

Mental Illness and the Use of Lethal Force in Canada: A Critical Policy System Analysis

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Abstract

The use of police lethal force is an unresolved and urgent critical social issue. Most recently, the deaths of those in mental health crises during police interventions have increasingly led to public controversy in Canadian society, especially in circumstances where the victim suffered from a mental illness. This study sought to locate policy that justified the use of lethal force by police officers on persons with mental illness (PMI) and provide recommendations to amend policy to uphold the sanctity of life. The primary objective of the study is to challenge our current policing and criminal justice systems and apply principles of restorative justice with the goal of obliterating police shootings and healing communities in the aftermath of state-sanctioned deaths. This study used an interpretive policy analysis framework to analyze lethal force policies at the federal, provincial and municipal levels of government in Canada. The findings of the study revealed that the policies allow for police to uphold the social relations of power and determine whether or not to end a citizen's life. The policies normalize state violence as an appropriate response to social issues and allow for police officers to hold vast discretionary power in determining to use force when they perceive a threat. A primary latent goal of the policies is to uphold officer safety at the expense of citizen safety. Accountability and lack of transparency of Special Investigations Unit (SIU) investigations and lack of implementation of Coroner's Inquest recommendations were found to reinforce underlying factors of this social issue. In addition, unclear and conflicting legislation pertaining to the roles of police in our society, specifically in mental wellness checks, is raised as a significant issue in citizen safety in encounters with police. This study contributes to the growing body of Canadian policing research and fills a gap in the lack of policing policy analysis. This study supports decolonization and democratization of policing in Canada and purports that applying restorative justice principles and values can be transformational in the healing of police and community relations. This study contributes to social work education by enlightening social workers to public policy that can have dire consequences for the populations they serve. This study supports the inclusion of social work knowledge and expertise in police interactions with persons in mental health crises. In the pursuit of social justice, this critical social issue cannot be overlooked.

Keywords: Policing, Persons with Mental Illness, Use of Lethal Force, Criminal Code of Canada, Restorative Justice

Table of Contents

<u>Abstract</u>	<u>2</u>
<u>Acknowledgements.....</u>	<u>5</u>
<u>Chapter 1: Introduction.....</u>	<u>7</u>
<u>1.1 The Problem.....</u>	<u>7</u>
<u>1.2 Context</u>	<u>10</u>
<u>1.3 Overview of the Research Study.....</u>	<u>14</u>
<u>Chapter 2: Literature Review</u>	<u>15</u>
<u>2.1 Roles of Police in Society.....</u>	<u>15</u>
<u>2.2 Police Perspectives on the Use of Lethal Force</u>	<u>17</u>
<u>2.3 Police Use of Lethal Force and Persons with Mental Illness (PMI)</u>	<u>18</u>
<u>2.4 Police Training</u>	<u>21</u>
<u>2.5 Mobile Crisis Teams (MCTs) and Crisis Intervention Teams (CITs).....</u>	<u>21</u>
<u>2.6 Lethal Force and Racial Minorities.....</u>	<u>23</u>
<u>Chapter 3: Design and Methods.....</u>	<u>25</u>
<u>3.1 Definition of Terms.....</u>	<u>25</u>
<u>3.2 Design and Methods.....</u>	<u>26</u>
<u>3.3 Data Collection and Analysis</u>	<u>27</u>
<u>3.4 Process of Analysis.....</u>	<u>28</u>
<u>3.5 Theoretical Framework</u>	<u>29</u>

<u>Critical/Indigenous Paradigm.....</u>	<u>29</u>
<u>Restorative Justice Theory.....</u>	<u>30</u>
<u>3.6 Ethical Issues/Challenges</u>	<u>32</u>
<u>Chapter 4: Findings and Discussion.....</u>	<u>33</u>
<u>4.1 The Legal Framework for Police Lethal Use of Force</u>	<u>33</u>
<u>4.2 State Violence as an Accepted Response to Complex Social Issues</u>	<u>36</u>
<u>4.3 Police Discretion in the Use of Lethal Force</u>	<u>40</u>
<u>4.4 Investigations, Inquests and Accountability</u>	<u>44</u>
<u>4.5 Coroner's Inquests</u>	<u>45</u>
<u>4.6 Citizen Safety.....</u>	<u>46</u>
<u>4.7 Officer Safety</u>	<u>49</u>
<u>B. Worldview and Police Use of Lethal Force</u>	<u>51</u>
<u>4.8 The Settler-Colonial Roots of Policing Policies In Canada</u>	<u>51</u>
<u>4.9 Restorative Justice: An Alternative Worldview.....</u>	<u>55</u>
<u>Chapter 5: Conclusions</u>	<u>56</u>
<u>5.1 A Retributive Justice System VS Restorative Justice Paradigm.....</u>	<u>56</u>
<u>5.2 Recommendations for Social Work Theory, Practice, and Education</u>	<u>61</u>
<u>5.3 Policy Recommendations</u>	<u>64</u>
<u>5.4 Reflexivity and Critical Reflection</u>	<u>70</u>
<u>References.....</u>	<u>74</u>

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Over the past eight months I have been on a research journey that has both challenged and shaped me. I started somewhere drastically different from where I ended up, but I believe this process, with all of its many peaks and valleys, has brought me full circle.

Police lethal force is a topic that is highly controversial in our present society, one that brings up many complex emotions. It is a tragic part of our social reality and an issue very close to my heart. I gained awareness of these oppressive systems in the pursuit of justice for my younger brother. I am thankful that I was able to find a research methodology that not only critically challenged these systems but allowed for the sanctity of life to be a central focus as well as the inclusion of Indigenous worldview in academia. Examining the truth of the policing system through a policy analysis and an RJ lens allowed me to critically examine the legislation that justifies lethal force and argue for a shift in the way we as a society view our world. A goal of my future studies is to interview families who have been impacted by lethal force and to further research First Nations policing structures. I believe that the insights of family members of the deceased are highly valuable to understand how systemic policy is experienced by one demographic and can enlighten policymakers and advocates to the need for transformation of the system.

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This study is dedicated to my brother Andreas Chinnery December 24, 1991- February 2, 2011, with love. Andreas you will always be remembered for your strength, your sly smile, and your incredible resilience and perseverance against the challenges you faced. Your love for your family touched my heart. Ava would be proud to call you Uncle. Until we meet again.

This research is also dedicated to Evan Jones, Sammy Yatim, Levi Schaeffer, Nicolas Jeppesen, and all of the Canadian lives lost to state-sanctioned police killings. I hope and pray for the transformation and reform of police lethal force policies.

Chapter 1: Introduction

1.1 The Problem

The date is August 25, 2010 and Evan Jones lays dead as a result of police bullets. Jones, an 18-year-old Brantford teenager of Miawpukek First Nations heritage had been having a particularly difficult year. He was struggling with his mental health and had been in and out of psychiatric care. His mother and sisters described him as a warm and gentle person who loved animals and playing with his young niece. On that fateful day he had returned to his townhouse in Brantford, Ontario where he lived with his mother. He was distraught over an argument with one of his friends and despite his mother's consoling, became increasingly agitated. As a last resort, Evan's mother decided to call the police to get some help for her son. When police arrived, they said they saw Evan standing on the porch, holding two knives. Constable Adam Hill immediately proceeded to shout orders at Evan, who was at this point increasingly fearful and ran back into the family home. Hill and two officers followed him inside as he fled. Evan's mother wanted to run into the house to console her son and beg him to drop the knives. But the police stopped her. Shortly after, she heard gunshots and within less than a minute, her son lay dead (Gillis, 2017).

The *Police Services Act* mandates the Special Investigations Unit, the government's police oversight agency, to investigate anytime a member of the public has been severely harmed or killed by the police to ensure there was no criminal negligence on behalf of the officers involved. Constable Adam Hill was the subject officer, or the one who took Jones' life. In his interview he stated that he feared for his life as Jones began to advance on him and his fellow officers with "knives at his throat" (Scott, 2011). In addition, Hill admitted that he knew Jones

was in a mental health crisis and showed “signs of erratic behaviour and disregard for his personal safety” during their interaction (Scott, 2011). Ian Scott, the past director of the SIU released a report that showed the results of the investigation and exonerated Hill from any criminal responsibility for the death of Jones. This story holds significant importance to this research study, as it exemplifies the lived effects of policy experienced by people within our communities who encounter police in vulnerable states. This story allows for critical scrutiny of police lethal force and mental health legislation to uncover how power is manifest in the social reality of police lethal force. The link to the full story and inquest reports can be found in the references of this study, as the scope does not allow for a thorough examination of every issue in the case but provides an accurate account of what is found in the cited report and media.

In 2014, for the first time in its operation, the SIU reopened the case of Evan Jones on the premises that new information had arisen and there was pressure to reexamine the evidence and new information that came to light (Hudon, 2014). Constable Hill, who had been on leave from his job since 2010, entered the Brantford police station and confessed to murdering two men in the line of duty. Hill argued he had used excessive force with a past incident that contributed to ending the citizen’s life. He then gave a chilling confession. Hill confessed that in the case of Evan Jones, he did not recall that Evan had a knife in his hand or was advancing on the officers. In fact, Hill disclosed that a police union representative had told him to lie to the SIU (Gillis, 2017). The toll lethal force can take on both families and the police officers are exemplified through this story. Jones’s family, who did not believe Hill’s version of the events, hired a lawyer who questioned the police version of events after seeing the postmortem results.

Jones had been shot in his back... Hill said he began firing as Jones charged forward toward him with knives in his hand, an account also given by Van Holst (witness officer).

A different reading of the wounds was that Jones had been turning away. The bullet through Jones' left arm, his dominant hand, was particularly puzzling...the angle of the wound, and the bullet's reentry into Jones' torso suggested that Jones arm may not have been raised, counter to Hill's account that Jones charged with knives up. (Gillis, 2017, n.p.)

Jones' family not only had to grieve the tragic loss of their son, brother and uncle, they now had to fight for justice against a state that supported his killing. The SIU reopened the investigation but immediately encountered barriers to gaining information. The Brantford police officers who had been present when Hill confessed did not take any audio or visual recordings of his testimony, so there was no record of his confession. In addition, they violated a reporting policy and waited eight days before alerting the SIU of this new information. The officers claimed that Hill had not been in sound mind, however, Hill's psychiatrist refuted this after he was held for a mental health evaluation. Surprisingly, Hill's confession that he was unsure if Jones was advancing with a weapon could not be disproven by forensic evidence (Gillis, 2017). Unfortunately, Hill refused to be interviewed by the SIU or be questioned on the stand at the second inquest hearing, as were his rights. Therefore, the SIU concluded that since no one could contest that Jones was advancing on the officers, the *Criminal Code* was used to justify Hill's actions and the case was again closed. The family of Jones, who were hopeful to receive justice or even explanation for their loved one's death, were in agony over awaiting yet another SIU

decision that opened up fresh wounds and caused significant upheaval in the family's lives.

Adam Hill spoke out on Facebook about his views of the Brantford police, claiming they did not care about his condition or offer help to cope with the PTSD he experienced in the aftermath of the deaths. Yet, he refused to change his original story and the SIU could not make any changes to the report, citing the *Criminal Code* as justification for Hill's use of lethal force. This story speaks to the silence and isolation reinforced by the system, allowing death to occur by the state with little to no transparency, and giving all rights and protections to those who extinguish the life of a fellow human. The story raises critical questions about what could be done differently. Could there be less lethal force options or other alternative responses to police encounters with people in distress? Could policies be amended to reduce or eliminate these killings? What kind of paradigm shift would have to take place to transform the whole role of police in society to remove their power to kill with impunity? Police lethal force harms all in society as it means we live in a world in which state-sanctioned deaths are accepted and normalized through policy. Is there another way?

