii) by a judge under paragraph 83.3(7)(a), (7.1)(a) or (7.2)(a).

Section 83.3(4) allows a peace officer to ***"arrest a person without a warrant and cause the person to be detained in custody, in order to bring them before a provincial court judge ... if (a) either (i) the grounds for laying an information ... exist but, by reason of exigent circumstances, it would be impracticable to lay an information ..., or (ii) an information has been laid ... and a summons has been issued; and (b) the peace officer suspects on reasonable grounds that the detention of the person in custody is necessary to prevent a terrorist activity."***

Section 83.3(5) imposes a duty on the peace officer who arrests a person without a warrant to lay an information or release the person.

Section 83.3(7)(a) requires a judge to release the person if no information is laid. Sections 83.3(7.1)(a) and (7.2)(a) requires the person be released unless a peace officer shows cause why the person's detention in custody is justified and a judge is satisfied that the investigation in relation to which the person is detained is being conducted diligently and expeditiously.

The RCMP did not use the arrest without warrant power, found in section 83.3 of the *Criminal Code* during the last two reporting periods.

Annual Reporting: July 15, 2019 – July 14, 2020	Source
s. 83.31(3)(a): number of arrests without warrant and period of detention.	0
s. 83.31(3)(b): number of cases in which a person was arrested without warrant, and released: (1) by a peace officer under paragraph 83.3(5)(b), or (2) by a judge under paragraph 83.3(7)(a), (7.1)(a) or (7.2)(a).	0

Annual Reporting: July 15, 2018 – July 14, 2019	Source
s. 83.31(3)(a): number of arrests without warrant and period of detention.	0
s. 83.31(3)(b): number of cases in which a person was arrested without warrant, and released: (1) by a peace officer under paragraph 83.3(5)(b), or (2) by a judge under paragraph 83.3(7)(a), (7.1)(a) or (7.2)(a).	0

BC's MISSING PERSONS ACT: 2020 EMERGENCY DEMANDS

BC's Missing Persons Act (*MPA*) allows a member of a police force to apply to a court for records to assist in locating a missing person (MP). However, when there is a risk of serious harm to a missing person or a concern that records could be destroyed, the *MPA* authorizes officers to make an Emergency Demand for Records without applying to a court. In compliance with Ministerial Order No. 353, every year BC police forces must prepare a report respecting emergency demands for records made in the preceding calendar year.

2020 Emergency Demands by Police Force

Police Force	APD	CSPS	DPD	NPD	NWPD	OBPD	PMPD
Missing person investigations where demand made	8	0	0	1	1	0	1
Demands made because serious bodily harm or death may result if order applied for	4	-	-	-	1	-	4
Number demands because destruction of record may result if order applied for	4	-	-	-	-	-	-
Number of persons served with a demand	8	-	-	2	1	-	3
Number of missing person investigations where demand made and MP located	4	-	-	-	-	-	1
Type of record demanded							
Contact information	-	-	-	-	-	-	-
Identification information	-	-	-	-	-	-	-
Telephone & electronic communications	6	-	-	6	1	-	-
Internet browsing history	-	-	-	-	1	-	-
GPS tracking	-	-	-	-	-	-	-
Health information	-	-	-	-	1	-	-
Photographs	1	-	-	-	-	-	-
Video	-	-	-	-	-	-	-
Financial information	1	-	-	-	1	-	-
Travel information	-	-	-	-	-	-	-
Accommodation information	-	-	-	-	-	-	-
Employment information	-	-	-	-	-	-	-
Other records justice considers appropriate	-	-	-	-	Life insurance policy, handwriting samples	-	-

The RCMP (E-Division) led the way with **35** MP investigations where a demand was made. Abbotsford Police Department (APD) followed with **8**, Vancouver Police Department (VPD) with **7**, Saanich Police Department (SPD) and Victoria Police Department (VicPD) each with **2** and Nelson Police Department (NPD) and Port Moody Police Department (PMPD) each with **1**. Central Saanich Police Service (CSPS), Delta Police Department (DPD), Oak Bay Police Department (OBPD), Stl'atl'imx Tribal Police Service (STPS), Transit Police Service (TPS) and West Vancouver Police Department (WVPD) reported none (**0**).

Source : Missing Persons Act - reports

2020 Emergency Demands by Police Force

Police Force	RCMP	SPD	STPS	TPS	VPD	VicPD	WVPD
Missing person investigations where demand made	35	2	0	0	7	2	0
Demands made because serious bodily harm or death may result if order applied for	48	5	-	-	9	2	-
Number demands because destruction of record may result if order applied for	5	-	-	-	-	-	-
Number of persons served with a demand	22	5	-	-	9	2	-
Number of missing person investigations where demand made and MP located	29	2	-	-	3	2	-
Type of record demanded							
Contact information	34	-	-	-	-	-	-
Identification information	15	-	-	-	-	-	-
Telephone & electronic communications	14	2	-	-	-	-	-
Internet browsing history	6	-	-	-	-	-	-
GPS tracking	11	-	-	-	-	-	-
Health information	13	-	-	-	-	-	-
Photographs	7	-	-	-	1	-	-
Video	2	-	-	-	1	-	-
Financial information	16	3	-	-	2	-	-
Travel information	1	-	-	-	-	-	-
Accommodation information	1	-	-	-	-	-	-
Employment information	4	-	-	-	-	-	-
Other records justice considers appropriate	-	-	-	-	-	-	-

CANADA's FEDERAL FORCE DID NOT USE CRIMINAL CODE JUSTIFICATION PROVISIONS

The RCMP did not use the s. 25.1 *Criminal Code* law enforcement justification provisions at all in 2020. These provisions protect persons administering and enforcing the law. Section 25.1 allows a public officer (the police) to commit acts or omissions that would otherwise be offences while they investigate a federal offence, enforce a federal law or investigate criminal activity. Of course, police officers cannot simply disobey the law to enforce or investigate it. There are conditions that must be followed including being designated and authorized to commit the act or omission, and the following acts are prohibited:

- The intentional or criminally negligent causing of death or bodily harm to another person;
- The wilful attempt in any manner to obstruct, pervert or defeat the course of justice;
- Conduct that would violate the sexual integrity of an individual; or
- An offence under a provision of Part I of the *Controlled Drugs and Substances Act* or of the regulations made under it or a provision of Division 1 of Part 1 of the *Cannabis Act*.

Designations

A competent authority — in the case of the RCMP , the Minister of Public Safety and Emergency Preparedness — may designate a public officer and other persons acting under their direction to commit illegal acts or omissions.

Emergency Designations

A senior official responsible for law enforcement and designated by a competent authority may designate a public officer and other persons acting under their direction to commit illegal acts or omissions for a period of not more than 48 hours if:

- By reason of exigent circumstances, it is not feasible for the competent authority to designate a public officer; and
- In the circumstances of the case, the public officer would be justified in committing an act or omission that would otherwise constitute an offence.

Balancing

The public officer committing the act or omission — or directing the act or omission — must believe ***"on reasonable grounds that the commission of the act or omission, as compared to the nature of the offence or criminal activity being investigated, is reasonable and proportional in the circumstances, having regard to such matters as the nature of the act or omission, the nature of the investigation and the reasonable availability of other means for carrying out the public officer's law enforcement duties."***

Annual Reporting

Each year the Minister of Public Safety and Emergency Preparedness must prepare a report which includes:

- The number of times, due to exigent circumstances, a senior official made an emergency designation.
- The number of times a senior official authorized a public officer to commit an act or omission that would otherwise constitute an offence, and that would be likely to result in loss of or serious damage to property, or the number of times a senior official authorized a public officer to direct a person to commit an act or omission that would otherwise constitute an offence.
- The nature of the conduct being investigated in these instances.
- The nature of the acts or omissions, which would otherwise constitute offences, that were committed in these instances.
- The number of times a public officer proceeded without an authorization from a senior official due to exigent circumstances.

Annual Reports on the RCMP's Use of the Law Enforcement Justification Provisions				
YEAR	2020	2019	2018	2017
Emergency Designations	0	0	0	0
Senior official authorized public officer to commit unlawful act likely to result in loss of or serious damage to property	0	0	0	0
Senior official authorized public officer to direct another person commit act or omission	0	0	7	18
Number of authorized acts or omissions committed	-	-	55	73
Nature of conduct being investigated	-	-	• Organized Crime	• Traditional Organized Crime and associated criminal organizations
Nature of acts or omissions	-	-	• Unlawful possession or sale of tobacco products • Trafficking in property obtained by crime • Import into or export from Canada property obtained by crime • Possession of property obtained by crime (for the purpose of trafficking)	• Found in a common gaming or betting house • Participation in activities of criminal organization • Betting, pool-selling, book-making, etc • Selling, etc, of tobacco products and raw leaf tobacco • Unlawful possession or sale of tobacco products
Public officer proceeded without senior official authorization	0	0	0	0
Source: Annual Reports on the RCMP's Use of the Law Enforcement Justification Provisions				

WITNESS PROTECTION BY THE NUMBERS

Canada's Witness Protection Program Act (*WPPA*) established a federal program for the protection of individuals (witnesses) who have provided information or assistance to the police or the courts.

Witnesses

A witness is defined in s. 2 of the *WPPA* as:

(a) a person who has given or has agreed to give information or evidence, or participates or has agreed to participate in a matter, relating to an inquiry or the investigation or prosecution of an offence and who may require protection because of risk to the security of the person arising in relation to the inquiry, investigation or prosecution,

(b) a person who has assisted or has agreed to assist a federal security, defence or safety organization and who may require protection because of a risk to his or her security arising in relation to the assistance, or

(c) a person who, because of their relationship to or association with a person referred to in paragraph (a) or (b), may also require protection for the reasons referred to in that paragraph.

A witness could include a victim, compromised informant, police agent, or an independent witness who received a threat.

Factors to Consider

Section 7 of the *WPPA* outlines the factors to be considered in determining whether a witness should be admitted to the **Witness Protection Program** (WPP). These factors include:

- The nature of the risk to the security of the witness;
- The danger to the community if the witness is admitted to the WPP;
- The nature of the inquiry, investigation or prosecution involving the witness — or the nature of the assistance given or agreed to be given by the witness to a federal security, defence or safety organization — and the importance of the witness in the matter;
- The value of the witness's participation or of the information, evidence or assistance given or agreed to be given by the witness;
- The likelihood of the witness being able to adjust to the WPP, having regard to the witness's maturity, judgment and other personal characteristics and the family relationships of the witness;
- The cost of maintaining the witness in the WPP;
- Alternate methods of protecting the witness without admitting the witness to the WPP; and
- Such other factors as the RCMP Commissioner deems relevant.

Protection

Section 2 of the *WPPA* defines protection as including:

- relocation,
- accommodation,
- change of identity, or
- counselling and financial support for the above

purposes or any other purposes in order to ensure the security of a person or to facilitate the person's re-establishment or becoming self-sufficient.

Termination

There are two ways a witness — also known as a protectee once admitted to the WPP — can be terminated. The protectee can request termination, or the RCMP Commissioner can terminate the protection if there is evidence that there has been (1) a material misrepresentation or a failure to disclose information relevant to the admission of the protectee to the WPP or (2) a deliberate and material contravention of the obligations of the protectee under the protection agreement.

World Day of Remembrance for Road Traffic Victims

November 21

WITNESS PROTECTION PROGRAM STATISTICS

Fiscal Year*	2019-2020	2018-2019	2017-2018	2016-2017
Cases referred to WPP	38	37	49	64
•From RCMP	35	34	38	u/k
•From Other Police Agencies	0	3	10	u/k
•From International	3	0	1	u/k
Individuals - admitted	12	7	15	14
Individuals - refusal	19	21	42	42
Alternate methods of protection	21	9	29	23
Terminations from WPP	6	6	15	15
•Voluntary terminations	6	5	11	12
•In voluntary terminations	0	1	4	3
Civil litigation cases against WPP	0	0	1	0
WPP Total Expenditure	$16,017,504	$13,560,223	$12,541,987	$11,602,988

Fiscal year runs from April 1 to March 31 of the following year.
Source: Annual reports on the federal Witness Protection Program [accessed October 25, 2021]

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

BY THE NUMBERS: RCMP RANKS

RANK	April 1, 2019	April 1, 2021	Change
Commissioner	1	1	0
Deputy Commissioners	5	6	1
Assistant Commissioners	28	26	-2
Chief Superintendents	57	54	-3
Superintendents	187	179	-8
Inspectors	322	339	17
Corps Sergeant Major	1	1	0
Sergeants Major	8	10	2
Staff Sergeants Major	9	8	-1
Staff Sergeants Major	838	830	-8
Sergeants	2,018	1,993	-25
Corporals	3,599	3,641	42
Constables	11,913	11,970	57
Special Constables	112	106	-6
Public Service Employees	7,695	8,307	612
Civilian Members	3,403	3,087	-316
Total	30,196	30,558	362

Source: https://www.rcmp-grc.gc.ca/en/about-rcmp [accessed September 3, 2021 and August 15, 2019]

CBSA RELEASES MISCONDUCT & DISCIPLINE STATISTICS

The Canada Border Services Agency (CBSA) released its statistics into misconduct investigations and disciplinary measures. CBSA Professional Standards reviews allegations of Code of Conduct violations by CBSA employees and conducts investigations as required. The CBSA reports that discipline measures, when necessary, are meant to be corrective in nature rather than punitive.

Source: Misconduct Investigations and Disciplinary Measures Statistics [accessed September 5, 2021]

CBSA MISCONDUCT INVESTIGATIONS & DISCIPLINARY MEASURES

	YEAR	2020	2019	2018	2017	2016	2015	2014
Misconduct Investigations	Total	313	212	346	285	220	179	146
	Unfounded	75	33	81	53	39	29	28
	Founded	215	171	255	224	166	133	106
	Inconclusive*	23	8	10	8	15	17	12
	YEAR	2020	2019	2018	2017	2016	2015	2014
Disciplinary Measures	Reprimand							
	Oral	27	18	22	29	32	22	21
	Written	52	83	59	104	99	109	55
	Suspension							
	5 days or less	63	62	51	86	94	122	77
	More than 5 days	19	28	28	29	35	33	25
	Termination/ Demotion	9	6	4	3	7	2	12

*Inconclusive means the evidence neither confirmed or refuted the allegation.

