

Examining the Future of Policing in Edmonton: Reflections on Reform & Accountability – Part II

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This is Part Two of a series detailing my comments made to Edmonton City Council in the context of a motion to thoroughly examine policing (available [here](#)). In [Part One](#), I focused on the need for collection of data about policing, pointing out that this information can be of use not only to citizens who are wary of police, but to police forces looking to build positive relationships with local communities and to improve their service, as well as to City Council as it tries to understand how its massive investment of hundreds of millions of dollars into policing is spent.

In this post, I offer some brief thoughts on independent oversight of police. This review is not intended to be comprehensive. I then consider why Edmonton needs to think about police reform even though George Floyd was killed by American police in Minnesota, and some reflections on questions I was asked by members of Council after my presentation about the broader themes of policing, poverty, and community relationships.

Independent Oversight of Police

In addition to data collection, another key element of policing going forward is changing the way in which police misconduct is treated. In Ontario, [a recently completed review of police oversight mechanisms](#) offers valuable insights. In short, the theme is greater strengthening and independence of police oversight bodies. According to Justice Michael Tulloch of the Ontario Court of Appeal, this means, in part:

- constituting police oversight mechanisms as independent bodies, and under legislation separate from that which establishes the police;
- less reliance on former police investigators in criminal investigations of police officers;
- no reliance on police forces to conduct investigations of their own members;
- granting oversight agencies the ability to investigate all offences apparently committed by police;
- placing an obligation on police officers to cooperate with these investigative bodies;
- levying sanctions on police officers who fail to cooperate;
- independent decision-making about the laying of criminal and disciplinary charges (i.e. decisions not by the police force itself);
- the appointment of independent prosecutors and independent adjudicators in police discipline cases (criminal cases will be dealt with by the criminal justice system); and
- ensuring oversight of these mechanisms by an Ombudsperson.

All of these recommendations are of relevance to policing in Edmonton and indeed Alberta. As an example, concerns can be raised about the role of police chiefs in acting as screening mechanisms for many forms of complaints against police officers, and their ability to act as the chairs of hearings into complaints they have already assessed (see Part 6 of the *Police Act*, [RSA 2000, c P-17](#)). From the point of view of the officers implicated, this can raise due process concerns and workplace power imbalances. From the point of view of the public, this raises concerns about apparent bias, favoritism or special treatment.

The Alberta Serious Incident Response Team (ASIRT) is charged with investigating the more serious allegations raised against police officers in Alberta. While it is formally independent of police forces, its powers are derived from the *Police Act* rather than independent legislation that governs it specifically. Under the Act, ASIRT can investigate further incidents it uncovers during the course of an investigation, but the *Police Act* permits the Minister to appoint other investigators who lack that authority. Moreover, ASIRT relies heavily on current police officers seconded from their forces to act as investigators. This again raises questions of public perception on impartiality. It is important to note that [even police officers recognize this risk](#) (at 411), and may not want to investigate other officers partly to reduce public skepticism.

Empowering police oversight bodies is one aspect of enhancing accountability. Transparency in police oversight of the Edmonton Police Service (EPS) can also be improved. ASIRT, for example, should release the full investigative report into an incident at the conclusion of an investigation. As well, ASIRT should collect demographic data about complainants/victims of police misconduct. While the Executive Director stated she [sees no value in collecting such information](#), my previous post outlines the clear benefits. In the oversight context, this information can also help identify if certain demographics are not turning to police oversight mechanisms, allowing those bodies to reassess their outreach, effectiveness, and public perception of their work and accessibility. Perhaps most obviously, it can help identify trends in whether police are not just overpolicing certain communities, but disproportionately inflicting serious harm or killing them. To deny the relevance of this information, particularly in the current climate, is frankly unfathomable.

Modifying ASIRT and its governing legislation is of course outside the mandate of Edmonton City Council, but to the extent ASIRT oversees EPS officers, City Council should offer its advice to the Minister of Justice on ASIRT reform.

Finally, it should be noted that much of the debate is currently about *legal* control of policing and the appropriate legal mechanisms for ensuring proper police conduct. As Kent Roach notes, the emphasis on legal control can be [seen as a substitute for effective democratic control](#) of policing by different levels of government – including municipalities and police commissions. The risks include heightening the adversarial relationship between police, oversight bodies and the public, and, as noted in the review into the extensive allegations of police misconduct during the 2012 G-20 Summit in Toronto, [conceding police oversight and governance to the police force itself](#). It is thus essential that the city and police commission assume their democratic obligations and exercise their legitimate governance powers over EPS.