1.2 Context

In any given year, one in five adults in Canada will experience a mental health problem or illness (*Mental Health Commission of Canada*, 2013). Every year, roughly five million Canadians are involved in various encounters with the police, most ending with no critical incident. However, approximately 30 citizens die every year as the result of confrontations with police. Since Canada has no official database that tracks this information, researchers from CBC compiled a database to observe these fatal incidents and understand the occurrences encompassing these lethal confrontations (Marcoux & Nicholson, 2018). The researchers

discovered that 2020 was a particularly troubling year, with 30 Canadian citizens dying from police use of lethal force in the first half of the year (*CBC*, n.d.). Of the 460 cases reported between 2000 and 2017, 68% of citizens killed in police confrontations suffered from mental illness or substance abuse (*CBC*, 2018).

Police in the settler-colonial Canadian state have held significant power and dominance over lower socio-economic and racialized communities. More recently, the increasing deaths of racialized individuals in mental health crisis during police interventions has sparked numerous public debates calling for police reform and abolition. This past summer, in a debate at the House of Commons, NDP leader Jagmeet Singh expressed the views of many members of Canadian society in regard to the policing of persons in mental health crises.

Mr. Jagmeet Singh:

D'Andre Campbell in Brampton, Regis Korchinski-Paquet in Toronto, Chantel Moore in Edmundston, were all black or Indigenous. They had mental health concerns. Police responded and they were killed. Clearly something is wrong. Will the government accept, and just admit right now, that we need to be spending more money on mental health workers instead of police, that mental health workers should be responding to requests for wellness checks, not the police? (HC Deb, 2020).

Following Singh's powerful presentation, Jill Andrew submitted a petition to the Legislative Assembly of Ontario entitled "The Petition for the Creation and Implementation of the Regis Report." The Report was in memory of Regis Korchinski-Paquet, a 28-year-old Toronto woman who suffered from epilepsy. Paquet fell to her death from her balcony during an interaction with police, who were called to the apartment due to a family dispute (HC Deb, 2020). Similar instances have occurred in 2020 as the result of wellness checks or 'person in distress' police calls. On April 6, 2020, D'Andre Campbell, who suffered from schizophrenia

and bipolar disorder, was fatally shot by Peel region police. On May 8, 2020, Caleb Njoko of London, who was acting erratically, fell 15 floors from his balcony after his mother called police for a wellness check. And just a month later, on June 20, 2020, Ejaz Choudry, who suffered from schizophrenia, was shot dead by police in Malton after his family called for help when Choudry threatened to harm himself (HC Deb, 2020). The recent deaths reinforce critical questions of whether or not police are best equipped to respond to individuals in mental health crises. Among many other crucial recommendations for policing reform, the Regis Report called for “a thorough review of the equipment and use of force regulation, R.R.O. 1990, Reg. 926, so as to emphasize de-escalation and address the use of deadly force” (HC Deb, 2020). This provincial public policy, as well as others at the federal and municipal levels, grant police officers the power to use lethal force in interactions with persons with mental illness.

The Criminal Code provides protection for police officers when they deploy lethal force, on the grounds that the level of force is deemed reasonable in the circumstances (*Criminal Code of Canada*, 1985). In Evan Jones’ case, SIU director Ian Scott cited section 27 of the Criminal Code of Canada to justify his decision that there was no negligence on the part of the officer who killed Jones (Scott, 2011). It should be noted that in these crucial Criminal Code policies, there are no guidelines for police-led interventions in mental health crises. However, every country must have legislation for *parens patriae*, which is a legal doctrine that enables the state to act as a guardian for individuals who are unable to take care of themselves (such as individuals in mental health crisis). Ontario’s *parens patriae* is regulated under Section 17 of the Ontario Mental Health Act (1990). This section states that in circumstances where an individual is

“threatening, attempting, or has threatened bodily harm to themselves or others, has or is behaving violently, or has shown or is showing a lack of care for themselves, is appropriate grounds for an officer to apprehend the PMI for transfer to hospital for assessment” (Koziarski, 2018, p.11). It is evident that there are discrepancies between these various public policies that create grey areas for interactions between police and PMI. The Criminal Code policy is used to justify police use of lethal force, yet the Ontario Mental Health Act legislation to protect vulnerable individuals in mental health crises is ignored as overarching policy that guides police work with this demographic. It is not a policy that seems to be taken into account during investigations of police lethal force.

Given the ongoing tensions between the police and the public in the aftermath of these fatal shootings and deaths, it has become clear that the sanctity of life is a value fundamental to society. Thus, the overarching objective of my study is to transform federal, provincial and municipal police use of lethal force policies to uphold the right to life for citizens.

Notwithstanding the number of studies done by scholars and media on police brutality in general, little research has focused on the direct, overarching policies that uphold the police use of lethal force in the Canadian context. Thus, I seek to critically analyze use of force policies at the federal, provincial and municipal levels through an interpretive policy analysis. My study poses the following questions:

1. What policies uphold and justify the use of lethal force on PMI in crises?
2. How can the chosen policies be amended at federal, provincial and municipal levels to uphold the right to life for PMI in crises?

As a social worker within the mental health sector, and as an individual who has lost a loved one due to police use of lethal force, I believe this research topic is of urgent importance to society as a whole. A predominant goal in the practice of social work is the pursuit of social justice and challenging systems that oppress marginalized groups in our society. The police use of lethal force is an example of undisguised state violence that most deeply impacts groups within our society that are at the margins due to mental illness, systemic racism, poverty, and social exclusion. One key value of the social work profession is providing advocacy and support for marginalized and vulnerable populations. Social workers can be in a strong position to inform policy that upholds human rights through social activism and alternative community responses to state violence. Social workers, who hold knowledge of the impacts of structural conditions on marginalized groups, have a valuable position within policing reform to create strategies for change.

1.3 Overview of the Research Study

This purpose of this study is to examine police use of lethal force and how social policies reflect the systems of dominant thought in our societies that need to be challenged due to their lived effects on vulnerable people in our communities. In the following chapter, existing literature will be reviewed across a multitude of disciplines to explore lethal force as a critical social issue. Chapter 3 will outline the methodology used to answer the research questions: the analysis of the selected policies through a WPR approach (Bacchi, 2009). Qualitative research from a critical paradigm will briefly be explored, as well as the application of Restorative Justice theory (RJ) to the issue of police lethal force and how RJ informs this study. In Chapter 4, the findings of the policy analysis will be presented by theme, with links to theory. Chapter 5 will be

comprised of a discussion concerning the limitations of the thesis and findings presented in the previous chapters as well as how this translates to the larger context of police lethal force as a social justice issue. The study will conclude with recommendations to transform the policy system with the latent goal of protecting and upholding life in our societies through democratic policing. Calls for future research and the implications of this research will also be discussed.

Chapter 2: Literature Review

A review of the recent literature offers insight into how the police use of lethal force has become a tragic reality in the Canadian context. While a number of studies explore how the police use of lethal force impacts vulnerable communities and police officers, little methodological attention is given to analyzing the overarching policies that uphold the use of lethal force in police interventions of persons with mental illness (PMI) and how public safety may be upheld through the amendment of these policies. The purpose of this chapter is to provide an overview of the literature concerning police use of lethal force and interactions with PMI. This review will include perspectives on police lethal force across a multitude of disciplines (social work, psychology, criminology, policing, and governmental grey literature) in an effort to provide an insightful and well-rounded perspective of this critical issue. In contrast to other countries, there are numerous gaps in Canadian policing research focused on police use of lethal force and policing outcomes. Thus, this review does rely heavily on Canadian research, but will include some American studies and one study from Australia with the goal of building a strong evidence base in support of policy change to address police use of lethal force.

2.1 Roles of Police in Society

The literature demonstrates opposing opinions on the roles of police in modern society. Bittner (1975) is the pioneer of policing research in the United States. In his work he outlined the

key principles of the roles of police. He determined that police often must create quick fixes to complicated social problems, and they are able to create these solutions as they have the jurisdiction to use coercive power to control outcomes (Bittner, 1975). In addition, Bittner (1975) found that policing is ecologically dispersed, focusing on marginalized communities within society. Due to Canadian society being marked by growing inequalities (Bell & Schreiner, 2018), there has been an increased focus in the literature on the role of police in worsening these conditions through their ability to use violence to solve complex social problems. As Carmichael and Kent (2015) assert, police use of force, when considered avoidable or unwarranted, can cripple police-citizen relationships and overall social connectedness and solidarity within communities. Alpert and Dunham (2004) agree that conflict between citizens and police often break out due to citizen's heightened reluctance to approve of the use of force as an instrument of social control.

Although police officers are tasked with upholding the safety and wellbeing of individuals in our societies, there has been a gradual shift to policing becoming increasingly aggressive (Balko, 2014). One theme that has been prevalent within the policing literature is that police services need to transform their role to guardians rather than adopting a warrior mindset in their encounters with the public (Rahr & Rice, 2015, Balko, 2014). The warrior mindset is characterized by a force-based technique that views citizens through the lens of criminal justice administration, while the guardian role is a social welfare-based attitude that upholds citizen's health and safety as a priority (Wood & Watson, 2017).

Although Watson, Corrigan & Ottati, (2004) found that many police officers have accepted their role as de-facto mental health professionals, Coleman & Cotton (2010) note that there is a belief that remains within policing that interactions with PMI are not "real police

work”. A study by Cotton (2004) about the attitudes of Canadian police officers in regard to their involvement in mental health interventions revealed that while 80% of the officers felt that mental health intervention was an important part of their job description, 50% felt that PMI took up a considerable amount of police resources, while 38% expressed that if the mental health system was sufficient, police would not have to be tasked with dealing with these issues (Cotton, 2004).

The above-mentioned studies all agree that law enforcement holds a position of power and dominance in society, but the research does not easily define the scope of police duties or what is defined as effective policing performance and strategies. Huey (2016) explains that this is due to the fact that Canadian policing research is drastically underfunded. Thus, evidence-based policing practice is difficult to pursue, as there are no past standards against which to evaluate present policing performance.

2.2 Police Perspectives on the Use of Lethal Force

The bulk of the criminology literature focuses on factors that influenced police officer’s use of lethal force. Miller (2015) and Broome (2014) explored factors that contribute to police use of lethal force. Miller (2015) found that certain types of officer attitudes, personality traits, and behaviors may cause officers to be more likely to use deadly force. Broome (2014) compiled a phenomenological psychological study of police officer’s lived experiences of the use of deadly force. He found that the use of lethal force scenarios typically unfolds in unpredictable circumstances where officers may fear for their lives. Officers were more likely to absolve themselves of guilt if they perceived the shooting victim was of low moral character and had previous criminal offences, marking their perception of the victim as “criminal”. Alternatively, Broome (2014) notes that if the shooting victim was discovered to have suffered mental illness

and was vulnerable, the officers questioned if their duty should have been to protect the individual rather than deploy lethal force. Parent and Verdun-Jones (2000) interviewed 34 officers to discover how their use of lethal force had impacted their lives. Of the 34 officers, eight had been put in situations where they perceived a lethal threat but did not use their firearms in the interventions. These 8 officers shared that they did not have any personal negative impacts and were satisfied with the outcomes of the interventions, having preserved the life of the individual. However, the remaining officers who fired fatal shots reported severe negative psychological outcomes that persisted long into the aftermath of the incident. Although the officers were all exonerated and not charged with a criminal offense, they experienced personal distress, stigmatization from their colleagues, and severe mental health consequences in their own lives as they tried to cope with the aftermath (Parent & Verdun-Jones, 2000) This research is key because it raises questions about the wellbeing of the officers and if they can continue to work in frontline positions where they will again, inevitably, encounter vulnerable and marginalized members of society. Public safety and officer wellbeing are not examined deeply in the literature. It is unclear if police receive screening, counselling, on the job training about critical incident stress, or support from their police departments in the aftermath of lethal force outcomes. Concerns regarding police integrity and misconduct have been documented through many media accounts, however no studies addressed police conduct or related issues that could necessitate policy change or reform.