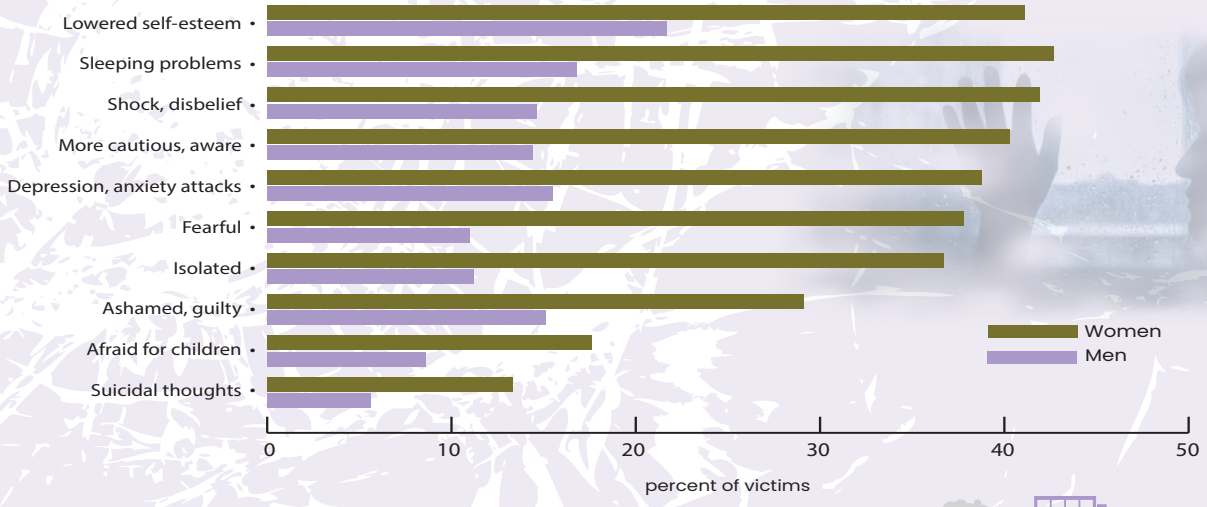
Spousal violence trends in Canada, 2019

In 2019, women continued to be overrepresented as victims of spousal violence in Canada.

In the five years preceding 2019:

432,000 women (4.2%) and 279,000 men (2.7%) experienced spousal violence perpetrated by a current or former spouse or common-law partner. This included violence that was never reported to police.[1]

Among victims, women were more likely than men to be **physically injured** (39% versus 23%), **fear for their lives** (29% versus 3.8%) and experience **negative emotional impacts**:



In the provinces, spousal violence **decreased 54% from 1999 to 2019.**[2] The decline was larger for men (-60%) than for women (-49%).

Over the past two decades, the proportion of spousal violence victims who said the violence they experienced was reported to police declined from 28% in 1999 to 19% in 2019.

In the provinces, **declines** were noted over the same period for **all types of spousal violence** measured:

- beating, choking, threatening to use or using a gun or knife, sexual assault
- kicking, biting, hitting, hitting with something that could hurt
- pushing, grabbing, shoving, slapping
- threatening to hit with a fist, throwing something that could hurt

Most severe type of spousal violence experienced

1. Questions were asked to those who are married or living common law, and those who are separated or divorced and have had contact with their former partner in the previous five years (regardless of whether or not they were living together).
2. Trend information in this infographic includes the provinces only. For trend information about the territories, see the *Juristat* article, "Spousal violence in Canada, 2019."

Source: Statistics Canada, General Social Survey on Canadians' Safety (Victimization).

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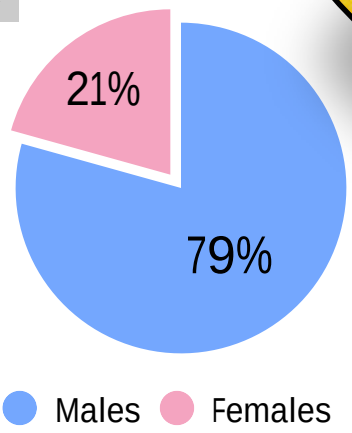
CORONER RELEASES BC's DROWNING DEATH STATISTICS

In a recent BC Coroner report — "Accidental Drowing Deaths 2008-2018" — it was revealed that the average annual number of drowning deaths from 2008-2018 was **75**. In 2018, however, the number of drowning deaths was below average, topping out at **64** deaths.

Drowning Deaths by Sex

Males die from drowning at about a **4:1** ratio compared to females. From 2008-2018 **652** males had died from drowning while there were **170** female deaths.

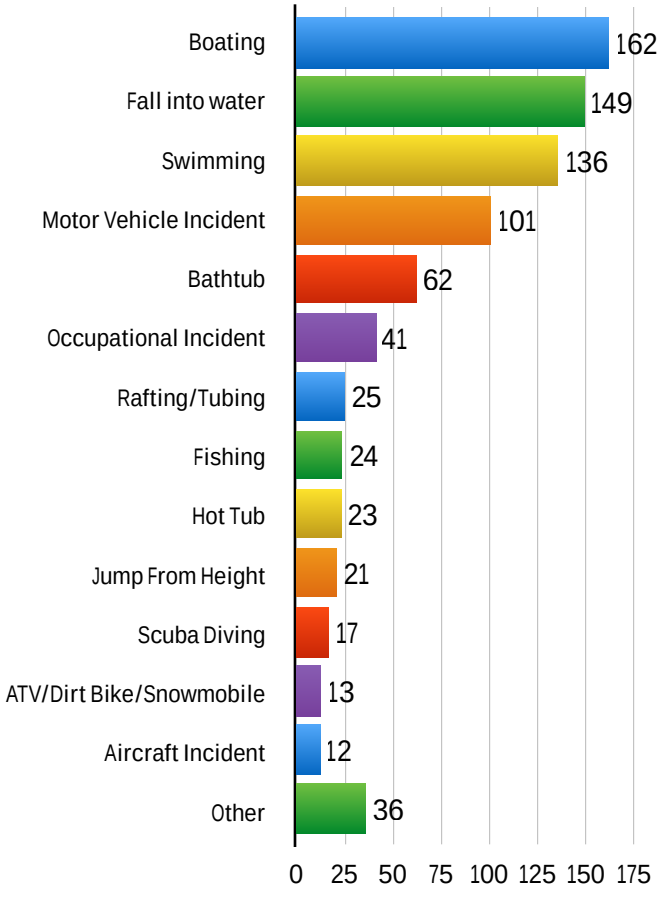


Source: Accidental Drowning Deaths - 2008-2018. Ministry of Public Safety and Solicitor General, Coroners Service. Posted September 17 2021.

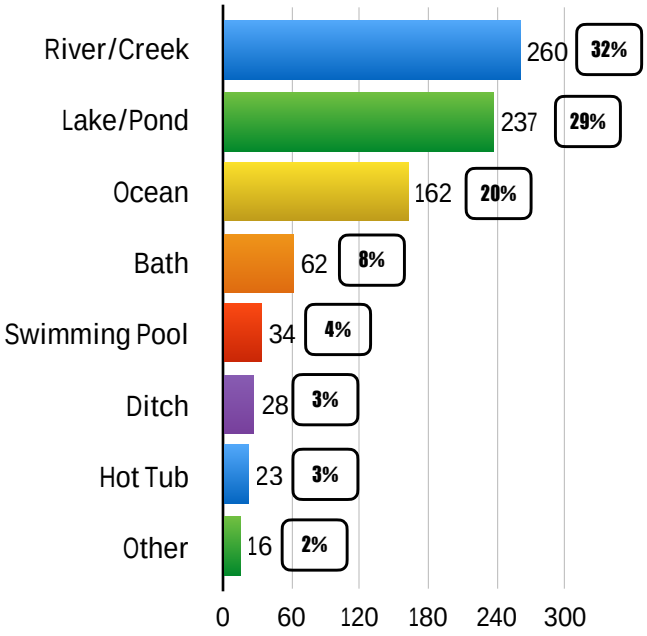
DROWNING DEATHS BY AGE GROUP: 2008 - 2018

Age	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total	%
0-9	2	2	2	0	2	1	3	2	5	2	2	23	3%
10-18	5	2	2	1	2	6	4	7	6	4	2	41	5%
19-29	23	18	22	16	11	21	15	21	13	15	16	191	23%
30-39	14	6	17	12	12	11	9	5	8	13	5	112	14%
40-49	12	15	12	9	10	14	7	12	8	12	8	119	14%
50-59	13	22	13	10	21	5	8	17	7	9	12	137	17%
60-69	10	7	9	5	13	7	10	10	9	10	12	102	12%
70-79	7	4	7	4	7	6	7	4	6	2	5	59	7%
80	5	0	3	4	4	6	5	2	4	3	2	38	5%
Total	91	76	87	61	82	77	68	80	66	70	64	822	100%

Drowning Deaths by Activity/Context: 2008-2018



Drowning Deaths by Type of Water Body: 2008-2018



DROWNING DEATHS INVOLVING ALCOHOL and/or DRUGS: 2008 - 2018

Age	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
Alcohol	19	23	25	16	23	20	22	20	15	14	197
Drugs	5	3	4	5	4	8	3	4	7	3	46
Alcohol & Drugs	14	5	8	4	4	4	2	9	4	2	56
Total Alcohol &/or Drugs	38	31	37	25	31	32	27	33	26	19	299
% of Total Drowning Deaths	42%	41%	43%	41%	38%	42%	40%	41%	39%	27%	39%

NO SEARCH WHEN COMPUTER EXAMINED BY NON-STATE AGENT

R. v. King, 2021 ABCA 271

The accused's wife was suspicious that her husband was cheating. He had a number of electronic devices (mobile telephone, computers and tablets). These devices were protected by a password that his wife did not know. One day she saw the accused enter his password into his cell phone and she memorized it. Looking for evidence of marital infidelity, she accessed his unattended cell phone without his permission and discovered what she thought was child pornography. She also accessed his computer and an electronic tablet when he left them open and unattended, again finding child pornography. Using her own mobile phone, she photographed some of the images she saw and transferred her photographs onto a USB flash drive. She took the USB to her divorce lawyer, who persuaded her to take it to police.

The accused's wife attended the police station. She told an officer that she thought her husband was in possession of child pornography and handed the USB over. The officer took a quick look to see what was on the USB and a detective who dealt with child pornography cases was consulted. Police examined the contents of the USB in more detail and, using what they saw in combination with the information provided by the wife, obtained two search warrants for the accused's house, truck and electronic devices. The execution of the two warrants resulted in the seizure of 34 electronic devices. Child pornography images and video were found on seven of the devices. The accused was charged with possessing and accessing child pornography.

"The police can presumptively look at most evidence provided to them without breaching s. 8."

Alberta Provincial Court

The judge recognized that the accused's wife was not acting as a **"state agent"** when she searched his electronic devices, took photographs of their screens, transferred the photographs to a USB drive, and then gave it to the police. However, the judge nevertheless concluded that the accused had a reasonable expectation of privacy in the contents of his electronic devices, which was highly personal to him and thus triggered s. 8 *Charter* protection. As a result, the judge ruled that police committed an unreasonable search by viewing the USB's contents without a warrant. In the judge's view, the accused's wife could not waive the accused's *Charter* rights nor provide consent to view the contents of his personal files. When the contents of the USB flash drive were excised from the ITOs, there was insufficient evidence to support the search warrants. Thus, the searches pursuant to the invalid warrants were unreasonable. The judge excluded the evidence of the USB under s. 24(2), but the evidence seized from the accused's residence, vehicle and electronic devices was admitted. The accused was convicted of possessing child pornography.

Alberta Court of Appeal

The accused suggested the evidence ought to have been excluded as a result of the s. 8 *Charter* breach. The Crown, on the other hand, contended there was no s. 8 breach at all and, therefore, the evidence was properly admitted.

"The requirement that there be 'state action' for a Charter breach is effectively negated if private action becomes state action the minute the private citizen interacts with the police. Further, the police are not required to conduct a 'voir dire' at the front counter of the police station to look into the source of the citizen's information before the police even look at what the citizen has brought in."

Was There A "Search"?

The Court of Appeal found there was no **"search"** by police when they looked at the contents of the USB. The accused's wife's actions did not amount to state action, but rather those of a private citizen:

> Some may view [the accused's wife's] conduct in accessing the [accused's] electronic devices as being unethical or an invasion of privacy, but her conduct did not engage his Charter rights. She was not a state agent. She was "legally entitled to inform the police of [her] discovery of contraband". The police can presumptively look at most evidence provided to them without breaching s. 8. [reference omitted, para. 8]

Consequently, the police did not take or search anything that belonged to the accused. His wife told police about what she had observed and provided her own copy of what she had seen. Moreover, although the accused had an expectation of privacy in his electronic devices, the police never intruded into these devices or his privacy:

> The reason that the police viewed the USB flash drive was to confirm that it contained child pornography as reported by [the accused's wife]. It is acknowledged that the [accused] had an expectation of privacy in the contents of his laptop. The state, however, never intruded into his laptop or his privacy. [The accused's wife] looked at the contents of the laptop and captured some of its contents, but she was not a state agent. The mere fact that the [accused] had an expectation of privacy does not engage s. 8, and the absence of state action at that stage is dispositive. If the police had done what [the accused's wife] did, there would have been a s. 8 breach, but they did no more than receive a report from a citizen who said she had found evidence of a crime. Their viewing of her USB flash drive may have been state action, but receiving reports of a crime does not engage the [accused's] s. 8 rights. [reference omitted, para. 12]

In finding that the action of the accused's wife in delivering the USB to police did not engage s. 8 of the *Charter*, the Appeal Court added:

> The requirement that there be "state action" for a Charter breach is effectively negated if private action becomes state action the minute the private citizen interacts with the police. Further, the police are not required to conduct a "voir dire" at the front counter of the police station to look into the source of the citizen's information before the police even look at what the citizen has brought in. If, as in this case, the police wish to follow up on that information, it may be that they will have to obtain a warrant. But merely looking at [the accused's wife's] USB flash drive was not a "search" involving the [accused], let alone a search involving state action.
>
> In this case, the applications for the search warrants depended not only on what the police saw on the USB flash drive but also on what [the accused's wife] had told them she had seen. It is true that [the accused's wife] had obtained access to the [accused's] mobile telephone through seeing the [accused] entering his password and surreptitiously memorizing it, but that was not the case with all of the devices. On other occasions, the [accused] left his electronic devices open and unattended, and [the accused's wife] was able to view the contents. In neither case does [the accused's wife] reporting what she saw to the

police amount to a search being conducted by state action.