Many more recommendations can be found in Justice Tulloch’s report, as well as reviews of police oversight agencies in Ontario by the then-provincial Ombudsman André Marin: [Oversight Unseen: Investigation into the Special Investigations Unit’s operational effectiveness and credibility](#) (September 2008), and [Oversight Undermined: Investigation into the Ministry of the Attorney General’s implementation of recommendations concerning reform of the Special Investigations Unit](#) (December 2011). All of these reports point to the need for greater independence, transparency, and disciplinary power, or ‘teeth’, for police oversight mechanisms.

The Edmonton Context

Some will say that those advocating for police reform are wrongly conflating American police violence with Canadian and Edmonton-based policing. While we should be wary of simplistically transposing from one context to another, the reality is that public mistrust of policing in Canada and Edmonton predates the killing of George Floyd. That killing has catalyzed a movement that, to my understanding, has long been active in Edmonton, just as it has in most major Canadian cities. I note in particular that the Black Lives Matter group in Edmonton began collecting and [publishing data about police checks several years ago](#).

Three anecdotes illustrate continuing concerns about police use of force and bias in Edmonton.

In June 2019, Kyle Parkhurst, a Caucasian man with addiction issues, was arrested by members of the EPS. According to a [news report](#):

[W]itness cellphone videos posted on social media showed an officer repeatedly kicking a prone Parkhurst, slamming him head first into a brick wall, then shoving him against a cruiser while he was handcuffed.

But security video — never before made public — shows an officer struck Parkhurst in the head with either a handgun or a Taser, and another officer delivered an elbow smash to the handcuffed prisoner's head.

...

Both [Mount Royal University criminologist Kelly] Sundberg and [criminal defence lawyer Amanda] Hart-Dowhun independently noticed an officer, who appeared to be a sergeant, turn and walk away from the scene of the arrest as officers began to strike Parkhurst.

In August 2019, a homeless Indigenous man named Elliot McLeod was arrested by EPS members. A [news report](#) describes the video of his arrest as follows: “In the video from August 2019, Elliot McLeod is lying still, face down, and it appears his arms are being held behind his back by an officer who is kneeling beside him. A second officer approaches and suddenly drops, driving his knee into the man's upper back.”

In July 2018, Jean-Claude Rukundo's wife was in a traffic accident and asked him to come. While on the phone with their insurance company, Rukundo was arrested by EPS. An EPS officer knelt on Rukundo's neck for 40 seconds, and Rukundo was charged with resisting arrest and obstructing justice. A [news report](#) noted the following: "I couldn't even breathe", Rukundo told CBC News on Wednesday. "That day, I feared for my life. I was worried for my kids. I'm the only one bringing in the money for them." Charges against Rukundo – who is Black – were dropped in February 2019.

These incidents, over time, against men of differing backgrounds, show why there is generalized concern about policing in Edmonton, as well as specifically from communities of colour. The Rukundo situation in particular draws uncomfortable parallels to today's newspaper headlines: a Black man, engaged in a perfectly innocent activity, found himself with two officers on him and one man's knee pressed into his neck for an extended period of time. That should give every Edmontonian pause, and point to the need for each of the specific recommendations made above, and the overall need to enhance accountability for policing in Edmonton.

Addendum: Responses to Questions

After all presenters had given their initial remarks, members of City Council posed questions. As noted above, this Addendum was not the basis for my presentation to Council. These questions were largely about the broader context of policing and the defunding debate.

The Bias of Professional Alternatives to Police

One of the first points I made was to clarify that to the extent the motion for defunding is based on the principle of the reallocation of resources from policing to investment in a variety of other social programs, Council should recognize the potential for bias that manifests in other aspects of public life.

Many in favour of defunding and/or abolition of the police point to Alex Vitale's book [The End of Policing](#) as essential reading (available for free download now). Part of his argument is that police are tasked with doing too many things that police ought not to be doing. Comments given at City Council's police meeting suggest that police officers and City Council members agree on that basic point. I agree with police officers on this point, and when they note that systemic racism is a societal problem (although perhaps police forces should be more open to recognizing it within the police service itself). One of Vitale's recommendations is that a good deal of policing work should instead be done by different state agencies and professionals.