2.3 Police Use of Lethal Force and Persons with Mental Illness (PMI)

Since the deinstitutionalization movement, which allocated psychiatric services to the community, the role of police services began to shift as they faced increasingly complex demands within communities, including the need for numerous mental health interventions. As

explained by Cotton and Coleman (2010), in the current societal context, the reduction of community mental health services has led to the police transitioning overtime to become the frontline extension of the mental health system. Michalski (2017) found that although Canadian cities have increased mental health care within communities post-deinstitutionalization, they continue to remain inadequate and underfunded. Mental health law reform has focused on increasing the rights of persons with mental illness (PMI), thus, involuntary admission to psychiatric hospitals has decreased and only individuals who appear to pose significant danger to themselves and others are detained (Cotton & Coleman, 2010). This literature reveals the significant fragmentation of the Canadian mental health system and suggests that individuals with severe mental illness may be more likely to have interactions with police rather than mental health workers as a first point-of-contact.

Psychosis, suicidal ideation, and mental breakdowns are prevalent in our often-fragmented society. Watson, Corrigan and Ottati (2004) report that police officers perceive individuals with schizophrenia as more dangerous than those who have not disclosed a mental health disorder. Parent (2011) states that these symptoms of mental illness may make someone appear to be violent or unpredictable. He goes on to say that the mental health symptoms may be construed by police officers as an aggressive act that imply the need for force to be used (Parent, 2011). Kesic and Thomas (2014) found that while mental health distress and substance use were significantly linked to violent actions towards the police, previous mental illness diagnosis or histories of prior violence were not linked with violence. This challenges the stigmatizing view that individuals with mental illness and prior histories of violence are more likely to pose risks of violence to police.

The above studies all suggest that implementation of a service model is required that would create linkages between the police and psychiatric services to facilitate timely access to mental health services (Kesic & Thomas, 2014). Parent (2011) analyzed 30 incidents of the police use of deadly force and indicated a significant fragmentation in the connection between mental health systems and police departments, which may cause the responding officers to not understand the background details of the person they are coming into contact with and therefore cannot make appropriate judgements about the individuals' mental health status prior to their arrival on the scene. Parent (2011) argues that police officers operate from the assumption that the individual is of rational and sound mind in these encounters and then act in accordance with the Criminal Code of Canada which enables police officers to deploy as much force as they believe is necessary to stop a perceived threat of injury or death. Since police are trained to shoot for the body mass of assailants, the shootings are most often fatal (Parent, 2011). Cotton and Coleman (2010) agree with Parent's analysis of police shootings and add that policing needs to be built on systems theory, supporting the philosophy that institutions should be open to their environment and must accomplish a reciprocal and trusting relationship with that environment in order to survive.

In response to increased police involvement with PMI, the role of police shifted from the primary focus of law enforcement activities to a more contemporary approach where most police services in Canada consider themselves to be open systems that consult, collaborate, and work with communities with the goal of reducing the criminalization of PMI. Still, Cotton and Coleman (2010) acknowledge that police may not be adequately trained to handle scenarios that involve people in mental health crisis, who may appear to be acting agitated or aggressively.

2.4 Police Training

In Ontario, coroner's inquests are mandatory in instances where a citizen dies in an interaction with law enforcement (Ministry of the Solicitor General, 2020). Coroner's inquests are not criminal proceedings and do not seek to charge officers with an offense, rather they are created with the intent of producing recommendations to change policing policy as an attempt to avoid future fatal outcomes. Coleman & Cotton (2005) and Parent (2011) note that a frequent finding of coroner's inquests is the inadequacy of mental health training for police officers.

Cotton & Coleman's (2008) review of Canadian police academies found that all include some form of basic mental health training, however the breadth of the training varies throughout Canada. Some academies offer very brief training, while others provide more than 20 hours of mental illness education (Cotton & Coleman, 2008). However, it should be noted that there is no standard protocol for mental health training, nor are the results of the training reported or documented. A later study by Coleman and Cotton (2014) explained that although police services have made significant efforts to include information about mental illness in police service systems and training academies, the curriculum did not include input from PMI nor mental health professionals. Consequently, this has created gaps in police understanding and may undermine efforts to forge collaborations across mental health and policing systems.

2.5 Mobile Crisis Teams (MCTs) and Crisis Intervention Teams (CITs)

Abbott (2011) argues that police may not have to resort to violence or use of force if they are provided with alternative tactics for de-escalating situations. Police services have responded to the public controversy surrounding use of lethal force through the formation of various mobile crisis teams (MCTs) in major Canadian cities. MCTs are the prevalent programs that are utilized by police services in major Canadian cities to address the public's concern of police

interventions of PMI. MCTs are characterized by police officers and mental health professionals partnering to respond to mental health crisis calls. This crisis intervention model is embodied by programs such as COAST in Hamilton, and the Car-87 program in Vancouver (Kean, Bornstein & Kackey, 2012, Kisely et al., 2010, Parent, 2011). Cotton & Coleman (2010) and Forchuk et al. (2010) observe that MCTs enable an immediate and more definitive judgement of the mental health concern to provide referral to proper mental health resources within the community. The police presence is required should the incident escalate, and the officer is able to employ their power through the *Mental Health Act* to arrest the individual if required, while the mental health professional can provide assessment, de-escalation and follow-up. Palmer and Slinger (2015) explain that while the advent of these collaborative programs is encouraging, there are budget constraints that do not allow for their availability in all mental health interventions. Therefore, frontline police officers remain the primary first point of contact for individuals in mental health crisis and their level of training in regard to mental illness remains unclear and undefined within the literature.

Canadian literature on the effectiveness of MCTs and crisis intervention training in the reduction of lethal use of force are limited, however, Bonfine, Ritter and Munetz (2014) studied officer's perceptions of Crisis Intervention Team (CITs) programs within police services in the United States. The results of interviews with 57 police officers indicate that the implementation of CIT may have a transformative effect on officer's perceptions by increasing knowledge about mental illness. CIT were rated very positively by the officers, who reported that they felt more confident in their ability to handle calls involving PMIs, that their skills and approaches were improved, and this increased their overall perception of their department's effectiveness. Baess (2005) argues that this collaboration between officers and mental health professionals may be

effective in avoiding crisis escalation and harm to PMI. However, this outcome is difficult to measure without quantifiable data that compares the police use of lethal force before and after the implementation of MCTs or CITs. It is worth noting that in 2012, The Allen Consulting Group from Victoria, Australia investigated the number of times a use of force form was completed by the CIT team versus the usual police service (that did not employ collaboration with mental health professionals). The differences between the numbers of use of force forms were small, however the Allen Consulting Group (2012) found that the CIT team provided de-escalation advice on 10% of PMI interactions with police officers and were involved in other activities to assist in preventing use of force and injury. The limitations of this study were that the analysis did not include a statistical interpretation of the small differences between the use of force forms, and it did not consider whether the type of force that is reported differs between the standard police intervention and the use of CIT intervention. The overall results of the above-mentioned studies do indicate that collaboration between police and mental health professionals in situations involving PMI can be an encouraging approach. Unfortunately, according to Shapiro et al. (2015), there are few published Canadian studies, and they involve non-experimental designs, and small sample sizes. Although these programs are promising as an attempt to address the issue of the use of lethal force on individuals in mental health crisis, few data exist to reveal the effectiveness of these implementations in addressing the critical issue of lethal force, while police use of lethal force is steadily increasing in Canada (CBC, 2018).

2.6 Lethal Force and Racial Minorities

There is a wide breadth of American literature that notes the excessive use of force against racialized individuals (e.g., Holmes & Smith, 2012, Klinger et al. 2015, Kahn et al. 2017). According to Wortley, Laniyou and Laming (2010), research that examines the impact of

police use of lethal force on racial minorities is sparse in the Canadian context, due to the fact that police departments across the country do not consistently collect formal statistics or release them to the public. CBC (2018) addressed this gap by analyzing police reports, coroner's inquests, and media to collect data concerning 461 persons who have died by police lethal force from 2000-2017. Wortley (2006) analyzed lethal force reports from the Ontario police oversight agency, the Special Investigations Unit. The findings of both studies indicated that Indigenous and African Canadians are largely overrepresented in the lethal force cases. Razack (2020) explains how Indigenous people may be overrepresented due to settler-colonialism and how white settler violence flows through institutions such as policing. She contends that the official narratives that justify police use of lethal force on Indigenous peoples are part of the racial terror that is a central aspect of settler-colonialism. Another recent study by Carmichael and Kent (2014) investigated police killings across 39 of Canada's major cities, derived from media accounts. The results of this study upheld the ethnic threat hypothesis: that areas with high racial minority populations experience more events of lethal police force than places with lower racial minority populations (Carmichael & Kent, 2014).

Miller (2015) offers a different perspective on the high incidents of police killings of racialized individuals. He argues that the overrepresentation is due to the demographics of "criminal behaviour" and officer assignment to these particular areas, claiming that there is no evidence to support police targeting specific ethnic groups. Miller's stance, however, is debatable because he does not examine structural conditions of inequality nor the increased surveillance of the poor in lower socioeconomic areas by the police. Although the Canadian data is limited, it still strongly supports the argument that racialized individuals are more likely to experience use of lethal police force than the general population.

In conclusion, the overall volume of Canadian literature on police use of lethal force is limited, and coverage on key policing topics such as police mental health training and effectiveness of MCTs in addressing lethal force are absent from the literature. It is difficult to define what effective policing is because Canadian policing research is drastically underfunded. Thus, there is no standard against which to evaluate present or future police performance. In addition, outcomes of police mental health training have not been extensively researched, and the amount/quality of the training varies per region and is undefined. Although concerns over police use of lethal force have been featured in countless media outlets, no studies were conducted on amending the Criminal Code or the Police Services Act, which allows police officers significant power over society through the use of lethal force. Therefore, policy analysis research is of significant importance to support policing reform in the Canadian context.

Chapter 3: Design and Methods

3.1 Definition of Terms

Lethal Force: “Lethal force is a force that objectively can pose a threat to human life under the concrete circumstances of the event, such as firing a weapon aimed at the head or upper body.

The use of lethal force is an accepted means in modern domestic systems, as well as in international law” (Kremnitzer, Menashe & Ghanayim, 2007).

Persons with Mental Illness (PMI): “Mental illnesses are medical conditions that disrupt a person’s thinking, feeling, mood, daily functioning, and ability to relate to others. Mental illness is a disorder of the brain that can make it difficult to cope with the ordinary demands of life” (NAMI, 2018, p.3).

Mental Health Crisis: “A mental health crisis is any situation in which a person’s behavior puts them at risk of hurting themselves or others and/or prevents them from being able to care for themselves or function effectively in the community” (NAMI, 2018, p.5).