> When citizens like [the accused's wife] attend at the police station and provide evidence of what they have reason to believe was a crime, the police do not engage in an "unreasonable warrantless search" by examining the evidence provided. The alleged state action took place when the police looked at what had been brought to them. However, examining images whose mere existence may be a crime (or, at the very least, evidence of a crime) is what police do. … Examining such evidence does not turn [the accused's wife's] private action into "state action", or turn a normal police investigation into a search. Examining such information is clearly "authorized by law", as the investigation of possible crimes is one of the core duties of the police service. Indeed, the police can hardly refuse to look at what the member of the public has brought in and still discharge their duty to enforce the law. [reference omitted, para. 14-16]

And further:

> A member of the public who reports evidence of a crime is not purporting to waive anybody's constitutional rights, or purporting to provide anybody else's consent, but is merely reporting a suspected crime. The examination of the USB flash drive by the police was not an examination of any thing or place that belonged to or that was under the control of the [accused]. The police were not required to inquire into how the [accused's] wife obtained the images, because regardless of how she obtained them, her private activities would not be a state Charter breach. [para. 18]

Here, the police were in lawful possession of the USB drive. It belonged to the accused's wife and she had brought it into the police station and voluntarily gave it to police. Accordingly, the police examination of the USB's contents was not obtained through an unreasonable warrantless search. The resulting search warrants were valid and there was no basis to exclude the evidence under s. 24(2).

Even if there was a s. 8 *Charter* breach, the Court of Appeal found no error in the trial judge's admissibility analysis. The accused's appeal was dismissed and his conviction was upheld.

Complete case available at www.canlii.org

Editor's Note: Additional details taken from *R. v. King*, 2019ABPC 236

SHOOTING INTO HOME THROUGH BEDROOM WINDOW AMOUNTED TO BREAK & ENTER

R. v. Olynik, 2021 SKPC 49

A Saskatchewan Provincial Court judge has found two men guilty of break and enter (among other crimes) for firing a sawed-off .22 calibre rifle into a home. Both men had tried to forcibly enter a basement suite by battering the basement door with blunt objects and smashing a bedroom window. There were two occupants in the home at the time and one was injured by gunshot wounds to his arm and shoulder. The attackers left after a few minutes without gaining entry.

The charges included break and enter under s. 348(1)(b) of the *Criminal Code*. This provision reads:

> **"Every one who … (b) breaks and enters a place and commits an indictable offence therein … is guilty … if the offence is committed in relation to a dwelling-house, of an indictable offence and liable to imprisonment for life …"**.

The place entered was identified as the **dwelling house** and the indictable offence committed therein was **"discharge a firearm"**.

The judge reviewed the terms "break" and "enter" as defined in the *Criminal Code*:

s. 321 Criminal Code

break means

(a) to break any part, internal or external, or

(b) to open any thing that is used or intended to be used to close or to cover an internal or external opening.

s. 350 Criminal Code

For the purposes of sections 348 and 349,

(a) a person **enters** as soon as any part of his body or any part of an instrument that he uses is within any thing that is being entered …

The judge concluded that ***"the act of shooting through the bedroom window … constitutes the offence of break and enter as set out in the Criminal Code"***. The judge further stated:

> ***In this case, "break" being smashing of the window and the "enter" constituting "any part of an instrument that he uses is within anything that is being entered" - here being the bullets from the gun entering the suite and thereby "crossing the threshold". Further, the definition of a firearm has been proven and therefore the offence has been made out. [footnote omitted, para. 67]***

Complete case available at www.canlii.org

EXIGENT CIRCUMSTANCES JUSTIFIED CELL PHONE PINGS

R. v. Bakal, 2021 ONCA 584

The accused's girlfriend called 911 at about 3 a.m. to report that she had just been assaulted by the accused. When police attended, the girlfriend told an officer that the accused had banged her head against the bedroom wall several times, pushed her onto the bed, and choked her with both hands. He also told his girlfriend that he was going to ***"cho[ke] [her] and put [her] to sleep and throw [her] over the balcony."*** She said the accused had left the apartment with a handgun in the waistband of his pants. The gun, which the accused always carried with him, had been on the bedside table during the assault. While he had not specifically threatened his girlfriend with the gun on this occasion, he had done so in the past. The girlfriend told police she "didn't want to get shot". She also said the accused had taken two suitcases containing the woman's belongings with him and several kilograms of cocaine when he left. She did not know where he went but provided his cell phone number.

As a result of the information obtained from the 911 call and police attendance, a Major Crime Unit detective formed the view that the situation was urgent, and it was critical for public safety that the accused be located as quickly as possible. The investigator contacted the accused's cell phone service provider and asked that the cell phone be pinged in order to locate its geographic location. Based on this pinging, which consisted of seven pings from 3:31 am to 5:40 am, it was determined that the accused's cell phone was moving eastbound along the highway. A provincial police officer located the accused's vehicle (a Jeep) a few hundred kilometres away from the apartment and stopped it. The accused was a passenger while his brother was the driver. The accused was arrested for assault. A cursory search of the vehicle was done at the stop but nothing was noted. Officers quickly decided to tow the vehicle to the police station to permit for a safer search environment.

The officer involved in the arrest called the detective to discuss the domestic assault and get a better understanding of what he should be looking for in the vehicle. The vehicle was then searched incident to arrest and suitcases were found in the back, one containing women's clothing and a female's passport. A vacuum-sealed package of cocaine was also found in a hidden compartment in the trunk, which had to be forced open with a pry bar. The search was stopped and a telewarrant was obtained to search further. Police then located two loaded handguns (a prohibited Walther .40 calibre and a restricted Remington .45 calibre) with their serial numbers removed. The guns were

hidden in a locked compartment in the centre console of the vehicle. The accused, along with his brother, was charged with trafficking cocaine, possessing cocaine for the purpose of trafficking, and numerous firearm-related offences.

Ontario Superior Court of Justice

The judge found exigent circumstances justified the warrantless tracking of the accused's cell phone in an effort to locate him. Even though his girlfriend may have been safe while with the police, the accused had a history of violence, demonstrated assaultive behaviour that night, had a firearm when he assaulted his girlfriend, and left with it in the waistband of his pants. From this, the judge inferred the accused was prepared to use the gun on short notice.

As for the warrantless search of the vehicle, the judge found the searching officer subjectively believed he was entitled to search the vehicle incident to the assault arrest and it was objectively reasonable in the circumstances to do so. Although a telewarrant was obtained after the cocaine was discovered, the judge upheld the search for the handgun as a search incident to arrest:

> *In summary, I find that [the accused] was lawfully placed under arrest for assault. Police were entitled to tow the white Jeep from the scene at the 401 to the police detachment. The highway is a major roadway and, while it was early morning, there was traffic and the traffic was starting to increase as it got later. The commence of the search of the vehicle was shortly after it was towed to the Thousand Islands Police detachment. I do find the search was incident to the lawful arrest. …*
>
> *Finally I consider the fact that … a senior officer, directed the search incident to arrest to cease, and in fact instructed [an officer] to obtain a search warrant. Notwithstanding this advice by [the senior officer], it does not take away the authority of the officers to search incident to arrest, if it truly was incident to arrest. I find that [the senior officer], in his advice … was being cautious and conservative in his approach. Accordingly, I conclude that there was no Charter violation by reason of the search of the white Jeep. I find that it was authorized by law as a search incident to arrest.*
>
> *Argument was made that the manner of the search incident to arrest was unreasonable. Again I disagree. The police officers conducting the search of the Jeep found what is referred to as a trap in the rear of the vehicle, that is, a locked device. The purpose of this trap seems obvious. The purpose was to keep something out of plain sight. It was reasonable to suspect that offence-related property could well have been hidden in this trap. Officers attempted to locate the unlocking device for this trap. They were unsuccessful in doing so. … Having been unsuccessful in opening the trap, the officers used tools. Admittedly, some damage was caused in gaining access to the trap. However, in all of the circumstances, I conclude that the actions taken in the course of the search of the rear trap were reasonable.* [R. v. Bakal, [2019] O.J. No. 6839, paras. 69-71]

The judge noted that finding a firearm ***"may well have been evidence to corroborate"*** what the girlfriend said happened in the bedroom and therefore bolster her credibility. The accused was convicted of multiple drug and firearm offences and was sentenced to six years in prison.

Ontario Court of Appeal

The accused argued that his s. 8 *Charter* rights had been violated when the police, without a warrant, tracked his cell phone and searched his vehicle following his arrest. First, he submitted there were no exigent circumstances amounting to an immediate risk of danger to justify the warrantless tracking of his cell phone. His girlfriend was not in harm's way when police pinged his cell phone and there was no suggestion he used or threatened to use the gun during the assault, or that he threatened to shoot or harm anyone after he left the apartment. Second, he contended that the scope of the search incident to arrest power was limited to evidence necessary to prove the offence and did not extend to include searches for **"collateral evidence"**.

"[T]he police can act without prior judicial authorization where there exists an imminent threat to police safety or public safety or in circumstances where there exists a risk of imminent loss or destruction of evidence."

Warrantless Cell Phone "Pinging"

Associate Chief Justice Fairburn, speaking for a majority, noted, ***"in the normal course, the police need prior judicial authorization to track a cell phone, which in turn provides information about an individual's whereabouts"***. However, she found the trial judge did not err in holding that the warrantless tracking of the accused's cell phone was justified on the basis of the common law exigent circumstances doctrine:

> This warrantless search doctrine, involving as it does exigent circumstances, is not designed to promote efficiency or expediency. Rather, its singular purpose is to accommodate those situations where the state can forgo obtaining prior judicial authorization because of the urgency of the matter at hand. In particular, the police can act without prior judicial authorization where there exists an imminent threat to police safety or public safety or in circumstances where there exists a risk of imminent loss or destruction of evidence. [references omitted, para. 19]

Here, the police decision to track the accused's cell phone met the exigent circumstances requirement:

> I reject the [accused's] assertion that there were no exigent circumstances present because he did not pose an imminent risk to others. While the exigent circumstances doctrine should be invoked only where it is "necessary", the factual matrix within which the decision to track the [accused's] cell phone was made met that requirement.
>
> The police are charged with the responsibility of protecting the community's safety. To this end, what the police knew was that the [accused] had just violently assaulted his girlfriend on a bed while his firearm lay next to them. The police had been informed that the [accused] had a history of violence, including previously threatening his girlfriend with his gun. They also knew that he had left this highly volatile situation with his firearm in the waistband of his pants. It is against that factual backdrop that the trial judge concluded that the concerns over public safety were well-founded. [reference omitted, paras. 24-25]

Moreover, even if the police could have obtained a tracking warrant under s. 492.1 of the *Criminal Code* on the basis of the woman's complaint alone, they were operating in exigent circumstances and did not have time to obtain a tracking warrant:

> … [A] telewarrant is not free for the asking. To be sure, a telewarrant application carries the same degree of solemnity as an application that would be determined after being dropped at a courthouse in the light of day. While s. 487.1 provides for more flexibility in terms of how an application for a warrant is placed before a justice, it does not alleviate the normal demands placed upon an affiant in relation to preparing that application. Nor does it relieve the application justice from taking the time necessary to properly consider the application to determine whether the requested authorization should be granted.
>
> In my view, even if a telewarrant had been available for purposes of obtaining prior judicial authorization to track the [accused's] phone, the police would have been hard pressed to obtain one in the less than three hours that transpired between when it became clear that the [accused] had to be located and when he actually was located a few hundred kilometres away. [paras. 31-32]

"[A] telewarrant is not free for the asking. To be sure, a telewarrant application carries the same degree of solemnity as an application that would be determined after being dropped at a courthouse in the light of day."

"Searching incident to arrest is undoubtedly an extraordinary power because: (1) it permits the police to search without a warrant; and (2) it permits the police to search in circumstances where judicial authorization might not even be available. This latter observation means that, for a search incident to arrest to take place, the police need not possess the reasonable grounds that would be required to obtain prior judicial authorization."

Search Incident to Arrest

The majority rejected the accused's submission that the warrantless search of the vehicle exceeded the scope of a proper search incident to arrest. First, the firearm was more than evidence that would merely corroborate the girlfriend's version of events:

> To be clear, the firearm was not some benign object lying on the bedside table beside the bed where the complainant was being choked. Rather, it was a deadly weapon that she had been previously threatened with and that she was afraid may actually be used during the violent assault. As before, she told the police that the firearm "was right there at the time" and that she "didn't want to get shot".
>
> The firearm was very clearly part and parcel of the offence, part of the physical and psychological domination taking place during the assault. While it was not "used" in the sense of being pointed at the complainant during the assault, it was plainly "related" to the assault and would be entirely relevant at a later trial for assault. It would also be entirely relevant to any sentencing proceeding that may ensue were the [accused] to be convicted. Therefore, it was not merely corroborative of the complainant's account, but fundamentally linked to the offence.
>
> In any event, I reject the suggestion that the search incident to arrest doctrine turns on the nuanced distinction the [accused] draws between "collateral" and non-collateral evidence. Even if the [accused] were right, and the firearm could be properly characterized as "collateral" in nature because it could only serve to bolster the complainant's credibility, the search incident to arrest doctrine would justify its seizure.
>
> The search incident to arrest doctrine is a warrantless search power that strikes a vital balance between the privacy interests of individuals and the objectives of law enforcement. There are three legitimate goals that can justify searching incident to arrest: (1) ensuring the safety of the police and the public; (2) protecting evidence from destruction; and (3) discovering evidence "of the offence for which the accused is being arrested".
>
> […]
>
> There are three conditions that must be satisfied to certify the validity of a search incident to arrest. First, the arrest must be lawful. … Second, the search must be "truly incidental" to the lawful arrest, meaning that the search must be directed at achieving a "valid purpose connected to the arrest". And, third, any search incident to arrest must be conducted reasonably.

"The search incident to arrest doctrine is a warrantless search power that strikes a vital balance between the privacy interests of individuals and the objectives of law enforcement."