This sounds like a reasonable proposition: if you send people armed with guns and trained to identify and respond to threats to a mental health emergency, the likelihood of escalation to violence seems to increase. Yet as [noted here](#) (in a critical review co-authored by Meenakshi Manoe and my former student Vyas Saran and endorsed by Vitale), bias has the potential to (and frequently does) manifest in a variety of state agencies. We should think carefully about racial and other disparities that manifest when child welfare agents decide whether to remove children from their families; when school officials mete out discipline, stream students into different academic programs, or assess students' aptitude; and when medical or mental health

professionals encounter their patients. Oversight of these interactions is also necessary; unarmed professionals can be dangerous as well.

The Criminalization of Poverty

I was asked about the core functions of policing, including whether part of the problem is that poverty has essentially been criminalized in Canada. The starting point is that poverty has always been racialized in Canada. We see the presence of police in generating and then policing this nexus of racialization and criminalization. Tasks of police have included the historical and contemporary ‘pacification’ of Indigenous resistance (see [here](#), [here](#), [here](#) and [here](#)); prosecuting Indigenous persons for trespass or vagrancy when they violated the off-reserve pass system for Indigenous peoples (see [here](#) at page 35); and the issuance of slave passes. All of this entrenched criminalization of these communities has supported (and does support) their impoverishment. Broader societal discrimination has helped inscribe poverty onto racialized communities, which has [present-day ramifications](#) for who is policed. As well, as noted above, street check databases may be accessed when employers request police checks of potential employees. Names of individuals can be flagged [even if no charges were laid or convictions entered](#), making it harder to obtain and keep employment. To the extent that police are further tasked with enforcing crimes of poverty or laws that disproportionately impact the poor (such as tickets issued for bylaw offences), then it can be said that policing includes enforcing the criminalization of poverty.

Rebuilding Trust and Acting with Humility

If the current moment calls for questions about what constitutes the core functions of policing, it would seem to be useful to ask the communities directly affected. I was asked specifically how police could rebuild trust in various communities. As I said to Council, it is not for me to speak for these communities. Rather, Council should approach those communities to find out what they need. Increasing accountability in the ways outlined above *may* be ways of repairing broken relationships.

On reflection, my further thoughts are that there were members of the public who presented to Council at the same time that I did, who were also members of communities of colour, and who worked with others communities (such as sexual assault complainants) who had been given reason to mistrust police. Their strong and principled explanations of why Council should defund and/or abolish EPS were evidence of the degree of mistrust that exists. These advocates, who were there in the meeting, presumably have much more to say on if and how trust can be rebuilt, and I urge Council to ask them directly. I regret not making this request in the public hearing.

If Council wants to maintain some form of policing, then it would be wise to approach those communities in the way that members of those communities are often taught to interact with police: with humility. This humility is conditioned by the knowledge of the stakes of the encounter. Many members of communities of colour recognize police encounters as existential threats and thus know the risks of overconfidence when interacting with police. Nothing can be taken for granted, including that police will respond with equanimity if you assert your right to leave or not answer questions when randomly stopped by police.

Council and EPS ought to similarly recognize that public support for the continuation of policing is not guaranteed. Humility ought to therefore be a guiding principle in attempting to repair trust and build public confidence. Humility in this context means three things. First, an openness to engage in dialogue, and in particular a dialogue that will often lead to criticism and sometimes condemnation of the police. Second, a willingness to prioritize the concerns of community members in determining community needs and in reshaping interactions with those communities. Third, an understanding that the wrongs inflicted upon these communities have made serious and lasting impacts, and that it may not be possible to repair that damage in the short-term (and perhaps long-term).

In other words, Council and EPS must be open to the possibility of having their interactions with particular communities fundamentally reshaped, and be willing to participate in that fundamental reshaping. If the approach is one of insisting on continuing or restoring “normalcy”, both Council and EPS must understand that for many members of communities of colour, “normalcy” means continual surveillance, regular harassment, and threats or acts of violence. That notion of normal is untenable to many, and it will likely lead to a continued insistence on significant, meaningful, community-led changes.

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