The Code: The Criminal Code of Canada

The Act: The Police Services Act, “Equipment and Use of Force”

The MHA: The Ontario Mental Health Act

LE013: the municipal, or departmental policy for police response to PMI or persons with developmental disabilities, local Hamilton Police Services policy

3.2 Design and Methods

The methodological approach chosen for this study is a policy system analysis. A critical approach to policy system analysis, in this case, is concerned with the radical transformation of policy through consciousness-raising and rearranging the social order to uphold the right to life for vulnerable populations within our society. I examined the policy content and the issues embedded within the policies as my main focus of analysis, to envision how policy change may impact the critical issue of police use of lethal force. I have chosen this methodology because there are few studies within the literature that analyze the overarching policies that enable police forces to use lethal force on members of society who are impacted by mental illness. I believe that any policy that holds the power to end human life requires critical analysis and large scale, fundamental change. I have selected Bacchi’s (2009) guide to interpretive policy analysis as my preferred method of data analysis. I have chosen this approach because the traditional problem-solving approach to policy analysis will not support my research paradigm or theoretical perspectives. As Bacchi (2009) explains, problem solving approaches are generally conservative and assume that institutions and societies are functioning well and that there is not a need for

macro-level social change, rather the focus is on solving the problems that arise in “various parts of a complex whole in order to smooth the functioning of the whole” (p.xvi). Due to the fact that individuals are experiencing deep levels of institutional harm through use of lethal force policing policies, we cannot assume that law enforcement institutions are functioning well in our society. Therefore, my data analysis approach is critical and seeks to radically transform policy rather than focus on incremental change. Bacchi’s (2009) “What’s the problem represented to be” (WPR) approach shifts the policy analyst's perspective away from the presupposed ‘problems’ toward the ways in which ‘problems’ are represented within the policies. This modern approach to policy analysis is more fitting within my research paradigm and worldview because the ways in which policy problems are represented transform into lived experience. Thus, governments are not reacting to problems, they are active in the creation of policy problems (Bacchi, 2009).

3.3 Data Collection and Analysis

To support my research questions, four distinct social policies were selected for critical analysis. The policy data was collected from publicly available governmental websites and the Hamilton Police Services website. I located the overarching policies that uphold police use of lethal force on PMI and specifically, the guidelines that are written into municipal-level departmental policies for police interventions on individuals in mental health crises. My data is embedded within sections of four distinct social policies at the federal, provincial and municipal levels. I have chosen the Criminal Code of Canada, Section 25.1-25.4, because it is the overarching policy that enables police officers to subjectively use the type of force, they believe is necessary to respond to a perceived threat of bodily harm or death (Criminal Code of Canada, 1985). In addition, the Ontario provincial Police Services Act 1990, Regulation 926 will be my secondary source of data, specifically section 9 of the policy which states, “A member of a police

force shall not draw a handgun, point a firearm at a person, or discharge a firearm unless he or she believes, on reasonable grounds, that to do so is necessary to protect against loss of life or serious bodily harm.” (Police Services Act, 1990). Section 14.2 of this policy will also be included in my analysis as this section outlines police officer training on the use of force and firearms. My third source of data is municipal-level policy through the Hamilton Police Services Board policies, section LE013 which is entitled, “Police Response to Persons who are Emotionally Disturbed or have a Mental Illness or a Developmental Disability” (City of Hamilton Police Services Board, 2004). I have chosen the above policies as my data because they are the direct policies that impact individuals in mental health crises who come into contact with police. My hypothesis is that there is an ongoing disparity between these formal policies and their actual implementation. These policies justify and allow the police use of lethal force and require critical analysis to support the goal of fundamental, structural changes that may uphold the right to life and protect vulnerable/marginalized individuals within society.

3.4 Process of Analysis

I chose a deductive approach to analyzing the above policies as I sought to discover specific concepts embedded in the data that support my theoretical framework and my hypothesis: that policing policies require transformation to uphold the right to life for PMI. The defining features of the above policies illustrate the power and dominance held by one institution that can dictate whether or not vulnerable individuals live or die when coming into contact with law enforcement. These policies were read interpretively, utilizing Bacchi’s (2009) WPR guidelines, as follows:

1. What is the ‘problem’ represented to be within the 4 policies: The *Criminal Code of Canada* section 25.1-25.4, *The Police Services Act 1990*: Equipment and Use of Force

regulation 926 item 9, the *Hamilton Police Services Board* policy LE013 and the *Ontario Mental Health Act*, Section 17.

2. What presuppositions or assumptions underlie this representation of the ‘problem’?
3. How has this representation of the problem come about?
4. What is left unproblematic in this problem representation? Where are the silences? Can the problem be thought about differently?
5. What effects are produced by this representation of the ‘problem’?
6. How/where has this representation of the ‘problem’ been produced, disseminated and defended? How could it be questioned, disrupted and replaced?

The process of data analysis involved an in-depth interpretive reading of the above-mentioned policies, drawing on the restorative justice theoretical frameworks to demonstrate the contradictions between our current system versus an ideal one that upholds life. In the first stage of analysis, I focused on a broader context, examining how the social relations of power function on a macro-level through use of lethal force policy embedded in the Criminal Code of Canada. This process enabled me to read through and beyond the data to establish how the societal issue of police use of lethal force is addressed through policymaking. The second stage of my analysis was a reflexive reading to explore my own position within the research.

3.5 Theoretical Framework

Critical/Indigenous Paradigm

This study fits within a critical/Indigenous paradigm with the goal and purpose of transformative social change through revealing and challenging power structures. The critical research paradigm holds a belief in an external, knowable reality. Its purpose is to “uncover local instances of universal power relationships and empower the oppressed. It uses subjective inquiry based on the researcher’s ideology and values, and it is used to enlighten and emancipate” (Willis, 2007, p. 19). My research also seeks to acknowledge the structural conditions within a colonized society that may lead to police use of lethal force. According to Absolon (2011),

“Indigenous paradigms (and worldviews and principles) are liberatory, emancipatory, and critical. An Indigenous paradigm factors in a historical, colonial, and power analysis, which gives it its critical contours” (p. 55). An Indigenous paradigm focuses on the interrelationships of humans and recognizes that all life has spirit and is sacred (Absolon, 2011). This paradigm fits well with my worldview as I believe we are not only governed by natural law, but there is a spiritual element within all of our experiences on earth that is the one thing that connects us. Going forward with this knowledge brings awareness to the value of human life as sacred and that our survival depends on one another and the “kindness, pity, and generosity of creation” (Absolon, 2011, p. 59). Indigenous wholistic knowledges remind us how colonialism and oppression severed the ties to community and to each other. Restorative justice would support the healing of these relationships and remembering our wholeness and interconnection again, thus improving conditions for all.

Restorative Justice Theory

Transformative/restorative justice theories will underpin my alternative policy recommendations. Restorative justice is focused on community healing and is rooted in the belief that communities can provide better justice through restorative practices (Dickson-Gilmore & La Prairie, 2005; Zehr, 2005). In *Changing Lenses* (2005), Howard Zehr discusses how the current criminal justice system is built on retributive justice values that are based on punishment and responding to harm with more harm. Zehr (2005) was one of the first to articulate a theory of Restorative justice (RJ) which he defined as a transformative process of shaping a new paradigm of the criminal justice system that opens us to alternative understandings of how society as a whole should handle crime. RJ views crime as a violation of people and relationships and its

primary focus is on healing those who are involved in crime and those who have been impacted by it (Dickson-Gilmore & La Prairie, 2014).

Zehr (2005) claims that judicial punishment is a social choice, one that can have healthier alternatives that support healing the entire community. He discusses the main assumptions that underpin RJ theory. Zehr (2005) argues that when people and relationships are harmed, needs are created, which lead to obligations to “heal” and “put right” the harms. This, he argues, is a just response to harm because it is acknowledged and supports everyone involved to come to a peaceful resolution, holding individuals or groups accountable when necessary. The goal on a macro-level of RJ would be transformation in the best interest of the community. This theoretical framework informs my work as it can be applied to conflict in the community, between families, groups and police in the aftermath of police lethal force. I argue that this critical social issue contributes to the breakdown of relationships, trust and accountability between the police and citizens. RJ on a macro-level would support solving crime and justice problems through delegation of many aspects of criminal justice decision making to the local level. RJ would also support partnerships between the private (individuals and communities) and public (state agencies such as police), to solve issues together and find alternative ways to deal with PMI in crises (Dickson-Gilmore & La Prairie, 2005).

Transformative justice responses to police use of lethal force seek resolutions through relying upon the leadership and interests of the marginalized communities that are most impacted by violence. Transformative justice theory holds that those most impacted by individual and community-based acts of violence best understand the direct and root conditions in which acts of violence are embedded (Kim, 2018). Therefore, marginalized communities hold the potential for

the establishment of the conditions that could prevent future harm perpetuated by the state (Kim, 2018). Transformative justice takes the ideas of restorative justice one step further and recognizes that forms of violence exist beneath structural conditions including poverty, racism, sexism, homophobia, sanism, and ableism. This view upholds that the criminal justice system operates to maintain conditions of structural violence, and therefore should not be tasked with intervening in instances of mental health crises. As Kim (2018) explains that while, “the term restoration implies the desire to return to such conditions, transformation implies moving beyond (p.227).

3.6 Ethical Issues/Challenges

This can be challenging and controversial work for not only the researcher but those who read the findings. Social issues that deeply impact the lives of people, that are graphic and truthful can also trigger trauma or have the potential to cause harm. These are the ethical issues I felt challenged with during this research. However, reflecting further I realized that silence can also be another form of harm. This research attempts to provide a truthful account through personal experience, policy data and findings from other scholars, as well as the accounts in media and reports of what led up to these tragic events of police lethal force.

Due to my research paradigm being informed by Indigenous worldview, ethically I felt it was important to confront any possible appropriation. I felt discussing some Indigenous worldviews could provide a way to explain the sanctity of life and how there are laws outside of manmade laws that have not held space within academia or the dominant discourses but could help challenge the social relations of power that are upheld in such institutions as policing and how explore how law enforcement was created from colonial origins to show how dominant

knowledges have dictated and taken over policies. I address this ethical issue by stating that the Indigenous worldviews discussed in this study are not my own and I take no claim to this cultural knowledge. As a white-settler, I support decolonization and the return of Indigenous lands and resources. I also support marginalized knowledge systems being brought to academia as a way of helping to challenge current paradigms and offer different views of life, humanity and our purpose and responsibility to each other.

Chapter 4: Findings and Discussion

4.1 The Legal Framework for Police Lethal Use of Force

Police lethal force is sanctioned under two specific policies at the federal and provincial levels. Sections of the Criminal Code of Canada, hereafter referred to as “*the Code*”, and the Ontario provincial Police Services Act, Regulation 926: Equipment and Use of Force policy, hereafter referred to as “*the Act*”. As my findings will indicate, lethal force is also justified and upheld through numerous interlocking policies/systems of power that work to separate the institution of law enforcement from the communities they represent and allow policing to be an autonomous agency with great power and dominance over the marginalized. Local police departments, such as Hamilton Police Services in my city, have attempted to address the use of lethal force for individuals in mental health crisis, as demonstrated through the municipal Hamilton Police Services Act Policy #LE-013. In addition, on the provincial level, the Ontario *Mental Health Act*, Section 17 governs the actions of police officers in mental health interventions with citizens in crises. Yet, there continue to be policies in existence that uphold the rights of officers who use lethal force, specifically during the investigative process and through holding the discretionary power as to if recommendations found at inquests are implemented into police procedures to uphold the sanctity of life for citizens. My findings will

illustrate that these policy systems allow for lack of transparency and accountability and for police to hold the right to kill citizens with impunity.

Below are portions of the policy system connected to police lethal force. The scope of this study does not allow for a look at every governmental policy that supports lethal force, so the upcoming chart is not meant to be exhaustive. Through the data selection process, I chose the closest policies to the social issue that seemed to have the most impact on society, police, communities and PMI who come into contact with law enforcement, and the family of the deceased who are confronted with the daunting system to seek justice for their loved one. The following chart provides a brief description of the data that answers the question: What policies justify the police use of lethal force on persons in mental health crisis? The next sections will describe the main themes from the critical analysis of the policies: State Violence, Police Discretion/Bias/Subjectivity, Officer Safety and Citizen Safety.