"There are three legitimate goals that can justify searching incident to arrest: (1) ensuring the safety of the police and the public; (2) protecting evidence from destruction; and (3) discovering evidence 'of the offence for which the accused is being arrested'."

> Searching incident to arrest is undoubtedly an extraordinary power because: (1) it permits the police to search without a warrant; and (2) it permits the police to search in circumstances where judicial authorization might not even be available. This latter observation means that, for a search incident to arrest to take place, the police need not possess the reasonable grounds that would be required to obtain prior judicial authorization. Rather, all the police need is "some reason related to the arrest for conducting the search at the time the search was carried out, and that reason must be objectively reasonable". [references omitted, paras. 50-56]

Second, even if the firearm was only **"collateral"** in nature — serving only to bolster the complainant's credibility — the search incident to arrest doctrine applied. Here, the searching officer said he searched the vehicle to discover evidence. As Associate Chief Justice Fairburn stated:

> In my view, the common law animating the principles around the doctrine of search incident to arrest is clear. There is nothing in that body of jurisprudence that limits the police to searching only for evidence that is admissible at trial as going to prove an element of the offence. To the contrary, the police can search for those things that relate directly to the arrest. While those things may, from time to time, be admissible at trial as proof of the offence, when the police are searching for those things, they are not concerning themselves with questions of admissibility. Rather, as the common law directs, they are concerning themselves with whether there is a direct link between the arrest and what is being looked for.
>
> The common law makes good, practical sense – sense that can be applied on the ground in real search incident to arrest scenarios. Importantly, the common law does not expect the police to ask themselves pristine questions about the elements of an offence and how what they are looking for might tie into those elements. Nor does the common law expect the police to consider complicated questions of admissibility.
>
> Rather, the common law requires the police to ask whether the search is "truly incidental to the arrest in question". Officers must take into account all of the known information when deciding whether what they are looking for is truly incidental to the arrest. At the end of the day, what is required is that the police are able to clearly explain why they did what they did and how it was connected to the arrest. On that basis, an after-the-fact reviewer will be able to determine whether a "valid purpose connected to the arrest" was being pursued and, if so, whether it was "objectively reasonable" in the circumstances. [references omitted, paras. 58-60]

Since the officer had lawful grounds to search the vehicle incident to arrest, the accused's s. 8 *Charter* rights were not violated during the search of the vehicle.

A Second Opinion

Justice Paciocco agreed with the majority that the exigent circumstances doctrine justified the warrantless tracking of the accused's cell phone. However, he found the search of the motor vehicle incident to arrest unlawful. In his view, based on

"[T]he common law animating the principles around the doctrine of search incident to arrest is clear. There is nothing in that body of jurisprudence that limits the police to searching only for evidence that is admissible at trial as going to prove an element of the offence."

the evidence presented during the *Charter voir dire*, ***"the Crown failed to establish that either the searching officer … or the directing officer … had an objectively reasonable basis linking the handgun to the assault."*** Nor could the search be upheld on the basis that the officer was conducting a search for other offence-related evidence when he found the handgun. ***"There was no reasonable basis for believing that evidence linked to the assault, such as the female clothing [the searching officer] referred to, would have been secreted inside a hidden compartment,"*** said Justice Paciocco. As a result, opening the hidden compartments incident to the accused's arrest for assault was unlawful. But the evidence was nevertheless admissible as evidence – including the handguns and cocaine – under s. 24(2) of the *Charter*.

The accused's appeal was dismissed.

Complete case available at www.ontariocourts.ca

Editor's note: There were other issues in this appeal not discussed here including. the inability of the police to obtain a telewarrant for tracking a person under s. 492.1(2) of the *Criminal Code*. Additional details taken from *R. v. Bakal*, [2019] O.J. No. 6839.

MISTAKE OF FACT DID NOT RENDER ARREST UNLAWFUL

R. v. Brayton, 2021 ABCA 316

Police officers operating a marked police vehicle saw the accused change lanes without signalling. They followed the vehicle to a parking lot and conducted a traffic stop. The accused was the sole occupant and driver. One officer approached the driver's side, asking the accused for his licence, registration and insurance. A second officer went to the passenger side and observed a black baton with a textured handle lying on the driver's seat. It was touching the accused's right thigh and the console at the centre of the vehicle, and was within the driver's reach. Believing the baton was an object that could be used as a weapon, the passenger side officer alerted the driver's side officer about it.

For safety reasons, the accused was asked if there was anything under his leg. He did not respond to the question, but acted nervously (his hands were fidgeting and he dropped some of the documents he had been asked for). He then produced a set of keys from under his leg. He was asked again what he was concealing under his leg but no answer was provided. The officer reached in, grabbed the accused's arm and removed him from the vehicle. A small baton was seen in the pocket of the driver's door and there was a black fanny pack on the driver's side floor, partially under the seat where the accused's legs had been. As the accused exited, the officer saw what he thought was a longer expandable baton tucked between the right side of the driver's seat and the centre console. Believing the longer baton to be a prohibited weapon, the officer arrested the accused for possessing it. He was searched, handcuffed, advised of his rights and placed in the police vehicle.

Police returned to the vehicle and removed the two batons. The shorter baton, about six inches long, was not retractable. The longer baton, about 24 inches long, was not expandable but turned out to be a taser baton. When police searched the vehicle for other weapons, the black fanny pack was found to contain a set of brass knuckles, a container of pepper spray, some cash, and a drink can. The drink can was opened and several baggies containing ketamine were discovered. Three cell phones were also located inside the car as well as a brass knuckle ring in the cup holder of the centre console.

"A warrantless arrest requires both a subjective and objective basis. The arresting officer must personally believe that reasonable and probable grounds for arrest exist, and those grounds must be justifiable from an objective point of view. The officer is not, however, required to establish a prima facie case for conviction before making the arrest."

Alberta Court of Queen's Bench

The accused contended his arrest was unlawful because the baton was not a prohibited weapon as the officer believed it to be. This unlawful arrest led to an unlawful search of the vehicle in which the drugs and other weapons were found. The judge, however, dismissed the accused's arguments. First, the judge found the accused was originally stopped for a traffic violation and his detention for that reason was continuing at the time he was removed from the vehicle. Second, the accused's arrest for possessing a prohibited weapon was lawful because it was based on reasonable and probable grounds. The arrest occurred only after the accused was removed from the vehicle and both officers saw the long black baton. Subjectively, both officers independently believed the baton was a prohibited weapon. Objectively, the arrest was lawful even though the baton may not have been prohibited as believed. The judge stated:

> *Police officers are only required to have an objectively reasonable basis for believing that [the accused] was in possession of a weapon, and they need not rule out potentially innocent inferences to offences or lawful excuses. These officers were not required, in the dynamics occurring here, to discern precisely the type of weapon the object was or that the object would, in fact, be a prohibited weapon. An expandable weapon that is spring loaded is a prohibited weapon. These officers were not required to have satisfied themselves that the long black baton object was beyond a reasonable doubt a prohibited weapon or even that they had established a prima facie case it was a prohibited weapon.*
>
> *Both officers believed that the long black baton object was a weapon that could inflict harm, and, as it turns out, they may be right. The very presence of a very long black baton lying next to [the accused] on the driver's seat provided these officers with an objectively reasonable basis for believing that [the accused] was then in possession of a weapon.*
>
> *After [the accused's] arrest, further examination revealed the baton was not an expandable baton, but a Taser. While [the accused] suggests that the long black baton, now identified as a Taser, may not be a prohibited weapon, [the accused's] possession of that baton, subsequently identified as a Taser, is one of the charges he faces in this trial. Whether the long black baton Taser is a prohibited weapon will be decided in this trial.*

As for the search of the vehicle, it was lawful as an incident to arrest. The evidence was admitted and the accused was convicted of possessing a controlled substance (ketamine) for the purpose of trafficking, two counts of possessing a prohibited weapon (brass knuckles), and three counts of possessing a weapon (brass knuckles and taser baton) for a dangerous purpose.

Alberta Court of Appeal

The accused argued that the trial judge erred, among other things, in finding his arrest was not arbitrary (s. 9 *Charter* breach), the search of his vehicle was not unreasonable (s. 8 *Charter* breach), and in failing to exclude the evidence under s 24(2).

Unlawful Arrest

The Court of Appeal described the s. 495(1) *Criminal Code* power of arrest as follows:

> A warrantless arrest requires both a subjective and objective basis. The arresting officer must personally believe that reasonable and probable grounds for arrest exist, and those grounds must be justifiable from an objective point of view. The officer is not, however, required to establish a prima facie case for conviction before making the arrest. The objective component is assessed "through the eyes of the reasonable person with the experience and knowledge of the arresting officer". [references omitted, para. 24]

First, the accused submitted he was arrested for possessing a prohibited weapon, being an expandable baton, but an expandable baton was not necessarily a prohibited weapon. His arrest was therefore unlawful because it was based on an offence that did not exist in law. And second, he suggested his arrest was not objectively reasonable based on an examination of the constellation of facts as they turned out to be. The Court of Appeal, however, rejected these arguments.

Offence Known To Law?

The offence for which the accused was arrested was an offence known to law. The Appeal Court stated:

> [T]he offence the [accused] was arrested for, possession of a prohibited weapon, is an offence known to law. Section 92 of the Criminal Code prohibits the possession of a prohibited weapon unless a person holds the requisite licence to possess the prohibited weapon. "Prohibited weapon" is defined in s 84 of the Criminal Code and includes any weapon listed in the Regulations. The Regulations include the following:
>
> > 6. Any device that is designed to be capable of injuring, immobilizing or incapacitating a person or an animal by discharging an electrical charge produced by means of the amplification or accumulation of the electrical current generated by a battery, where the device is designed or altered so that the electrical charge may be discharged when the device is of a length of less than 480 mm, and any similar device.
> >
> > …
> >
> > 13. The device commonly known as a "Kiyoga Baton" or "Steel Cobra" and any similar device consisting of a manually triggered telescoping spring-loaded steel whip terminated in a heavy calibre striking tip. [para. 35]

"The police officers did not arrest the [accused] for an offence that did not exist. Rather, the [accused] was arrested for possession of a prohibited weapon under the Criminal Code, and one of the issues for trial was whether the seized baton met either of the definitions of a prohibited weapon under the Regulations, as set out above," said the Court of Appeal. ***"Here, the officers believed a set of facts that turned out to be false (they thought what they saw was an expandable baton and after the arrest discovered it was a taser baton) but they were not mistaken as to the law on the facts they believed to be true. Some expandable batons are prohibited weapons; some tasers are also prohibited weapons."***

Objectively Reasonable?

The trial judge did not err in holding the **objective test** for arrest had been satisfied. The constellation of facts relevant to the arrest are to be examined as known to the officers at the time of arrest, not as they are known to be after-the-fact:

> [T]he relevant time to assess the constitutionality of the arrest is at the time the arrest actually occurred. "It is trite that the question of the existence of reasonable and probable grounds cannot be informed by what the police found subsequent to arrest, or on the basis of the whole of the evidence at the trial".

"[T]he relevant time to assess the constitutionality of the arrest is at the time the arrest actually occurred. … [A] trier of fact must examine what was the subjective belief of the officer at the time and determine whether that belief was objectively reasonable at that point, not at some point after the fact."

> Thus, a trier of fact must examine what was the subjective belief of the officer at the time and determine whether that belief was objectively reasonable at that point, not at some point after the fact. [references omitted, para. 43]

The Search

Since the accused's arrest was lawful, the search of his vehicle was incidental to his arrest. A vehicle does not attract a heightened expectation of privacy such that a search of it would be exempt from the usual common law principles of the power to search as an incident to arrest.

The accused's appeal was dismissed.

Complete case available at www.canlii.org

POLICE CHOSE TO DETAIN DESPITE GROUNDS FOR ARREST: VEHICLE SEARCH UNLAWFUL

R. v. Bielli, 2021 ONCA 222

As part of Project O-River — an investigation into a suspected criminal organization operating illegal gambling online — the police wanted to seize evidence from the accused and his vehicle without disclosing or compromising the ongoing investigation. To this end, after consulting Crown and reading case law, the police planned a ruse. The accused would be stopped while driving after he collected money. And the stop would occur whether or not he committed an offence under Ontario's *Highway Traffic Act* (*HTA*). So as not to put the investigation into jeopardy, the accused would not be arrested. But the vehicle and the accused would be searched for evidence.

The lead investigator instructed that the accused should only be told that he was being investigated and detained for possessing proceeds of crime (money in the car). The term **"investigative detention"** was to be used and not the term **"arrest"**. Nor would the accused know that he was actually under investigation for criminal organization, booking or money laundering charges.

The investigator briefed officers who would be involved in the vehicle stop ruse. He told them the accused was arrestable for proceeds of crime, gaming offences and criminal organization offences but the plan was to effect an *HTA* stop. An officer would approach the car, get the documents from the accused, and return to the police vehicle to do certain checks. Knowing that the accused was associated with members of an outlaw biker gang (Hells Angels), officers would return to the accused's vehicle, tell him they knew of his association with the outlaw motorcycle gang, and inform him they would like to search the car for contraband. The accused would be given his rights to counsel and a caution. Once the officers found the money, they were to stop their search and inform the accused that he was ***"being detained [and] investigated for proceeds of crime … and given his rights to counsel, again"***. The officers were instructed not to question the accused.

The vehicle stop proceeded as planned. The accused was told that his speeding, abrupt lane change, and quick exit raised suspicion. He provided his driver's documentation as requested. Then, after conducting checks, the accused was told that he was under investigative detention as records showed his connection with the Hells Angels and that his car would be searched for contraband and weapons. The accused told police that they needed a warrant. The officer then gave the accused two options: (1) investigative detention or (2) be arrested for obstruct. As a result, the accused became compliant and exited his vehicle. He was not arrested for obstruction but was placed under investigative detention. He was handcuffed, patted down, placed in the police car, and given his rights to counsel and cautioned. An officer called the accused's lawyer and told him that the accused was under investigative detention. The accused then spoke to his lawyer in private for 23 minutes while in the police car.