Policy System	Description
FEDERAL “the CODE” or The Criminal Code of Canada, 1985, Section 25.1-25.4 and marginal notes	The overarching Canadian criminal justice legislation, the framework of the criminal justice system. A selection of policies that address police officer safety and protection of persons administering and enforcing the law. This Federal code legally allows police officers to use force in specific situations. This code also offers protection for officers to gain immunity from being charged with an act that would constitute an offense if the officer was a citizen, committing the same act.
PROVINCIAL “the ACT” or The Ontario Police Services Act, 1990 “Equipment and Use of Force” “Regulation 926	This policy prohibits a police officer from discharging a firearm unless he or she believes, on reasonable grounds, that to do so is necessary to protect against loss of life or serious bodily harm” This legislation also outlines firearms specifications and training policies
PROVINCIAL	This policy outlines a police officers’ duties when dealing with a member of the public

“the MHA” or Ontario <i>Mental Health Act</i>, 1990, Section 17: Action by police officer	who may be suffering from mental health condition or crises that is causing them significant impairment or may be acting violent. The policy supports the police officer taking the person into custody to have them evaluated by a physician.
MUNICIPAL Hamilton Police Service Board, 2004 Board Policy # LE-013: Police Response to Persons Who are Emotionally Disturbed or have a Mental Illness “	A policy that governs police response to PMI that indicates that the Chief of the police department is responsible in taking the initiatives to engage with the community and develop protocol around mental illness that ensures conflict resolution and use of force are addressed and that police are continually learning and strengthening their skills in dealing with PMI. However, upholding PMI safety and wellbeing is not mentioned within the policy language. This policy hints at possible service issues that HPS are experiencing with this demographic.
“The Aftermath of Lethal Force” Policies, Investigations, and Inquests	SIU policy upholds police lethal force by exonerating officers and investigating in a way that is favorable to the police rather than from the victim’s point of view. The report allows for the investigation to not be done in front view. Not the same as processing a criminal case because the state does not require disclosure during the investigative process until the final report, so this policy system allows for the SIU to be far from the community or victims family, not having to disclose anything while an investigation is in progress. A coroner’s inquest is called to examine the issues that led up to the citizen’s death by police. This is not a criminal proceeding. Inquest allows members of a citizen jury to make recommendations with the goal of preventing future deaths. Recommendations are not enforced by law, and most of the time are not implemented into police services. It is the police services

	board who decides the changes that shall be implemented. For example: the use of body worn cameras by officers, or the use of tasers by frontline officers.
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Figure 1: Unkerskov, 2021 “Policy System Chart”

4.2 State Violence as an Accepted Response to Complex Social Issues

As social theorist Max Weber argued, the state is the only institution that holds a monopoly on violence, meaning that the state holds the right to allow, utilize and authorize physical force against residents of its territory (Anter, 2020). A key finding in the analysis of the policies is that state violence is being upheld as an option in police response to persons in crises. This does not take into account that there could be another response used that could provide an alternative solution that would uphold human life. For example, through an Indigenous or Restorative Justice lens, policies would be amended to ensure that sanctity of citizen life is maintained rather than allowing policy to exist that allows for the option of a death sentence for an individual in crises.

One key finding within the policies is the fact that violence is a reality within our society that is upheld and normalized by the state. The Criminal Code of Canada, sections 25.1-25.4, provides protections for law enforcement officials in carrying out their duties in accordance with the rule of law. This federal policy is the overarching legislation that governs all other laws pertaining to lethal force. The power and dominance that law enforcement hold in situations where lethal force is deployed is quite evident within these policies. As the Criminal Code of Canada (1985) states,

Everyone who is required or authorized by law to do anything in the administration or enforcement of the law a) as a private person, b) as a peace officer or public officer, c) in aid of a peace officer or public officer, or d) by virtue of his office, is, if he acts on

reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose (R.S., 1985, c.C-46, s.25).

The *Code* is foundational and is a legislation that does not change and allows officers significant freedom in their decision of whether to use violence or not. As long as the choice to use violence can be proven as reasonable, it is accepted, and police officers are protected from criminal liability under the Code. This law raises the question about human rights and the right to equal protection under the law, as state violence is upheld and normalized through these policies within Canadian society. The existence of this law also raises critical questions about the administration of justice in Canada. Is violence the only way to resolve conflicts that arise within our country between law enforcement and citizens? Dickson- Gilmore and La Prairie (2005) discuss restorative justice as a value system and suggest progressive ways to respond to conflict in society. They reject responding to crime with the hurt of punishment as it is counterproductive and upholds human separation and individualism, which thus excuses violence as a necessary evil in our society which must be controlled with more violence. Thus, human life is not held in high regard, however the pursuit of justice and upholding the rule of law is deemed more valuable. It is evident that within Canada there is a conflict between liberty and security. The world is being portrayed as increasingly unsafe, yet this is not only from crime itself, but the acceptance of lethal force being a part of our social reality, and how we allow police officers this right rather than working together to fix the issues within our communities that contribute to conflict, violence, and oppression.

The provincial government of Ontario asserts its jurisdiction on police use of lethal force within their Equipment and Use of Force regulations. Within the *Police Services Act* (hereafter referred to as “the Act”), firearms are sanctioned to uphold officer and public safety in

emergency situations where there may be “no reasonable alternative” (*Police Services Act*, 1990). A firearm is a symbol of power and authority. It holds the power to end a life and thus, should be subject to strict laws and regulations governing its use, especially by police officers who are tasked with upholding the safety of society. The need for firearms and policies protecting their use seems to problematize society as predominately unsafe, with the dominant view that police work is threatening and dangerous, justifying that “every member of a police force who is issued a handgun described in subsection (1) shall be issued a minimum of three full magazines, one of which must be loaded in the handgun while the member is on duty” (*Police Services Act*, 1990).

From this legislation, it is made clear that all officers carrying handguns will already have them loaded and ready to use. The legislation also dictates what type of firearms are acceptable. Police officers are required to have a specific firearm that “must be of a jacketed hollow point configuration” (*Police Services Act*, 1990, Reg. 926 s. 3.3b). It should be noted that hollow-tip bullets are designed to “flatten upon impact and then expand, helping stop the bullet from passing through its target but causing a wider wound- and inflicting more severe internal damage” (Cooper, 1998, n.p). These firearms are particularly deadly as the bullet will not exit the body, so they are decidedly more lethal. The policing community argues that hollow tips are safer than the original fully jacketed bullets, which hold the risk of injuring innocent bystanders as they can exit the body. Police believe that hollow tips are the safest as they have to fire less shots and can be assured that their target will be incapacitated (Cooper, 1998). In addition, the firearm must “have a penetration of not less than 12 inches and no more than 18 inches in 10 per cent gelatin when fired from a four-inch barrel at a distance of three meters” (*Police Services Act*, 1990, Reg 926 s3.3e). The intention of incorporating the firearms guidelines is not to

sensationalize. Rather, I seek to illustrate how allowing the use of firearms with few alternatives almost guarantees the death of citizens in mental health crises if they appear to pose a threat, and the officer fears for their own safety and wellbeing. The use of such powerful and deadly weapons raises questions whether the institution of policing is truly upholding community safety or adding to the violence. Recalling Parent's (2011) explanation of police firearms training, officers are trained to shoot at the center of the body mass to stop a perceived threat. This ensures that the citizen is incapacitated and unable to potentially harm anyone, at the expense of their life. This legislation has the latent goal of ensuring that the officer and any other bystander involved in the incident is safe and free from harm. The firearm is used to stop a threat. Once such a powerful weapon is deployed, what happens next is predictable, there is little chance that the shooting will not be fatal. It is evident that there is a power inequity between the citizen and the police officer. The dehumanizing language in the policy and the fact that citizens become targets and are labelled criminals according to an officer's perception drives home this point. The policies indicate that if a citizen is acting in an erratic way, which some PMIs do, police are trusted to make the decision of whether or not it is reasonable to deploy the firearm. The assumption that underpins this policy is that police can read a situation objectively without bias, and are the experts, the "knowers", upholding the assumption that the citizen they are coming into contact with is mentally sound and aware of the choices they are making in that moment. Silent within this policy is the grey area that separates criminality from mental illness. Regardless of a citizen's mental state on the fateful day when they encounter police, their actions can potentially end in death. The power in these policies allows for a mentality of shoot now, ask questions later, and err on the side of safety to uphold the life and wellbeing of the officer. Through this policy, the citizen, who is viewed as the offender, is seen in fragments, with the

nature of his or her offense being definitional, assuming a win/lose, live/die outcome, the social, economic and moral context of the behavior ignored (Zehr, 2005).

From a restorative justice lens, the offender, as well as the police officer and the larger community are viewed holistically, and the total context of how this event came to exist is seen as relevant. The emphasis is on repairing social injuries, problem-solving, and upholding the safety and life of everyone who is involved. Restorative justice would value preventing future deaths from happening through a commitment to safer communities through challenging police firearms policies and exploring safer alternatives to uphold the sanctity of life for everyone involved: police, bystanders, and the citizen who may be either viewed as the victim, the offender, or both. The need for state violence in the form of lethal force within our society is questionable. These policies depict our society as so dangerous that the only alternative is to heavily arm officers. I believe this dominant knowledge should be challenged and contested. I believe social policy should reflect a goal for safer communities, and deadly firearms raise questions about if police departments really uphold the wellbeing of communities and citizens, or rather contribute to more dangerousness and risk in urban and marginalized areas.

4.3 Police Discretion in the Use of Lethal Force

Officer discretion is governed loosely through policy. The concept of discretion was found to be central to the use of force policies. This is crucial, as I note that individual discretion can either operate as a harmful or a protective mechanism, dependant on how police officers choose to exercise it. Police have the ability to manipulate policy in differing circumstances and choose actions that may be either harmful or protective to the public depending on their personal choice. A key finding central to the policies is that police are able to choose from a wide breadth of actions that will still be supported through the overarching use of force policies so long as

their use of force is proven to be reasonable and necessary (*Criminal Code of Canada*, 1985). The *Code* gives the power to law enforcement as the dominant knowledge holders. The police officer, who is using the force, must believe “...on reasonable grounds that the force is necessary for the purpose of protecting the peace officer...or any other person from imminent or future death or grievous bodily harm” (*Criminal Code of Canada*, 1985). This puts the police officer in the subject position of the all-knowing: the judge, the jury, and the executioner. They have the power to assess the situation, and if they determine beyond reasonable doubt that their life is at risk, or the lives of anyone else involved is in danger, lethal force can be an option that will be accepted by the state as the appropriate intervention. At the provincial level, officer discretion is upheld through the *Act*, which states that, “A member of a police force shall not draw a handgun, point a firearm at a person or discharge a firearm unless he or she believes, on reasonable grounds, that to do so is necessary to protect against loss of life or serious bodily harm” (*Police Services Act*, 1990). Reasonable grounds are a highly subjective term, and with no other criteria or guidelines to govern lethal force, these policies can impact citizen safety immensely. If an officer lacks significant training in mental illness symptoms, psychosis, or how individuals present when they are emotionally disturbed, an officer may misjudge the situation and perceive the individual as a potentially violent threat. The *Act* also vaguely discusses officer firearms training, stating that “a member of a police force shall not carry a firearm unless, during the twelve previous months, the member has successfully completed a training course on the use of firearms” (*Police Services Act*, 1990). The *Act* goes on to say that,

The training courses referred to in sections 14.2 and 14.3 that a member of an Ontario police force as defined in the *Interprovincial Policing Act, 2009* is required to take shall include training on the following matters: 1. Legal requirements, 2. The exercise of

judgement, 3. Safety, 4. Theories related to the use of force, 5. Practical proficiency.

(*Police Services Act*, 1990)

It appears that the use of police firearms is subject to many strict regulations and extensive training, however there is no mention of mental health training within this policy. These findings raised questions as to if police services are prioritizing the safety of PMI and resolving service issues, such as excessive force, that arise with this demographic. There is a lack of clarity within the policies regarding guidelines for interventions in mental health scenarios. The issue of mental illness was not mentioned within this section of the *Act*, or in the above-mentioned training topics. This absence suggests that all citizens in all situations are judged to be equally accountable and responsible for their actions, disregarding the influence of any pre-existing mental health condition they may be experiencing during their interaction with police officers. The emphasis put on firearms training, alongside discretionary powers that are less rigid, defined and clear suggests that state violence is the default solution in any encounter where the officer feels at risk. More detailed training outlines were not located within the policy, so it is unclear how much of this firearms training includes de-escalation strategies or information about mental illness and how officers should exercise their best judgement in these types of interactions with the public. In addition, it is unclear how long police officers spend in these training courses and what topics are covered in depth, as well as what techniques are taught to avoid fatal outcomes in interactions with PMI.

Similar to other frontline professions, one of the primary functions of police work is to deal with the public in various roles: law enforcement, upholding community safety, investigating crimes, and resolving disputes. A key finding is that the lethal use of force policy system affords police officers significant power in terms of exercising their discretion in

response to the unique and varied circumstances they encounter in their line of duty. Every officer must make numerous decisions and are trusted to exercise sound judgement in determining the best course of action to take in their dealings with the public. There are many factors that can influence officer use of discretion in response to citizens. For example, officers may hold specific attitudes, bias, and perceptions about the communities they are serving, and this may in turn influence their decisions to intervene in crises, whether that be through an arrest, de-escalation, exercising soft skills or non-lethal force options, or, at the furthest end of the continuum, making the decision to use lethal force. The officer's knowledge, experience, and education can also influence their use of discretion as well as their subjective opinions about the nature of the offense or incident they are responding to.

Police are dispersed geographically in response to crime rates. Thus, in areas of higher crime and poverty it is predictable that there will be increased surveillance by police and a larger police presence. The officers that work in these areas may have very different perceptions of the neighbourhood they are working in. Thus, there may be fear and distrust that also impacts their decision making. It is all quite dependent on the individual officer's social location, as well as their life experiences, beliefs, and opinions about the circumstances that are unfolding in front of them. For example, an officer who grew up in an urban, lower socioeconomic area may have a more empathetic disposition to citizens, for they have witnessed poverty, violence or racism around them. Therefore, they may exercise discretion quite differently from an officer who grew up in a privileged area and was sheltered from marginalized experiences. Personality traits may also influence how officers exercise discretion. For instance, if an officer views their role as a protector of the community they serve, they may be more likely to exercise caution and safety in their dealings with the public and try to avoid using lethal force at all costs. Another officer may

view their role as to fight crime and arrest lawbreakers. This officer could then be more forceful or aggressive in their approach to citizens. Just like any other profession, many different personality traits and psychologies are drawn to policing, and how they exercise their discretionary power to bend policy in response to different circumstances can have a major impact on society.

4.4 Investigations, Inquests and Accountability

Another important finding is the policies that come into effect in the aftermath of the use of police lethal force on PMI. These policies work within the system to further justify and uphold the use of lethal force through their ability to exonerate officers with impunity. The *Act* states that when an officer discharges a firearm and kills a member of the public, an investigation must be commenced immediately (*Police Services Act*, 1990). The existence of this policy indicates that prior to the formation of this policy, the police investigated themselves within their institutions. The Special Investigations Unit is an arms-length agency that provides police oversight. The SIU are bound by law to start an investigation should a member of the public be badly injured, killed, or sexually assaulted by a member of a police force. The manifest goal of the SIU is to uncover any criminally negligent activities of police officers; however, the latent goal it seems allows for most officers to be exonerated and no charges laid in lethal force cases. The results of the investigation are processed into a story that blames the victim for their actions and justifies the killings due to upholding subject officer safety. In fact, the SIU needs to be called immediately to secure the integrity of the crime scene and avoid such possibilities as tampering with evidence or corroborating stories with other officers prior to being interviewed to conceal guilt and not tell the truth of what happened in the interaction with the police. Police officers have significantly more rights when they are under investigation for the death of a

citizen than a normal member of the public. For example, the subject officer, otherwise known as the officer responsible for deploying the firearm and killing someone, can decline to be involved in an SIU investigation, provide their notes, or testify on the stand. The investigation takes place in private; the police are trusted to secure the scene before the SIU arrive, and although police are supposed to contact SIU right away when these incidents occur, some have not contacted immediately which leads to the question of how fair and transparent these investigations truly are (Tolloch, 2017).

4.5 Coroner's Inquests

The investigations are followed by the coroner's inquest system which holds the manifest goal of preventing future similar deaths. However, it appears that inquest proceedings tend to uphold and justify police actions and lethal force. The Inquest ensures a legal shield from the state accepting responsibility for the consequences of their use of force policies at each level of government. A Coroner's inquest does not find guilt in the subject or witness officers. A panel of experts investigate a death by police and use a jury to provide recommendations to protect against future deaths. The coroner determines the focus of the inquest and calls on government departments such as probation/parole, social services experts and use of force experts, among many others. There are few representatives on behalf the victim. Historically, the coroner has chosen to focus on details about the victim such as lifestyle, background or criminal history rather than police actions that led to death or positive details about the victim. Jury recommendations are not often implemented into police departments (McNeilly, 2017). The lack of accountability and transparency in both the investigative and inquest processes can be seen as another structural issue that contributes to conflict within communities between police and citizens. There is a lack of trust in these systems, as they are secretive and far-removed from the

public and provide little to no remedies or healing for the family of the deceased, the police, or the community, who are also deeply impacted by lethal police shootings.

4.6 Citizen Safety

There are two distinct social policies that provide guidelines and govern the actions of police in interactions involving a mental illness or citizens experiencing vulnerabilities, who may be in emotional distress. On the provincial level, the *Ontario Mental Health Act* (1990) governs actions by police officers when they are interacting with a member of the public who may be in a mental health crisis. This is the only policy in relation to lethal force and PMI that upholds the safety of the citizen (while also addressing the fact that they may be violent) and enforces officers to take the individual in crisis to a doctor for evaluation. In no part of this policy is the issue of lethal force addressed or suggested as an alternative response. The *Ontario Mental Health Act* does, however, give police officers the authority to arrest a PMI due to the circumstances listed below in the policy content. The most interesting finding here in this data is that although possible violence from a citizen/PMI is mentioned, police violence is not listed as a possible response. This policy directs officers to get help for the person in crisis. In this sense, it can be seen as a protective policy, if the *Code* did not hold such precedence over this policy and if this policy was the exception above any other form of rule, efforts could be made to reduce and avoid lethal force. This policy relies heavily on the officer exercising their discretion, opinion and perception of the subject. This is where the *Code* and the *Mental Health Act* intersect and where the line between criminality and mental health is thin and dependant on the officer's subjective point of view. The *Mental Health Act* policy is an example of how officer discretion can be paramount in determining the lived effects of the policy, especially on individuals at the margins. Imagine if the officer used their professional discretion to take the

policy actions below rather than follow the *Code*'s strict death penalty policies, responding to threat with lethal force. It is evident that officer discretion can be a protective force as the PMI's safety is upheld.

According to the *Mental Health Act*, Section 17 (1990),

Where a police officer has reasonable and probable grounds to believe that a person is acting or has acted in a disorderly manner and has reasonable cause to believe that the person a) has threatened or attempted or is threatening or attempting to cause bodily harm to himself or herself; b) has behaved or is behaving violently towards another person or has caused or is causing another to fear bodily harm from him or her; or c) has shown or is showing a lack of competence to care for himself or herself, and in addition the police officer is of the opinion that the person is apparently suffering from mental disorder of a nature or quality that will likely result in, d) serious bodily harm to the person; e) serious bodily harm to another person; or f) serious physical impairment of the person, and that it would be dangerous to proceed under section 16, the police officer may take the person in custody to an appropriate place for examination by a physician. (*Ontario Mental Health Act*, 1990).

Rather than responding with violence, the citizen is escorted to the hospital for a mental health assessment. Of course, this policy can be oppressive as well and uphold social relations of power, othering and labelling those with mental illness as "disorderly", "threatening", having a "lack of competence" and at risk for causing "serious bodily harm" to themselves or others (*Mental Health Act*, 1990). However, regardless of labels and the unequal power dynamic between officers and citizens, this policy does not indicate lethal force as a viable option to responding to PMI. Police officer's actions are more protective in this policy, ensuring that the

citizen gets the help they need rather than be at risk of harm to themselves or others. However, the *Code* seems to override any type of mental health rights policies as force can be still be deemed appropriate if the PMI is appearing dangerous, erratic or threatening in the police officer's subjective opinion.

Police departments will also be governed by a third set of policies at the municipal level, usually located within their Police Services Board policies. In my hometown, the Hamilton Police Services Board dictate the “police response to persons who are emotionally disturbed or have a mental illness or a development disability” (*Police Services Board Policy #LE-013*, 2004). The language within this policy is interesting, as it suggests changes that need to be made within police services in the future, transformation of the current police strategy for interactions with PMI. The language within this policy indicates that there is a serious deficit or problem in how these instances are currently being handled by the police. This policy makes it the responsibility of the Chief of Police to:

- a) Work, where possible, with appropriate community members and agencies, health care providers, government agencies, municipal officials, other criminal justice agencies, and the local Crown to address service issues relating to persons who have a mental illness.
- b) Establish protocols and procedures that address the police response to persons who are emotionally disturbed or have a mental illness; and
- c) Ensure that the police service's skill development and learning plan addresses the training and sharing of information with officers, communications operators/dispatchers and supervisors on:
 - i) Local protocols; and

- ii) Conflict resolution and use of force in situations involving persons who may be emotionally disturbed or may have a mental illness. (*Hamilton Police Services Board*, 2004).

As evident from the policy language, the guidelines are written in future-tense words that suggest that these changes have not yet been implemented but are goals that need to be reached to ensure that frontline officers are operating from the right frame of mind and understand that the issue of lethal force and mental illness are deeply intertwined. This policy indicates that the system is fragmented in its response to individuals with mental illness and that it needs to operate more from an open system which allows for greater transparency and accountability. It is unclear how this policy is being taken up within the local Hamilton police department, and if any of its guidelines have been implemented. I did a brief evaluation of the measures in this policy and the actual actions of the Hamilton Police Services in responding to use of lethal force against persons with mental illness. A look at the HPS report indicates that the bulk of HPS budget is allocated to pays, pensions and benefits while their mental health response with COAST and in co-response teams does not allow for 24-hour services offered within the city (Hamilton Police Service, 2019). Crisis workers should be prioritized as the frontline response to mental health crises and the stressors of addiction, unemployment, bereavement or racism, rather than the controlling of these situations through coercive policing. Budgets should be redirected to the community to solve issues that are the symptoms of poverty and mental illness by teams that uphold the values of social justice, right to life, and safer communities.

4.7 Officer Safety

The above policy can be compared with the *Code*, which is a federal overarching policy that will uphold and justify a lethal response from officers if they believe their life or someone

else's may be at risk. The key sections of the *Code* selected for data in this study are entitled, "*Protection of Persons Administering and Enforcing the Law*" and clearly indicate that:

It is in the public interest to ensure that public officers may effectively carry out their law enforcement duties in accordance with the rule of law and, to that end, to expressly recognize in law a justification for public officers and other persons acting at their direction to commit acts or omissions that would otherwise constitute offenses. (Criminal Code of Canada, 1985)

In the above policy, it is clear that police officers must exercise the right to break the law and commit acts that would be considered offenses should a citizen commit them in some rare cases. This point needs to be made clear to allow police officers to do what is needed to enforce the law. However, this broad acceptance and normalization of the police being given this power by society, who has consented to it, raises questions of how much social control is too much, and how much power should law enforcement have as this power can significantly impact lives, especially lives on the margins who differ from the mainstream and do not adhere to societal expectations or standards. Officer safety is upheld in the code because peace officers can be:

...Justified in using force that is intended to or is likely to cause death or grievous bodily harm to a person to be arrested if, d) the peace officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer, the person lawfully assisting the peace officer or any other person from imminent or future death or grievous bodily harm..." (Criminal Code of Canada, 1985).