The accused's car was searched incident to arrest and cash was found inside it. The accused was told he was being investigated for possessing proceeds of crime, and he was given his rights to counsel and cautioned again. He spoke to his lawyer a second time for eight minutes. A more thorough vehicle search was undertaken and police seized, among other things, $74,835 in cash, a number of cellphones, and a laptop. The accused was verbally warned about his speed and improper lane change but no *Highway Traffic Act* ticket was issued. He was released without charges after having been detained for nearly three hours. When police completed their paperwork for the stop there was no mention of Project O'River. In addition, the arresting officer prepared two sets of notes. One set referred to the traffic stop with no reference to the underlying investigation, the true purpose of the stop, or the lead investigator's grounds for arrest. A second set described Project O'River and the grounds to arrest the accused. About two months later the accused, along with five others, was arrested at the organization's annual Super Bowl party. He was charged with conspiracy to commit an indictable offence, possessing the proceeds of crime exceeding $5,000, committing an indictable offence for the benefit of a criminal organization, and two counts of possessing the proceeds of bookmaking exceeding $5,000.

Ontario Superior Court of Justice

The accused contended that his rights under ss. 8, 9, 10(a) and 10(b) of the *Charter* were breached and he applied to have the evidence police obtained during the traffic stop ruse excluded under s. 24(2). The Crown conceded a s. 10(a) violation — the accused was denied his right to be provided with the reason for his arrest or detention. Nevertheless, the Crown submitted that the evidence ought to be admitted.

The lead investigator's testimony included the following:

- He acknowledged that the plan had nothing to do with the accused's arrest but rather with the seizure of the items in the vehicle.
- He knew the accused would not know his full jeopardy and that he might make some self-incriminating remarks or statements.
- In his mind, even though the accused was told he was under investigative detention, he was under arrest. Further, the accused was arrestable for proceeds of crime, gaming offences, and criminal organization offences and they could search him and his vehicle incident to his arrest for those offences.
- Because the accused was told he was under investigative detention, the accused would get legal advice on the basis of being under investigative detention, not on the basis of being under arrest.
- The police could not search a vehicle incident to an investigative detention in this scenario.
- Because the accused was educated in police techniques he might refuse to comply with an unlawful search pursuant to an investigative detention. Therefore, the officers were to try and persuade the accused to comply; they could try telling him that he would be arrested for obstruction, although if he fled, they were not to engage him in a pursuit.
- The accused's lawyer inevitably had to be misled about what was really going on; his lawyer could not be fully informed.

The application judge found no ss. 8 or 9 *Charter* breaches. He concluded that the accused had been under **de facto** arrest when he was detained. It was not necessary that the accused be told he was actually under arrest. Since the police had the necessary reasonable and probable grounds to make the arrest, the detention was not arbitrary. As for the search, it was lawful as an incident to (**de facto**) arrest. But the judge found the police

"The power to search incident to arrest is contrasted with the police power to search incident to an investigative detention. The power to search incident to an investigative detention is limited to safety concerns."

breached both ss. 10(a) and 10(b) because they failed to inform the accused of the true reason for his detention and **de facto** arrest. Although the ruse was a legitimate policing technique, the accused did not meaningfully exercise his right to counsel just because he spoke to his lawyer. Both he and his counsel were misled as to the true nature of the accused's jeopardy. This misinformation tainted his lawyer's ability to provide meaningful and accurate legal advice.

The evidence, however, was admitted under s. 24(2) of the *Charter*. Although the breaches were serious, they were mitigated because the police acted in good faith, took steps to comply with the accused's right to counsel and needed to protect the integrity of the ongoing investigation. The breaches therefore were serious, but these factors significantly mitigated the seriousness of the *Charter*-infringing conduct. There was no meaningful impact on the accused's *Charter*-protected interests and society had an interest in the adjudication of the case on its merits. The accused was convicted of possessing property obtained by crime over $5,000 for the benefit of a criminal organization and sentenced to 15 months' imprisonment.

Ontario Court of Appeal

The accused argued, among other things, that the application judge erred in finding that he was under **de facto** arrest and that his s. 8 *Charter* right was not infringed. Even though he conceded that the police had the necessary reasonable and probable grounds to arrest him, the accused asserted that he had not been arrested when he was detained by police. The search of his vehicle, therefore, was not incidental to a lawful arrest. He wanted the evidence excluded under s. 24(2). The Crown, on the other hand, suggested the accused was under arrest at the time of his detention and that the search was incidental to a lawful arrest.

De Facto Arrest

Since the Crown was relying on the common law power of search incident to arrest as the legal authority for the search, the lawfulness of the search turned on whether the accused was under a **de facto** arrest. ***"If there was no de facto arrest, the common law power to search incident to arrest could not be relied upon,"*** said Justice Pepall, speaking for the unanimous Court of Appeal:

> Police may search based on a warrant. Or, if there is no warrant, the police have a common law power to search incident to an arrest. To be valid, the arrest must be lawful, the search must have been conducted as an incident to the arrest, and it must be carried out in a reasonable manner. …
>
> The power to search incident to arrest is contrasted with the police power to search incident to an investigative detention. The power to search incident to an investigative detention is limited to safety concerns. … [references omitted, paras. 63-64]

The Crown submitted that the accused had in fact been arrested: the police took control of him; handcuffed him; cautioned him; gave him his rights to counsel; informed him of his known association with the Hells Angels; told him his car would be

"Police may search based on a warrant. Or, if there is no warrant, the police have a common law power to search incident to an arrest. To be valid, the arrest must be lawful, the search must have been conducted as an incident to the arrest, and it must be carried out in a reasonable manner."

"Section 10 ensures that people have a chance to challenge the lawfulness of an arrest or detention. Police are to advise promptly the reasons for the arrest or detention, and individuals then have the right to receive legal advice about their situation from counsel. The information provided pursuant to s. 10(a) serves to inform the advice provided as a result of the invocation of s. 10(b). If the information is inaccurate, it taints the ability of counsel to give meaningful and responsive advice."

searched for contraband; told him he would be charged with obstruction if he did not cooperate; held him for over two hours in the cruiser; permitted him to have extensive consultations with his lawyer; and he submitted to the authority of the police. This police conduct, however, did not have the effect of putting the accused under arrest.

The test for a **de facto** arrest, ***"asks what the accused can reasonably be supposed to have understood in light of what he was told, viewed reasonably in all the circumstances of the case."*** Here, even though the police had grounds to arrest the accused when they conducted the vehicle stop, the police deliberately chose not to arrest him. Justice Pepall wrote:

> The police gave the [accused] an option and he chose investigative detention. The police planned not to arrest the [accused] and they executed that plan. Considering the evidence as a whole, there was no de facto arrest. Again, the test turns on what the accused can reasonably be supposed to have understood. The application judge's finding that the [accused] knew he was under arrest cannot be reconciled with his factual finding that the police told the [accused] that if he complied with the search, he would not be arrested. The application judge did not explain why, in light of the option the police gave the [accused], he would have believed himself to be under arrest. In conclusion, I agree with the [accused] that the application judge's finding that there was a de facto arrest was unreasonable and that the search was not incident to arrest. As such, the search was unlawful. The application judge erred in finding that there was no s. 8 breach. [para. 80]

s. 24(2) Charter

The Court of Appeal noted that the police were not making a spur of the moment decision but a planned, intentional violation of the *Charter*. ***"[The police] pursued a plan which they knew would result in a Charter violation,"*** said Justice Pepall. ***"This was not an incidental violation; it formed part of the Plan itself. The Plan, as formulated, anticipated a breach of the Charter"***. The Court of Appeal described the purpose of s. 10 as follows:

> Section 10 ensures that people have a chance to challenge the lawfulness of an arrest or detention. Police are to advise promptly the reasons for the arrest or detention, and individuals then have the right to receive legal advice about their situation from counsel. The information provided pursuant to s. 10(a) serves to inform the advice provided as a result of the invocation of s. 10(b). If the information is inaccurate, it taints the ability of counsel to give meaningful and responsive advice. [para. 85]

Adding a s. 8 *Charter* breach to the previously determined ss. 10(a) and (b) violations, the Court of Appeal excluded the evidence.

> First, regarding the seriousness of the Charter-infringing state conduct, as I have explained, the police were not relying on a well-established line of authority when they engineered this ruse. On the contrary, the police proceeded with a Plan which they knew or should have known would breach the [accused's s. 10 rights. The fact that the police also planned to search the [accused] incident to arrest without actually arresting the [accused] makes the state conduct all the

more troubling. The violation of the [accused's] Charter rights was integral to the police Plan. They would not have proceeded with the Plan had it not involved violating the [accused's] Charter rights.

I would also add that the police conduct is elusive of public confidence and ought not to be sanctioned by the court. Put differently, … the court should dissociate itself from such police conduct. I fail to see how the police conduct in this case does not threaten the integrity of the criminal justice system. Protection of Charter rights is the operative principle, not planned circumvention for investigative purposes however laudable they may be.

Second, the impact on the [accused's] Charter-protected interests was significant. He was subjected to a search without lawful authority. The [accused] was, at least initially, unable to have a meaningful consultation with counsel because the police left him in ignorance of his full jeopardy. His counsel was equally misled about the reason for his detention. Assuming the application judge correctly concluded that the impact of the breach was somewhat mitigated by the semi-accurate information the police provided partway through the ruse, in light of the s. 8 breach, the impact remains serious. I acknowledge that the police attempted to mitigate the impact of the breach by affording the [accused] access to counsel, but those steps fall short given that he was misinformed. This factor favours exclusion.

Finally, I accept, as the application judge did, that … society's interest in an adjudication of the case on its merits, weighs in favour of admitting the evidence. The weight of this factor is somewhat attenuated because, as the application judge found, while important, this evidence is not crucial to the Crown's case. [reference omitted, paras. 107-110]

The evidence was excluded under s. 24(2), the accused's appeal from conviction was allowed, and a new trial was ordered.

Complete case available at www.ontariocourts.ca

COURT CAN COMPELL ACCUSED TO REMOVE COVID-19 MASK FOR ID PURPOSES

R. v. Stephens, 2021 ABQB 246

An Alberta Court of Queen's Bench judge has ruled that an accused can be compelled by a court to remove their COVID-19 mask for the purpose of dock identification. As part of the protocol related to the COVID-19 pandemic, wearing a face mask was mandatory in all of Alberta's indoor public spaces including courthouses unless the necessary health and safety precautions were observed through physical barriers and physical distancing.

The accused, who was on trial for second-degree murder, argued he should not be required to remove his mask for the purpose of a dock (in court) identification because doing so would violate his s. 11(c) *Charter* right against self-incrimination. This right, he noted, entitled him to remain mute and not do anything to assist the prosecution.

After reviewing other cases, Justice Mah concluded that requiring the accused to remove his mask for the purposes of dock identification was not compelling him to participate in his own prosecution. The visible face of an accused is a normal part of the trial process. Absent the pandemic and under normal circumstances, the accused's face would be completely visible.

Complete case available at www.canlii.org

OFFICER's ATTEMPT AT AFTER-THE-FACT JUSTIFICATION IMPACTED CREDIBILITY

R. v. Cluett, 2021 BCSC 1940

While searching for a stolen vehicle, a police officer saw a Toyota Camry make what he believed to be an illegal U-turn. He lost sight of the vehicle but located it parked in a loading zone in front of an apartment building. The officer saw the accused exit the driver's door and head towards the apartment. The officer activated his emergency lights as he drove up to the parked vehicle.

While waiting for a licence plate check, the officer got out of his vehicle to stop the accused, concerned he would enter the apartment. He wanted to address the U-turn, not necessarily issuing a ticket, but to give a warning. The officer told the accused to stop and asked to see his driver's licence. He did not tell him that he was detained due to the U-turn. The accused replied that he didn't have a driver's licence and approached the front of the police vehicle. Knowing that prohibited driving was an arrestable offence, the officer then asked, ***"Are you prohibited from driving?"*** The accused said he was prohibited.

The accused was arrested for prohibited driving and handcuffed, but he was not provided with a *Charter* warning nor advised of his rights to remain silent or retain counsel at this time. Backup officers arrived. One of these officers opened the driver's door, looked in and saw a baggie on the console with blue crystals. He picked it up and asked the accused, ***"What type of drugs are these?"*** The accused responded it was heroin for his personal use.

Having provided his full name and date of birth, a computer check revealed the accused had breached a condition by being in the driver's seat of a vehicle while prohibited from driving. The officer then Chartered the accused by reading his rights verbatim from a card. In response, the accused ran towards his car but was stopped by the backup officers, taken to the ground, and placed in the back of a police vehicle. When the officer resumed his search of the accused's car, he found about $40,000 in cash and two semi-automatic handguns. The accused was re-Chartered and his vehicle was mandatorily impounded under BC's *Motor Vehicle Act* (*MVA*) because it was operated by a prohibited driver. The accused was also ticketed for an illegal U-turn.

British Columbia Supreme Court

During a *voir dire*, the officer admitted he incorrectly understood all U-turns were illegal. Some U-turns, like the one he observed, were not prohibited under s. 168 of the *MVA*. The officer also said he didn't know why he he did not give s. 10(b) rights when the accused was first arrested.

Arbitrary Detention

Because the officer was wrong about the illegality of the U-turn, Justice Jenkins found the officer should not have detained the accused for the offence.

> … I agree that a mistake of law on the part of the police which is based upon an honest and reasonably-held belief … would not amount to a breach. However, the mistake in this case must be evidence based on a principled belief that all U-turns are illegal. [The officer] had the ability at the time to investigate what did or did not constitute an illegal U-turn through his onboard computer, or simply reaching out to more knowledgeable colleagues. His options were … "readily at hand to confirm" his suspicion and arrest [the accused] or, if not confirmed, to release [the accused].
>
> [The accused] was detained firstly based upon [the officer's] mistaken but honestly-held belief, but his mistaken belief was not reasonably held for the above reasons. If [the accused] had not been detained, none of the events which followed, including the arrest for driving while prohibited and the resulting search of his Toyota, would ever have occurred.
>
> […]

"In order for a search incidental to arrest to be lawful, the search must be connected with or truly incidental to the arrest. In this case, the arrest is in connection for a breach of a driving prohibition and the expanded search of the Toyota, which could only be seen as incident to arrest for possession of illicit drugs."