This law allows a narrow understanding of reality, upholding specific laws to govern behaviour and choices. Police officers are faced with many unpredictable and potentially

threatening situations that require them to break the *Code* to enforce the law. A central activity of police work is using force and coercion to enforce law and uphold social norms. But is it always in the public interest to allow lethal force law when the concept upholding the sanctity of human life is entered into the conversation? Law enforcement will, without a doubt, encounter danger in their line of work, and citizens in a democratic society have given up our liberty for security in some situations, allowing some laws to be enforced consequently trading freedom for protection. The existence of these laws paints our society as generally unsafe, justifying the need for state sanctioned violence and a police force to ensure order is maintained and to address civil unrest. This study does not argue against the need for police. In our ever-changing world, it would be far-fetched to claim that we do not need an entity to enforce the law and keep us safe in some situations. But when this same law can determine whether a citizen lives or dies in the enforcement of that rule of law, policy amendment is strongly needed to address the policy failures that have occurred due to sanctioning death in our society. My findings support that it is time to question the role of law enforcement regarding mental wellness checks and the handling of mental health crises more generally.

B. Worldview and Police Use of Lethal Force

4.8 The Settler-Colonial Roots of Policing Policies In Canada

The data analysis gives expression to the settler-colonial roots of the formation of Canada's policing policies. Two main processes in history contribute to the formation of contemporary law enforcement. Capitalism and European imperial expansion gave rise to many social issues and divisions between people, which, in turn, justified the need for increased social regulation (Bell & Schreiner, 2018). Police power has been essential in upholding the colonial enterprise. Policing was pivotal in the formation of the Imperialist empire. In 1814, Sir Robert

Peel of Britain founded an early police project, the Peace Preservation Force to maintain order in rural areas of the first British Colony, which was experiencing civil unrest (Bell & Schreiner, 2018). This police force can be seen as acting as a “civilizing mission”, contributing to the othering of racialized citizens, Non-British people seen as “inherently different and inferior” (Bell & Schreiner, 2018, p. 117). These early British police projects became models that would later be exported to the colonies, including the Royal Mounted Police in Canada. Colonial policing thus became “one side of an international conflict between colonial and Indigenous communities” (Bell & Schreiner, 2018, p. 117). Prior to the arrival of settlers, Indigenous peoples in Canada had their own sovereign systems of government and methods for resolving disputes to maintain peace and safety within their communities. Bell and Schreiner (2018) remind us that Indigenous communities have always defined themselves as autonomous nations prior to settler contact and in the present day. The institution of policing has upheld colonial rule, laws that were unequal in their application and policies that undermined Indigenous freedom and sovereignty. This led to conflict between settler and Indigenous society and a justification to push assimilation on those who resisted. “Correspondingly, nations deemed to lack comparable legal regimes, came to be regarded as uncivilized, and potentially destabilizing, if not dangerous” (Bell & Schreiner. 2018, p. 116). Indigenous people believed they were stewards of the lands and they had a responsibility to all of their relations, viewing their physical and spiritual selves as interconnected with all of human life. Indigenous worldview supported a shared responsibility to humankind and upholding reciprocal values and ways of life based on respect and equality. This worldview also holds a belief in spirit, a spirit within and one above that had its own laws more powerful than man’s and that considered all humans equal and responsible to each other (Absolon, 2011). A harm done to one is a harm done to all of the relations, there is a belief in

everyone being a part of the whole and humans living by a code that is above manmade laws (Absolon, 2011). This worldview has not been held in the dominant mainstream, and instead individualistic notions of law and punishment that situate the state as the victim when citizens act in disorderly ways and preserve the state as a separate and powerful entity.

The key focus of a police force is to regulate society and minimize what was viewed by the majority as disorderly conduct or social disorder (Bell & Schreiner, 2018). The worldview shows up in the policy system through enabling law enforcement to hold the coercive power through the use of violence to achieve social order. The capitalist mode of production highly influenced society and contributed to a great divide between rich and poor. This shift may have contributed to producing resistance, conflict and unequal dominance/privileged systems of power within societies and citizens, causing policies to impact different groups of people disproportionately. Thus, lethal force policies will naturally disproportionately impact those who differ from the mainstream and act in ways that society perceives as threatening or inappropriate. Social mobility was increasing, as did “social disorders that were seen to threaten the state” (Bell & Schreiner, 2018, p.115). Police emerged as an institution that represented the state’s law, managing a perceived set of social problems that lead to civilisation and the “consolidation of modern state power” (Bell & Schreiner, 2018, p. 116). The concept of police upholding and enforcing social control seems to heavily inform police work today. In the *Functions of Modern Police*, a pioneer of policing research, Bittner (1975) observed how police are dispersed in areas more laden with crime and can use both their own discretion and coercion (by law) to respond to social issues. State violence has been used as a response to a range of different social issues, including resistance to land theft of traditional Indigenous territories, as a response to the civil

rights movement protests, to combat the war on drugs, and most recently, in the handling of emotionally distressed people and PMI. This use of lethal force and state violence is seen by dominant society and as a part of Western ideology as necessary to stop a threat and to protect the safety of the officers including violence that can be justified as being necessary to stop a threat. For example, in the Code and the Act, if the police perceive a threat to their life, they are given the power to use lethal force.

The deinstitutionalization movement set in motion the transfer of mental health services from psychiatric hospitals to the community, and consequently, police officers have been tasked with the primary role of managing persons who are in mental health crisis. Historically, the role of policing PMI has been controversial to the public, especially in particular instances where lethal force has been deployed resulting in death. In 1988, a Black man named Lester Donaldson who had schizophrenia and previously had been arrested multiple times under the *Mental Health Act*, was fatally shot by Toronto police in his home, where he allegedly wielded a knife and confronted the officers. Donaldson's death and subsequent coroner's inquest ushered the beginning of an era of extensive legislative review and program expansion focused on creating coordinated efforts between police services and mental health institutions (Cotton & Coleman, 2010). Although these programs exist and many police departments throughout Canada have created specialized response to PMI, lethal force deaths continue to rise, stemming from the existence of policies that support this response.

The modern focus of policing seems to be on upholding a criminal justice system of retributive justice which is focused on inflicting harm and punishment to match what is defined as breaking the law or committing crimes (Zehr, 2005). Coupled with both macro-level policies

that provide protection for law officials acting with authority within the *Criminal Code*, including laws governing self defense, and gun-rights policies at the provincial level that allow for the officer deployment of a firearm under specific and very subjective laws (*Police Services Act*, 1990) police hold a fair amount of discretion in determining when they will or will not end a life. The social policies that govern use of lethal force by Canadian police officers seem to be founded on primarily, the latent goal of justifying and protecting the wellbeing of officers at the expense of citizens who may be emotionally distressed or having a mental health crisis.

4.9 Restorative Justice: An Alternative Worldview

This is where the theoretical paradigm of restorative justice (RJ) could be an impactful alternative to lethal force. Although restorative justice theory varies and is applied differently depending on the circumstances, most RJ scholars agree that inflicting suffering as a repayment for harm done will not result in healing anyone and can make matters within communities and relationships far worse. From this paradigm, crime and violence are seen as a violation of people and relationships (Dickson-Gilmore & La-Prairie, 2005; Zehr, 2005). In contrast, our current criminal justice system in Canada is based heavily on retributive values, which view crime as an offense against the state, upholding adversarial conflict as the preferred response to crime in our society and allowing for one social injury to be added to another (Zehr, 2005). For example, in the case of Evan Jones, not only was his mental state ignored, but he was also immediately perceived as a criminal and subsequently, the fatal social injury by way of police bullet was incurred. In consequence, the state holds the power in its response to wrongdoing or what is perceived as crime and, therefore the “imposition of pain is considered normative” (Zehr, 2005, p. 209). This is true in our society today; different groups hold polarizing views of lethal force and can each back up their claims with very persuasive arguments of why or why not this social

reality should exist. It is a deeply controversial topic that cannot be explained or understood through only the laws of mankind. Restorative justice theory and an Indigenous worldview both support the existence of a spirit, whether that be god, Jesus, a creator, or any other entity that is prayed to or seen as a higher power. When we try and understand things with a missing piece of who we are, the simple right to life becomes controversial and arguable. We seem to deviate from our shared values when we deny a spiritual law. When decisions are justified with public policy it is critical to examine these policies further and grasp what they are really revealing to us and what that means to the citizens, who are more likely to die by police bullets: persons with mental illness or under the influence of substances.

Chapter 5: Conclusions

5.1 A Retributive Justice System VS Restorative Justice Paradigm

This study aimed to identify how police use of lethal force is justified through social policy. Based on a qualitative analysis of the policies at a federal, provincial and municipal levels utilizing an interpretive policy analysis framework, it can be concluded that policies that uphold the use of lethal force by police officers contribute to social relations of power by authorizing the use of state violence as a normalized and acceptable solution to social issues. Analysis of the policies also reveal that their latent goal is to uphold officer safety over the safety of citizens in mental health crises. The study also indicates that police officers are afforded a broad application of professional discretion when deciding whether or not to deploy lethal force. The results indicate that the roles of police in our modern society need to be challenged and transformed to uphold the sanctity of life in our communities. This research clearly indicates that lethal force is supported in circumstances where police officers believe there is no other alternative but also raises the question of how police departments are confronting this issue on

the municipal level through offering alternatives to lethal force. In addition, how much mental health training are officers receiving and how are police budgets being allocated to provide specialized services for mental health co-response teams?

Previous literature explored the roles and functions of police in modern society. The findings of this study align with Balko (2014) and Rahr and Rice's (2015) declarations that police services have gradually shifted to becoming more militant. This is evidenced by this study's analysis of the *Act* (1990), which reveals that police gunshots are meant to be deadly and stop a perceived threat to officers. A force-based technique is upheld through social policy rather than police adopting a guardianship role of those most vulnerable in our society. Although a distinct section of the MHA (1990) supports Wood and Watson's (2017) view that police should have a protective role with the public and uphold citizen's health and safety as a priority, the *Code's* (1985) policies seem to override any protection for PMI if they appear a threat to the safety of the officers who arrive on the scene to intervene. This study also echoed the view of Coleman and Cotton (2005) who found that mental health training for officers is unclear and undefined. Evidenced by the lack of detail regarding mental health training in the municipal level policy LE013, further research is required to gain an understanding of how police departments address service issues for PMI within their communities to minimize lethal force on this demographic. As Huey (2016) found, Canadian policing research is drastically underfunded, and a lack of publicly reported data can make evidence-based police practice impossible. The findings of this study also indicate how closed and autonomous policing institutions are at present. Similar to Cotton and Coleman's views on democratic policing (2010), this study supports systems theory: the idea that law enforcement institutions function best when they are open to the public and collaborate with other agencies. These institutions should be accountable

to the community in which they serve through transparency in their operations and investigations to support best practices and increase citizen trust in police.