> … The police did not have reasonable grounds to detain [the accused] and that was a breach of his s. 9 Charter rights. Following his detention, the officer questioned [the accused]. He used his admission as grounds for arrest. Upon that arrest for prohibited driving, [the accused] was searched, as was his vehicle, which resulted in further charges being laid and items being found. As well as being tainted by the initial unlawful detention, several of the subsequent actions by police constitute further police breaches. … [references omitted, paras. 56-60]

Right to Silence & Right to Counsel

The judge found the accused's ss. 7 (right to silence) and 10 (right to counsel) *Charter* rights were breached when the accused was arrested but not advised of his right to counsel, and when he was questioned about the baggie of drugs in the car. The officer did not advise the accused of his rights under s. 10 when he was arrested for prohibited driving. Further, when the officer asked the accused if had been suspended from driving, the officer was seeking self-incriminating evidence as to the accused's knowledge of the suspension. ***"When an officer is asking a driver for his or her driver's licence, it is a request for the licence which the officer is entitled to ask and is not a question of whether or not the driver is properly licensed,"*** said Justice Jenkins. ***"The latter would involve an admission if the driver admitted to not being properly licensed; i.e., the question, 'Are you a prohibited driver?' is an invitation to give self-incriminating evidence."***

And when the backup officer asked the accused, ***"What type of drugs are these?"***, ***"there still had not been a Charter warning provided to [the accused] regarding his culpability for charges relating to possession of the illegal drugs; i.e., his right to remain silent."***

Unreasonable Search

The searching officer gave three possible justifications for the search of the accused's vehicle:

(1) incident to arrest;
(2) officer safety; and
(3) an inventory done as a matter of practice before a car was impounded.

Search Incident to Arrest

Since the accused's detention and arrest were unlawful, the searches incident to arrest were also unlawful. And, even if the arrest was lawful, the searches were not "incident to arrest":

> In his testimony, [the searching officer] attempted to justify the first search of the Toyota, saying he was looking for items incidental to arrest for prohibited driving, which could support a search for a driver's licence, a wallet, or a notice advising of a driving prohibition. During a search allegedly incident to the arrest for a driving prohibition, the police found a small baggie of what appeared to be illicit drugs. They questioned [the accused] about the contents of the baggie …. They did not place [the accused] under arrest for possession of a controlled substance at that time. The police then expanded the scope of their search of the vehicle and discovered more drugs, as well as firearms and cash. [The accused] was then informed that he would be charged with the possession for the purposes of trafficking.
>
> In order for a search incidental to arrest to be lawful, the search must be connected with or truly incidental to the arrest. In this case, the arrest is in connection for a breach of a driving prohibition and the expanded search of the

> Toyota, which could only be seen as incident to arrest for possession of illicit drugs. As mentioned, the charges for possession for the purpose of trafficking were only laid after the expanded search was conducted. [paras. 80-81]

And further:

> … [T]he scope of the search was expanded once one baggie of drugs was found, and it was only during that expanded search that the larger quantity of drugs and cash were found. There was no arrest for possession of a controlled substance, and the only grounds for an arrest for possession for the purpose of trafficking are found in the fruits of the expanded search. Thus, I must conclude that the fruits of this search were the justification for the search of possession for the purpose of trafficking. In other words, the grounds for the subsequent arrest did not exist independently of the preceding unlawful search. [para. 85]

Officer Safety Search

The officer safety reason for the search was also rejected. ***"There were three officers at the scene and another soon to arrive, [the accused] having been placed in handcuffs behind his back,"*** said Justice Jenkins. ***"Further, [the searching officer] had given grounds for officer safety concerns during his testimony at the preliminary inquiry, which he omitted in his direct evidence, only to admit on cross-examination. I therefore conclude this was not a real consideration or basis for the search."***

Inventory Search

"An inventory search is to be carried out in cases when a vehicle is impounded, as was the requirement when the driver has been arrested for prohibited driving," said the judge. However, he rejected the purported inventory as a lawful basis for the search in this case:

> The purpose is to identify and inventory objects found in the vehicle, especially possibly valuable personal items, so that an accused, upon return of the vehicle, could not argue that items had gone missing. The inventory search that [the searching officer] purports to have completed did not include an inventory list, but did make reference to photos which were taken of the backseat area, in particular. Not all items which were in the vehicle are captured in the descriptions.
>
> The only "inventory" describing items found in the Toyota is the major exhibit flowchart filed as Exhibit 7 on the voir dire, which was prepared by [a backup officer] and provides a detailed description of 19 items found in the Toyota. Again, I note that not all of these items are visible in the photographs referenced in the C-240 document signed by [the searching officer]. [paras. 88-89]

After-the-Fact Justification

The judge was of the view that the searching officer's ***"testimony was indicative of a witness attempting to justify his actions after the fact, to attempt to provide some justification for the search of the Toyota which found evidence of illegal drugs and, in the latter search, some handguns."*** The judge said the officer's ***"conduct was clearly reprehensible and his changing views of the reasons for the search raise serious doubts about his credibility."*** The search of the car therefore breached s. 8 of the *Charter*.

s. 24(2) Charter

Although the charges were very serious and society had an interest in an adjudication of the case on its merits, the physical evidence that was seized from the vehicle was excluded. The *Charter* breaches were multiple and serious. And the accused's freedom and privacy was seriously curtailed with his arrest and subsequent detention.

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

Note-able Quote

"The greatest glory in living lies not in never falling, but in rising every time we fall."

~Nelson Mandella~

NO s. 10(a) BREACH IN FAILING TO POVIDE DETAILS OF WARRANT ON ARREST

R. v. Collins, 2021 QCCA

Two police officers stopped a Dodge Charger because two of its four occupants, including the accused, were not wearing a seatbelt. The accused , a rare seat passenger, was advised of the violation and asked for his identification. He removed his health insurance card from the fanny pack he wore across his chest and provided it to police. The female driver provided her identification, a front seat passenger refused to provide his, and the other backseat passenger eventually complied after initially refusing and calling his lawyer. After verifying identification, the officers learned the accused had an outstanding warrant for his arrest. He had failed to appear in court on a charge of obstructing a peace officer.

When asked to step out of the vehicle, the accused blatantly refused. The officer asked again, telling the accused he wanted to speak to him in private. On a third request to exit, the accused was informed of the existence of the warrant and told he was under arrest. The officer tried to open the car door but it was locked. He asked the accused to open it, but he did not comply. The other officer asked the driver to unlock the doors but she too did not comply. This officer then reached in through the open window and unlocked the car. The arresting officer then opened the accused's door and asked him to get out. He refused. The officer grabbed the accused's right arm to pull him from the car. The accused resisted by pulling back while he kept his hand on the fanny pack, pressing it against his chest. The accused then tried to remove his fanny pack, but its' strap broke when police pulled on it. The accused reacted by throwing the fanny pack toward another passenger. He then stopped resisting. He was pulled from the car but resisted efforts to handcuff him by keeping his arms stiff.

"[D]ue to the tense situation inside the vehicle and the lack of cooperation from the [accused], the officers' expressed safety concerns were sufficient to justify proceeding to the [accused's] arrest only once he was outside of the vehicle, as the officers were outnumbered and the occupants were in the vehicle while the officers had no control of it and thus and could not prevent the driver from speeding away."

Police took the fanny pack from the passenger. It was made of fabric and the officer immediately felt a firearm. It was opened and found to contain a loaded handgun with an overcapacity magazine. The other vehicle occupants were secured at gunpoint. The accused was advised of his rights, provided information about the warrant, and transported to the police station where he spoke to a lawyer. The accused was also ticketed for not wearing a seatbelt. He was charged with several offences including firearm-related crimes.

Court of Quebec

The accused argued that his rights under the *Charter* had been breached. First, he claimed the police failed to promptly advise him of the reason for his arrest as required by s. 10(a). Second, he contended the police unlawfully searched his backpack contrary to s. 8. He insisted the evidence, including the gun, be excluded.

The arresting officer testified he did not immediately place the accused under arrest when he returned to the Dodge Charger because there were four people in it. He wanted to tell the accused about the warrant in private and was concerned for safety because the police did not have control over the car and could not prevent it from speeding away.

s. 10(a) Charter: In finding that the officer was not required to tell the accused all of the details of the outstanding warrant, the judge stated:

> There are two reasons why the Court concludes that [the accused's] right to be informed of the reasons for his arrest was not breached even if [the arresting officer] did not immediately give him all the details concerning to the outstanding warrant.
>
> First, the majority of the Supreme Court decided, in Gamracy, that in a situation where the arresting officer's power to proceed to an arrest flows from an outstanding warrant, the officer fully discharges his obligation to advise the person being arrested of the reason for his or her arrest by telling that person that there is an outstanding warrant for his or her arrest. While this decision was rendered before the Charter, it is the Court's opinion that the ratio decidendi is still applicable considering that the purpose of section 10 (a) of the Charter is to ensure that the reasons provided to the person arrested sufficiently convey the general extent of that person's jeopardy.
>
> Second, the obligation to promptly provide reasons for an arrest is not absolute and security concerns may justify a delay in providing this information. In the matter at hand, such concerns were present and justified a delay in providing [the accused] more information on the warrant. [R. v. Collins, 2019 QCCQ 7554, paras. 91-93]

s. 8 Charter: As for why he seized the fanny pack, the officer said it was incidental to the accused's arrest and motivated by safety concerns: the accused had resisted efforts to pull him from the car; he was trying to hide the fanny pack even though he was wearing it and took out his health insurance card from it; he threw it toward another passenger and then stopped resisting; it appeared the accused did not want the police to get hold of the fanny pack; the fanny pack was now in a passenger's possession; there were three other occupants in the car; and the atmosphere at the scene was tense. Even though he didn't know what was in the fanny pack, it was important for the

officer's safety to get control of the bag given the accused's behaviour in relation to it and the circumstances surrounding the stop.

The judge concluded that the search of the fanny pack was lawful as an incident to arrest. The officer had a subjective concern for his safety which was objectively reasonable based on the totality of the circumstances. The accused was found guilty of possessing a firearm with ammunition, careless storage of a firearm, unauthorized possession of a firearm in a motor vehicle, two counts of possessing firearms while prohibited, and breaching a probation order. He was sentenced to 46 months' imprisonment less time served plus ancillary orders including a lifetime weapons prohibition, a DNA order, and forfeiture of the gun, bullets and clip.

Quebec Court of Appeal

The accused renewed his ss. 10(a) and 8 arguments. He again contended that s. 10(a) of the *Charter* was triggered as soon as the officer returned from the police vehicle and asked the accused to exit the car. Additionally, he suggested the officer needed to tell him the details of the warrant at this time. He also submitted the police did not have a safety concern sufficient to justify their search of the fanny pack incident to arrest, which infringed his right to be secure against unreasonable search or seizure protected under s. 8 of the *Charter*.

s. 10(a) Charter - Reason for Arrest

The accused claimed the officer did not advise him (1) promptly of the reason for his arrest (**temporal component**) and (2) of the full details related to the warrant (**informational component**). But the Court of Appeal, like the trial judge, concluded there had been no s. 10(a) *Charter* violation.

Temporal Component

First, s. 10(a) was not triggered as soon as the officer returned from the police car with the knowledge of the warrant and spoke to the accused. He had not yet been arrested nor submitted to police. "***The [accused] blatantly refused to step out of the vehicle on the first two requests from [the officer], which illustrates that he did not believe that he had no choice but to comply,"*** said the Appeal Court. However, on the third request to step out of the vehicle, the accused knew he was under arrest when he was informed of the existence of the outstanding warrant.

Second, safety concerns justified the officer not fully explaining the outstanding arrest warrant:

> [D]ue to the tense situation inside the vehicle and the lack of cooperation from the [accused], the officers' expressed safety concerns were sufficient to justify proceeding to the [accused's] arrest only once he was outside of the vehicle, as the officers were outnumbered and the occupants were in the vehicle while the officers had no control of it and thus and could not prevent the driver from speeding away.
>
> Several additional safety issues justified the fact that [the arresting officer] did not elaborate immediately about the outstanding warrant. He avoided an unproductive discussion on a matter that, according to the evidence, the [accused] does not even recall. Otherwise, to continue along this path would have exacerbated palpable tensions. [footnotes committed, paras. 9-10]

Informational Component

As for the informational component of s. 10 (a), the Court of Appeal found the trial judge did not err in applying *R. v. Gamracy*, [1974] S.C.R. 640:

> Regarding the informational component, the Supreme Court established in R. v. Gamracy, that "when the arrest derives from an outstanding warrant, the duty of the arresting officer is fully discharged by telling the arrested person that the reason for his arrest is the existence of an outstanding warrant therefor".
>
> What is more, the outstanding warrant for the arrest of the [accused] pertains solely to his

> failure to appear before a court. In other words, he was not arrested because of the offence of obstruction per se. Therefore, the [accused] was aware of the risk associated with his refusal to be arrested from the moment [the officer] informed him of the existence of a valid outstanding warrant for his arrest. [footnote omitted, para. 12-13]

There was no s. 10(a) breach.

s. 8 Charter - Search & Seizure

Using the ***"three-pronged test to determine whether a search was validly undertaken pursuant to the common law power of search incident to a lawful arrest: (1) the arrest must be lawful, (2) the search must have been conducted as an "incident" to the lawful arrest, and (3) the manner in which the search is carried out must be reasonable"***, the Appeal Court upheld the trial judge's reasons for finding the search of the fanny pack was truly incidental to the accused's lawful arrest:

> Throughout his whole interaction with the officers, the [accused] was wearing a fanny pack around him. When [the arresting officer] tried to get the [accused] out of the vehicle to proceed to his arrest, the latter tried by all means to get rid of it with his left hand while offering what [the officer] describes as passive resistance. [The other officer], by pulling on the strap of the bag, broke it; the [accused] reacted immediately by throwing the bag to the other backseat passenger …. At this very moment, the [accused] stopped resisting to his arrest and [the other officer] proceeded to handcuff him. Simultaneously, [the backseat passenger], looking stunned, stretched his hands to allow [the arresting officer] to take control of the fanny pack who, as soon as he got a touch – and without any opening or further handling of the bag – felt the shape of a firearm inside it. Therefore, the search cannot be qualified as invasive.
>
> For both officers, taking control of the fanny pack was important because the [accused], by trying to get rid of it on several attempts, behaved in a manner that let them believe that he had something he did not want them to seize (e.g. a weapon or drugs) and that could constitute evidence at trial. Moreover, the presence of three other occupants was another important factor, as they could take control of the weapon and use it, take away the drugs inside the bag, or even contaminate the elements inside the fanny pack that belonged to the [accused].
>
> These established elements easily meet the threshold of a peace officer having "some reasonable basis" of having a valid purpose associated with a search incidental to arrest, namely here police safety, as both officers testified they were concerned that the fanny pack could contain something dangerous. What is more, in addition to believing the officers relating to the subjective component of the reason behind the search, the judge reviewed all of the circumstances which could objectively justify their actions. [footnotes omitted, paras. 18-20]

The officers "justifiably had safety concerns at the time of the arrest". Thus, there was no s. 8 breach.

The accused's appeal was dismissed.

Complete case available at www.canlii.org

Editor's Note: Additional details taken from *R. v. Collins*, 2019 QCCQ 7554 and *R. v. Collins*, QCCQ 233.

International Day for the Elimination of Violence against Women
November 25

HOMICIDES

Year	2016	2017	2018	2019	2020
Number	88	119	90	90	98
Rate*	1.8	2.4	1.8	1.8	1.9
Cleared	46	63	39	48	37
Clearance Rate	52.3%	52.9%	43.3%	53.3%	37.8%
Cleared by Charge	43	57	36	37	36
Cleared Otherwise	3	6	3%	11	1
Persons Charged	46	57	46	43	33

* per 1,000 population

CRIME RATES: Municipalities with 100,000+ Residents

Police Jurisdiction	Population	Crime Rate*	Total Criminal Offences	Total Violent Offences	Total Property Offences	Other CC Offences	Homicides	Vehicle Thefts
Kamloops	101,198	115.7	11,704	2,299	6,723	2,682	3	243
Victoria	113,430	114.5	12,992	2,898	8,061	2,033	2	283
Kelowna	146,143	114.1	16,680	2,904	9,698	4,078	3	530
Nanaimo	101,731	110.9	11,281	1,980	6,413	2,888	0	178
Vancouver	698,946	70.4	49,226	9,168	35,089	4,969	19	910
Langley Township	133,951	69.4	9,299	1,456	5,446	2,397	0	382
Surrey	598,862	66.6	39,890	7,844	22,431	9,615	11	1,502
Burnaby	257,926	58.0	14,963	2,304	9,522	3,137	5	315
Richmond	216,046	53.8	11,618	1,986	6,997	2,635	1	300
Abbotsford	161,708	50.7	8,193	2,027	5,321	845	2	497
Coquitlam	152,800	46.9	7,161	1,261	4,185	1,715	1	179
Delta	112,259	41.2	4,624	815	3,136	673	0	153
Saanich	125,107	40.7	5,086	1,066	3,549	471	0	77

* per 1,000 population

Independent Police Service RCMP

BC's Top 11 Highest Crime Rates: 2020		
Policing Jurisdiction	Crime Rate*	Population
Tsay Keh Dene Prov	673.8	607
Takla Landing Prov	344.8	203
Fort St James Prov	247.9	4,356
Williams Lake Mun	247.9	11,559
Quesnel Mun	229.1	10,356
Boston Bar Prov	223.0	686
Port Hardy Prov	219.6	5,670
Prince George Mun	209.1	14,272
Hope Mun	207.1	6,867
Northern Rockies Prov	204.9	49
Terrace Mun	202.4	12,817
BC Average	76.1	-

*per 1,000 population

CRIME RATE DROPS

BC's police-reported crime rate (excluding traffic offences) decreased by **-11.9%**. As the report noted, this trend may be attributable, in part, to the impact of the global COVID-19 pandemic. The number of *Criminal Code* offences (excluding traffic) reported to police dropped by **-10.9%**, from **439,763** offences in 2019 to **391,954** in 2020.

NON-HEROIN OPIOID OFFENCES UP

While police-reported drug offences related to cocaine, heroin and methamphetamines decreased in 2020, the number of non-heroin opioid offences increased by **+41.9%**, from **1,953** in 2019 to **2,772** in 2020. Non-heroin opioids include **fentanyl**.

ASSAULTS AGAINST PEACE OFFICERS

The number of people in BC charged with assaulting peace officers has risen slightly by **+1%** while the number of reported offences dipped by **-0.8%**. Assaults against peace officers include level 1 (common assault), level 2 (assault with a weapon/

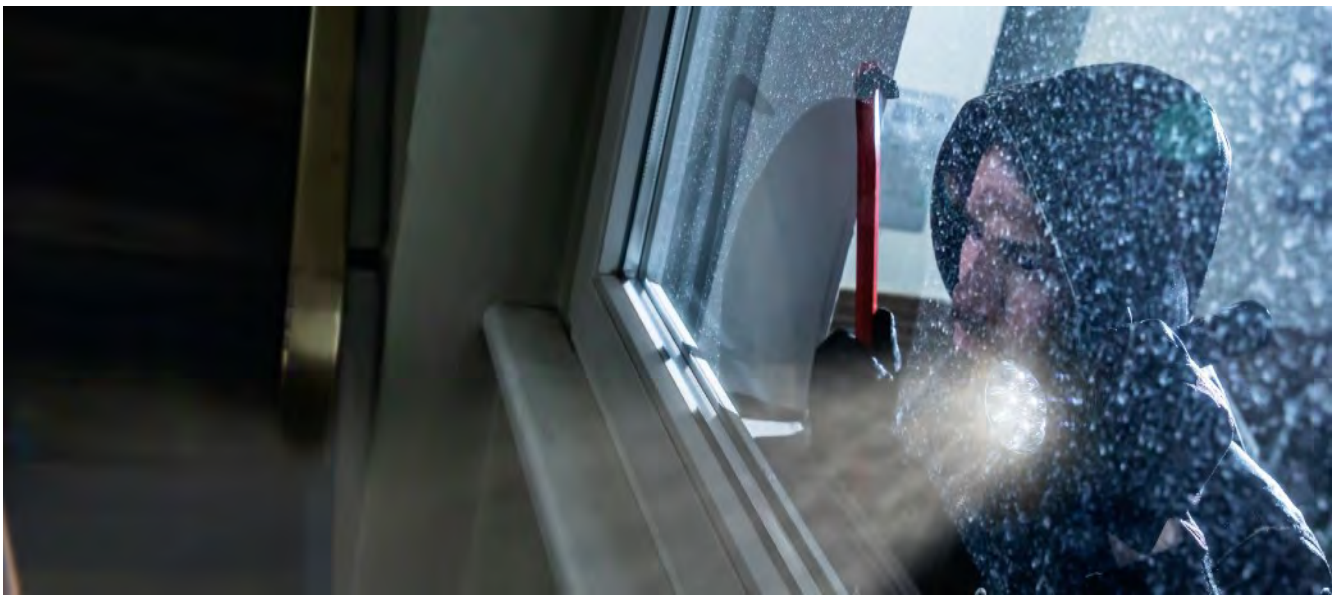
Assaults Against Peace Officers					
Year	2016	2017	2018	2019	2020
Number	1,254	1,280	1,440	1,560	1,548
Rate*	0.3	0.3	0.3	0.3	0.3
Cleared	1,234	1,223	1,396	1,513	1,486
Clearance Rate	98.4%	95.5%	96.9%	97.0%	96.0%
Cleared by Charge	987	933	1,111	1,142	1,172
Cleared Otherwise	247	290	285	371	314
Persons Charged	778	765	882	888	897

*per 1,000 population

BC's 2020 Top 10 Offences

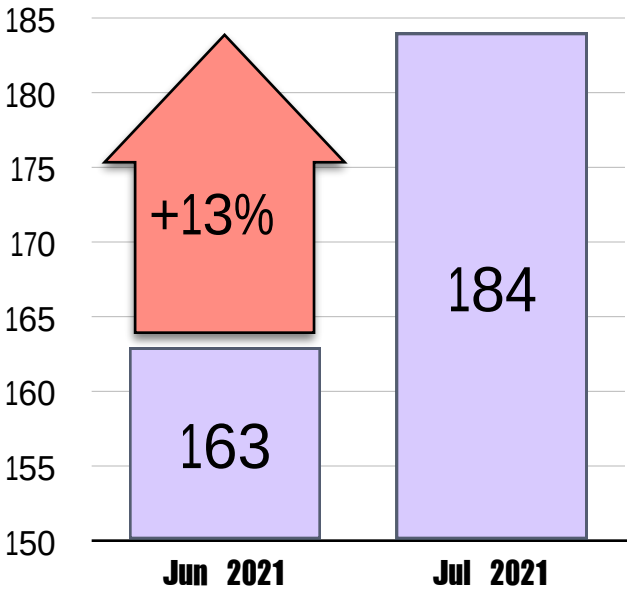
Offence	Number	Rate*	Cleared	Clearance Rate	Cleared by Charge	Cleared Otherwise	Persons Charged
Theft Under $5,000	97,700	19.0	10,058	10.3%	4,294	5,764	4,361
Mischief	54,995	10.7	9,703	17.6%%	1,718	7,985	1,660
Disturb the Peace	48,299	9.4	11,417	23.6%	465	10,952	493
Assault Level 1 (Common Assault)	27,352	5.3	14,915	54.5%	9,286	5,629	8,546
Break & Enter	24,704	4.8	3,080	12.5%	2,226	854	2,434
Administration of Justice	23,132	4.5	18,856	81.5%	12,580	6,276	12,349
Fraud	20,947	4.1	1,704	8.1%	1,010	694	1,093
Uttering Threats	16,362	3.2	5,216	31.9%	2,737	2,479	2,155
Theft of Motor Vehicle	10,359	2.0	893	8.6%	516	377	419
Assault Level 2 (Weapon or Bodily Harm)	9,857	1.9	5,276	80.3%	4,213	1,063	3,855

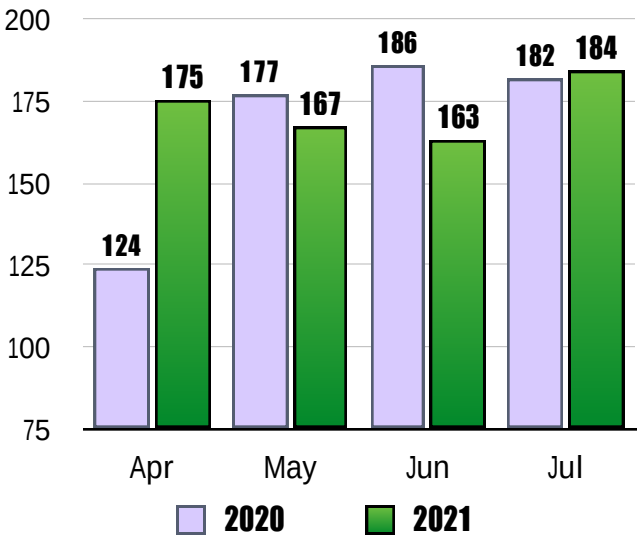
*per 1,000 population



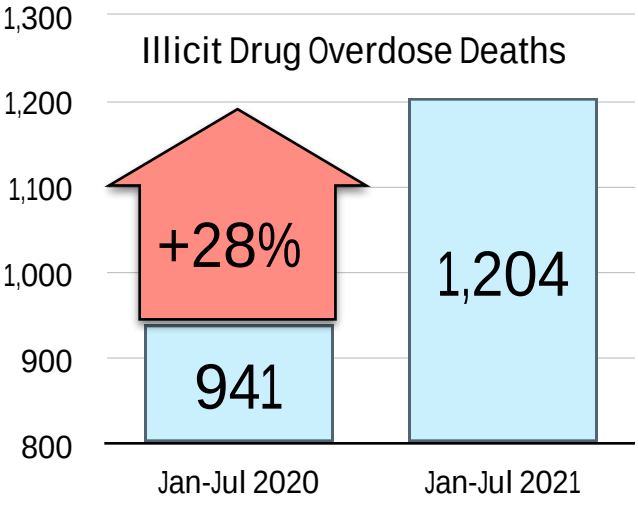
2021 BC ILLICIT DRUG TOXICITY DEATHS OUTPACING PREVIOUS YEAR

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, 2011 to July 31, 2021**. In July 2021 there were **184** suspected drug toxicity deaths. This represents a **+13%** increase over the number of deaths occurring in June 2021 (**163**).





In 2021, there were a total of **1,204** suspected drug overdose deaths from January to July. This represents an increase of **263** deaths over the 2020 numbers for the same time period (**941**).

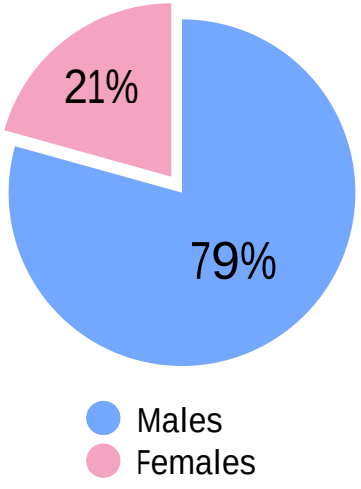


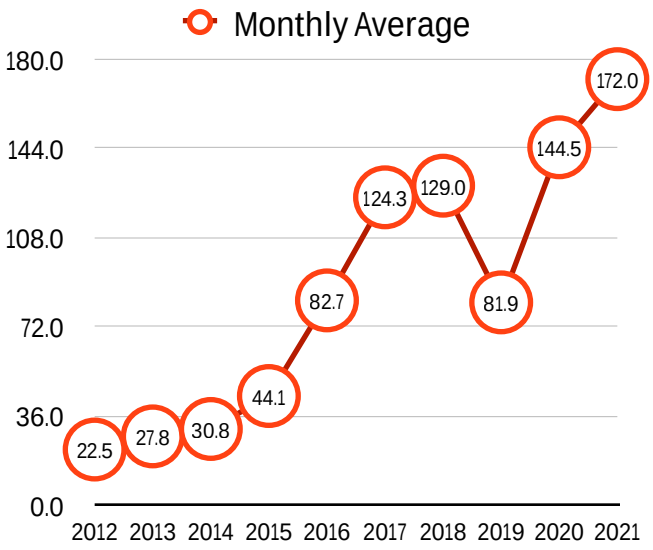
People aged 50-59 were the hardest hit so far in 2021 with **304** illicit drug toxicity deaths, followed by 30-39 year-olds (**294**) and 40-49 year-olds (**263**). There were **161** deaths among people aged 19-29, **147** deaths among 60-69 year-olds while those under 19 years had **19** deaths. Vancouver had the most deaths at **286** followed by Surrey (**142**), Victoria (**87**), Abbotsford (**47**), Burnaby (**41**) and Kamloops and Kelowna, each with **35**.

Overall, the 2021 statistics amount to almost **six** (**6**) **people dying every day of the year.**

Deaths by Sex

Males continue to die at about a **4:1** ratio compared to females. From January to July 2021, **955** males had died while there were **249** female deaths.





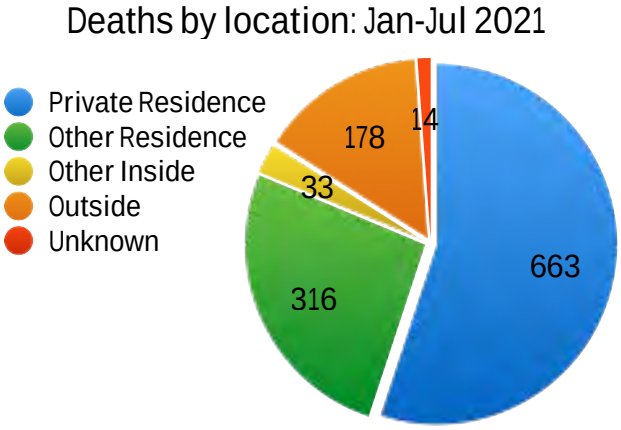
The January to July 2021 data indicated that most illicit drug toxicity deaths (**84%**) occurred inside while **15%** occurred outside. For **14** deaths, the location was unknown.

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

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

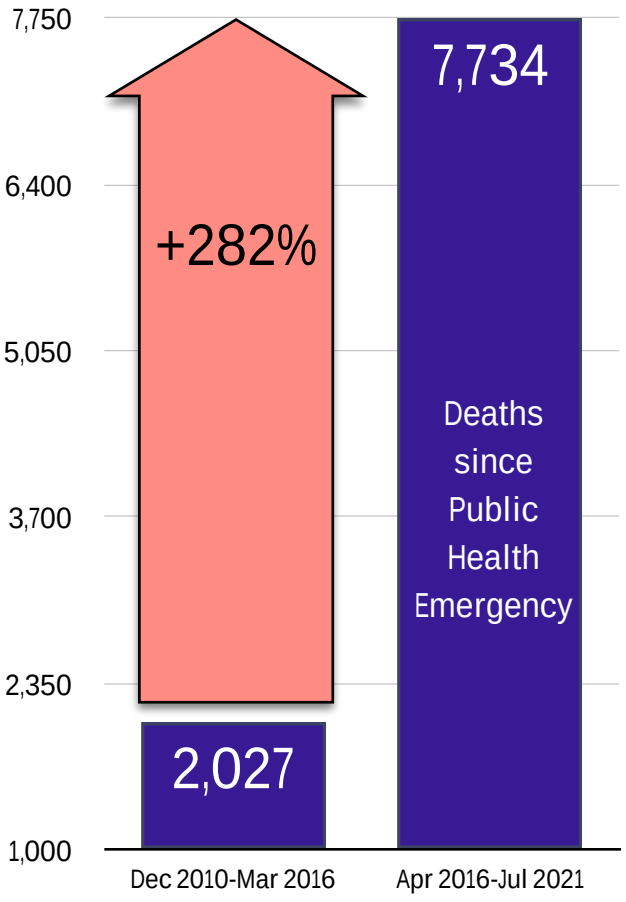
"**Other inside**" includes facilities, occupational sites, public buildings and businesses.

"**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 **64** months preceding the declaration (Dec 2010* — Mar 2016) totalled **2,027**. The number of deaths in the **64** months following the declaration (Apr 2016 — Jul 2021) totalled **7,734**. This is an increase of more than **282%**.

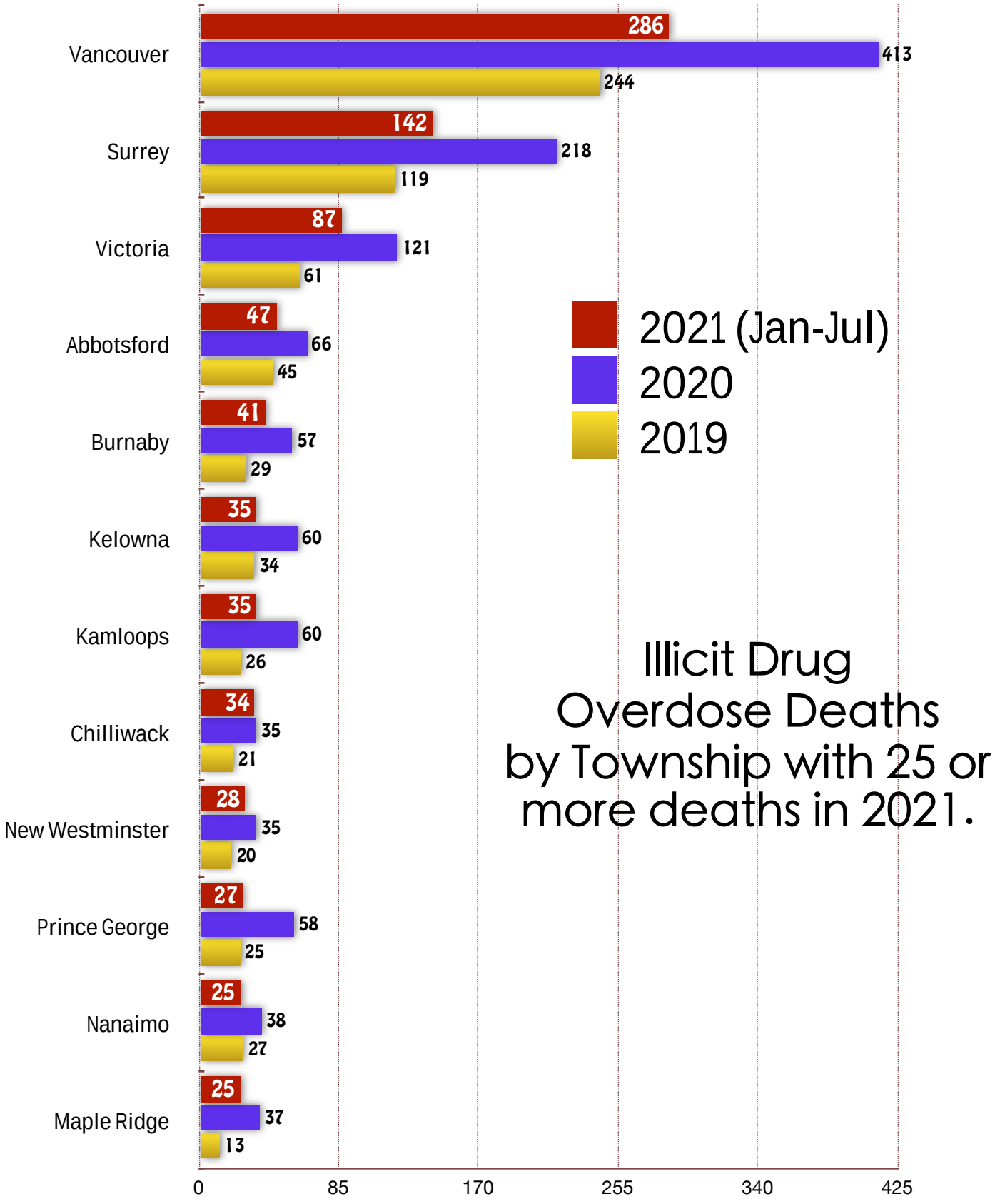


Source: Illicit Drug Toxicity Deaths in BC - January 1, 2011 to July 31, 2021. Ministry of Public Safety and Solicitor General, Coroners Service. September 29 2021.

* December 2010 stat taken from Illicit Drug Toxicity Deaths in BC January 1, 2010 – September 30, 2020. October 20, 2020.

TYPES OF DRUGS

The top five detected drugs relevant to illicit drug overdose deaths from 2018 - 2021 were illicit fentanyl and its analogues, which was detected in **86.9%** of deaths, cocaine (**48.2%**), methamphetamine/amphetamine (**39.2%**), ethyl alcohol (**28.7%**) and benzodiazepines (**7.3%**). Other opioids (**30.0%**) and other stimulants (**3.0%**) were also detected.


Vancouver
286
413
244
Surrey
142
218
119
Victoria
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61
Abbotsford
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Burnaby
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Kelowna
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Kamloops
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Chilliwack
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New Westminster
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Prince George
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58
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Nanaimo
25
38
27
Maple Ridge
25
37
13
2021 (Jan-Jul)
2020
2019
Illicit Drug Overdose Deaths by Township with 25 or more deaths in 2021.
0
85
170
255
340
425

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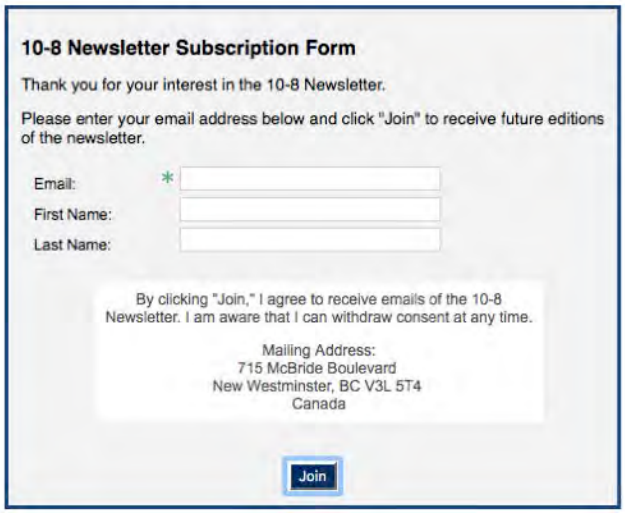

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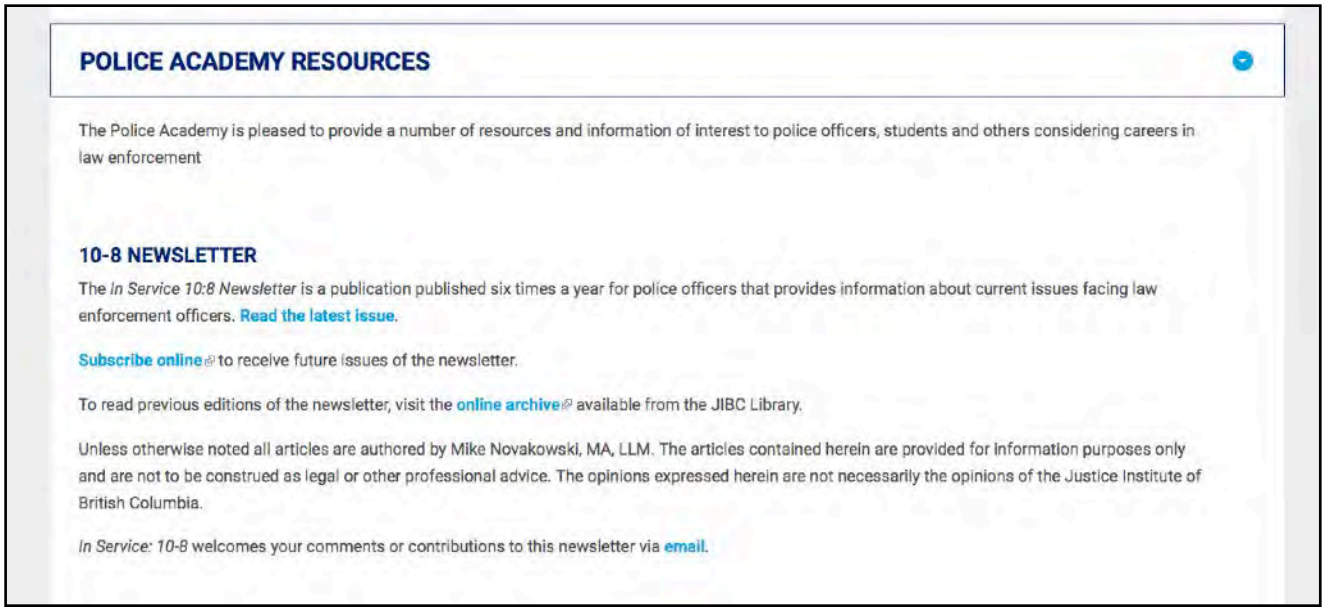

POLICE ACADEMY RESOURCES

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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The *In Service 10:8 Newsletter* is a publication published six times a year for police officers that provides information about current issues facing law enforcement officers. **Read the latest issue.**

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In Service: 10-8 welcomes your comments or contributions to this newsletter via **email.**

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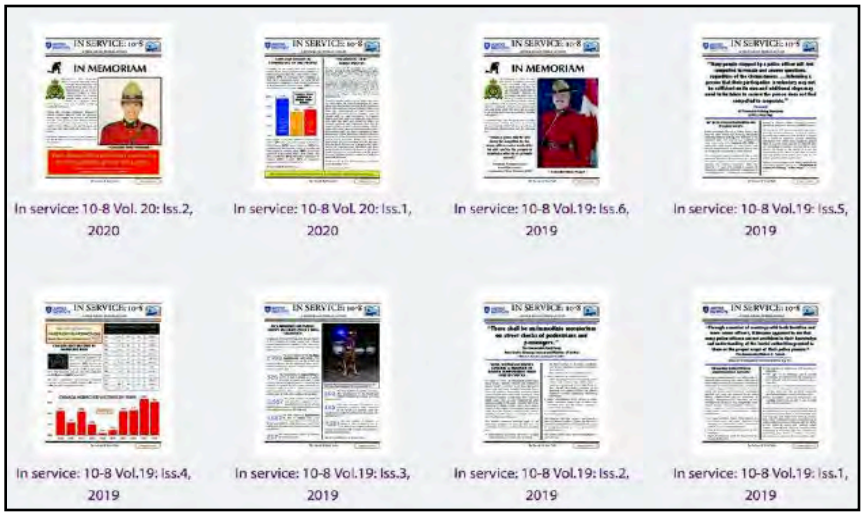

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