The law and policy system that upholds lethal force by police appears to be based off a criminal justice system that allows for a fine line between criminality and mental health crises to intersect and can have fatal effects for those with intersecting oppressions. The policies that uphold lethal force should always be analyzed from how they impact the individuals who are at the margins. It is clear that these policies are grounded in a system of retributive justice, where a criminal act is seen as definitional and an offender is treated as such, justice is found through punishment and the violator of the state law must make it right with the state, in ways that are dictated by the state. One cannot have the opportunity to “make it right” if they are killed by lethal force. One cannot get the help they need if their life is cut short because officers responded, shouting orders, and pulling firearms in an already confusing and fearful situation. Police officers cannot heal as most do not enter their profession believing that one day they will take a life. They will have to live with this reality for the rest of their lives, as will the families of the deceased. The heaviest question that will always linger in the mind is if there could have been another way, another alternative to save a life? It is clear that a retributive system is not working. The policies demonstrate that a PMI who is acting in some way threatening or erratic will be labelled the criminal or offender, while the police are depicted as upholding and administering justice to a citizen who may be acting violent or may appear to be threatening due to a mental illness. The policies are grounded in many assumptions about society, mainly that citizens have complete control over their own lives, actions, and choices, and thus should be held accountable criminally regardless of their mental state. Mental illness is seen as one of the major risks to officer safety due to the unpredictability of the interaction.

Restorative justice advocate Zehr (2005) argues that there are problems with the forms of assumptions about human freedom and responsibility that underpin the ideology of Western culture. The overarching view that offenders are acting as free agents, totally in control of their actions and choices, seems to inform these policies, which beneath the surface have immense power as they can end a human life. Thus, these policies need to be amended at every level of government to shift the paradigm, so the sanctity of life is upheld as the primary goal in these interventions. Policy change should support strengthening and healing the community through repairing the damaged relationship between the police and society and to make systems more open and transparent, so police are no longer a closed, secretive, and separate institution from the public. From my own view, it is rare for members of the police community to ever admit errors in judgement of officers or that deaths could have been avoidable. Panels of experts at coroner's inquests, along with police lawyers and representatives from various governmental departments find ways to use policy to justify the deaths, which from a restorative justice lens indicates that healing and transformation cannot happen, without a shared dialogue or understanding between all of the individuals involved. Zehr (2005) posits that Western society holds an individualistic concept of guilt and freedom and the belief that citizens have anticipated the consequences of their actions; thus, they should be held accountable for breaking the rule of law. A system of retributive justice ignores the nature of wrongdoing as a complex pattern of grey areas, seeing only the black and white, innocent or guilty and not taking into account the offender's social background or any other factors contributing to what is labelled as crime (Zehr, 2005). The current system allows for the punishment of offenders by the state, that is constructed as justly deserved based on the social realities of crime in society itself. A society that is depicted as unsafe by government justifies the need for greater social control. Restorative justice theories

focus on reparation and healing rather than addressing a wrong with another wrong. Restorative justice seeks justice for everyone in our society and provides alternative solutions to crime and violence such as community policing or victim/offender/community circles, or the democratization of police departments. Crime is viewed as a violation of people and relationships and creates conflict that gives an opportunity to make things right, involving the victim, offender and the community rather than the state to promote repair, reconciliation and community healing (Zehr, 2005).

The analysis stage of this research raised numerous recurring questions within me. How is it that some members of our society are deemed to be in need of protection while others are perceived as threats? Why is death an acceptable outcome for citizens when it ensures the protection of police officers? Why are some lives considered more valuable than others? Why does the stigmatization of PMI as potentially violent justify these social policies? Is mental illness a social risk that needs to be managed by the state, or is it an individual issue that every citizen is responsible for managing on their own? Police lethal force as a viable option for PMI raised questions for me about crime and the values that shape our societal responses to crime. A system of retributive justice doles out punishment that is proportionate to the offense and is counterproductive in meeting the needs of victims or offenders, allowing for one system to have much power, dominance and control over marginalized social groups.

As Dickson and La-Prairie (2005) explain, “a distinguishing feature of restorative justice is that it is inherently relational, taking relationships and human connectedness as the starting point for justice reasoning transforms the traditional picture of justice” (p.98). Or in other words, this removes the label of “victim”, “offender”, “state” and “community” and brings everyone involved on the same level of consciousness, into agreement that something is inherently wrong

in the police “shoot to kill policies” and how the aftermath is handled in policy. Restorative justice would involve admitting that something is inherently wrong in our society and taking the transformative steps to fix it to create a society that is safe for all inhabitants. Restorative justice would open up the dialogue and bring these issues out into the public domain rather than supporting private investigations into police actions and coroner’s inquest outcomes that produce numerous recommendations that are more often ignored than ever implemented. Applying Restorative Justice, a critical and wholistic paradigm to police lethal force opens up a new perspective of humanity from a macro-level, and the current needs of communities to heal after tragic events and prevent future ones by applying what we have learned from the past. Restorative justice, in this sense, would be transformative as it would seek to break down the current unsteady foundation of the criminal justice system and rebuild from a place of respect, equality, and transparency.

5.2 Recommendations for Social Work Theory, Practice, and Education

As social workers, it is our duty to confront critical issues in society that disproportionality affect the populations we support. This study informs social work practice by revealing ways in which policing as an institution can cause significant violence, harm and neglect to individuals at the margins of society, especially PMI. It is important for social workers to understand how institutions, especially policing, have made significant contributions to societal inequalities. The profession of social work is now at an opportune moment to collaborate with police on the issue of mental health crises and offer their knowledge and experience to inspire change. Social work as a profession has moved away from social justice pursuits for more of a focus on micro-level issues, however this study demonstrates that social policy in regard to police lethal force needs urgent reform. The police use of lethal force in Canada is

currently on the rise, especially as mental health worsens due to the current national pandemic. Unclear guidelines for the police role in mental health interventions with the public need to be challenged and disrupted. The normalization of police lethal force needs to be challenged, and policy that upholds the human right to life needs to be brought to the forefront rather than policy systems that uphold violence and abuse to already marginalized groups. Social workers are in a beneficial position to advance these goals through advocacy, community engagement and organizing, and through collaborating to present policy alternatives to the House of Commons. The study seeks to advance social work education by educating this field about the oppression that is rooted in the criminal justice system as a critical issue that needs to be reconciled within marginalized communities, areas in which social workers are familiar.

Restorative justice is humanistic and relationship centered, consistent with the major values of social work. The restorative justice theory can be a beneficial lens to apply to the profession of social work to focus on healing relationships and reconciling social work's participation in the colonial project. This study explores how Indigenous knowledge and restorative justice theory can be applied to the issue of police lethal force. Indigenous knowledges provide an alternative view of society through the lens of interconnection, interdependence, and the sanctity and sacredness of all life on earth. This worldview can also inform social work theory, by providing a new paradigm of how we confront the divisions and inequalities in our society, by resisting social policies that have painful lived effects for some members of our communities. Because RJ is focused on strengthening and healing relationships, it forces us to look at how systemically, social policies can be linked to the breakdown of these relationships. Viewing both the social reality of police lethal force and social work practice through an RJ perspective would challenge current views of the deserving and undeserving and

question why society allows some to be worthy of protection and safety, while others are deemed unimportant. Applying an RJ lens to social work practice would acknowledge the interconnection of humankind, a truth that can awaken us to the responsibility we have to one another and reconcile the ways of the past. This lens would move social work away from embracing individualistic notions of humans, seeing them as struggling with isolated problems, to instead realizing that the current way we live fails the most vulnerable, and in turn, fails us all. Social work is meant to be a profession that challenges and works to change oppressive structures. If social work is committed to change and protection of the vulnerable, and reconciling their harmful legacy in colonialism, their advocacy must extend to the transformation of policing policy and their collaboration with law enforcement institutions to find safer alternatives to lethal force.

The criminal justice system and restorative justice theories are under-studied in the field of social work, yet law enforcement contributes greatly to social relations of power and deeply impacts communities and lives. In terms of social work practice, this study supports social workers having a more active role in the criminal justice system when it pertains to mental illness. Social workers are trained and qualified with this knowledge, so it makes sense that they have a role in policing to inform programs, training and policies.

Both policing and social work as institutions have had profoundly negative impacts on First Nations, Metis and Inuit peoples in Canada. The Truth and Reconciliation Commission presented calls to action for the Canada government to reconcile the past. Many Indigenous people are still at a disadvantage due to the oppressive policies of the past such as the residential school system, and the Sixties Scoop, in which social workers and Canadian Mounted Police played a major role. In the present time, Indigenous children are grossly over-represented in the

child welfare system. As Zehr (2005) claims, restorative justice focuses on repairing the harm of the injury. Social work as a profession has a responsibility to heal injustice and create new systems that uphold equality. This study supports decolonization not only in the return of lands and resources to Indigenous peoples in Canada, but it also supports decolonizing institutions that privilege the knowledge of the colonizer while marginalizing Indigenous knowledges and worldviews. I believe that both policing and social work would be powerfully transformed by adopting RJ values and this worldview.

5.3 Policy Recommendations

Policy change is urgently needed to combat this critical social issue. Policies that are informed by human rights principles need to be written into legislation at federal, provincial and municipal levels to address the reality of police lethal force and provide clear guidelines for police procedure in interventions with PMI. Even when a legal doctrine exists in our province in the form of the MHA, (which gives clear guidelines for the protection of PMI in crises). The duty of the officer is to take the citizen to hospital to be examined by a physician. Lethal force and use of force are not mentioned in this policy, and the latent goal appears to be to protect those in mental health crises. These MHA guidelines need to circumvent the *Code*, which this study has shown justifies lethal force even in cases where mental health crises were obvious.

Campaign Zero is an American organization that encourages “policy makers to focus on solutions with the strongest evidence of effectiveness at reducing police violence” (Campaign Zero, 2016, p. 6). Campaign Zero is a non-profit organization that analyzes police practices around the country with the goal of ending police violence. In 2020, Campaign Zero made an urgent call to local, state and federal lawmakers to “take immediate action to adopt data driven policy solutions, to end this violence and hold police accountable” (Campaign Zero, 2020, n.p.).

My worldview aligns with the values of this campaign and I am comfortable providing some of their policy-change recommendations and some of my own with the overall goal of protecting and preserving life rather than enforcing law.

1. My first recommendation to influence policy transformation is the macro-level change of how police institutions operate and relate to society. It is known that police criminalize, over-police and heavily surveillance lower socioeconomic urban areas and can use force to gain compliance. Policies that justify violence should be challenged and replaced with alternatives that value community safety. Project Zero found that “the vast majority of arrests are for low-level, nonviolent activities that often escalate to deadly force” (Project Zero, 2016, p. 8). Police often respond to activities that individuals involve themselves in that can be linked to structural issues like homelessness, addictions, or mental illness. These underlying issues should be addressed by the system as contributing factors to what is socially constructed as crime, and solutions to end these social problems should be found rather than creating policy to justify their existence.

First Nations policing is an understudied area in Canadian research. First Nations have their own style of policing that is sometimes referred to as peacekeeping, and police have very radical roles within their communities. The idea of decolonization has been supported by many Indigenous advocates and scholars within social work as a way to reconcile the past history of harm due to colonialism, and naturally upholds the values of restorative justice. Maybe Western thought and concepts of crime have something to learn from an Indigenous world view, one that was marginalized and seen as invalid compared to western ideology. Can we have something to learn from First Nations policing? An online search reveals that a large police force covering a vast division of the Canadian north has never once shot anyone in the line of duty, nor have they

lost an officer to a shooting (The Canadian Press, 2020). The language used in their mission statement and values seems to point towards a very different perspective of policing, shifting from the militant role to a peacekeeping one with a duty not only to fellow man, but to a Creator. My first recommendation suggests a macro-level shift of policing that brings marginalized systems of thought into the mainstream and challenges colonized institutions as the only knowledge holders. Urban areas are very different in terms of policing styles due to the isolation of the community. Rural policing, like First Nations policing has strong ties to the community they serve. However, they do experience a high amount of mental health crises and are able to attend to the issues without the use of lethal force.

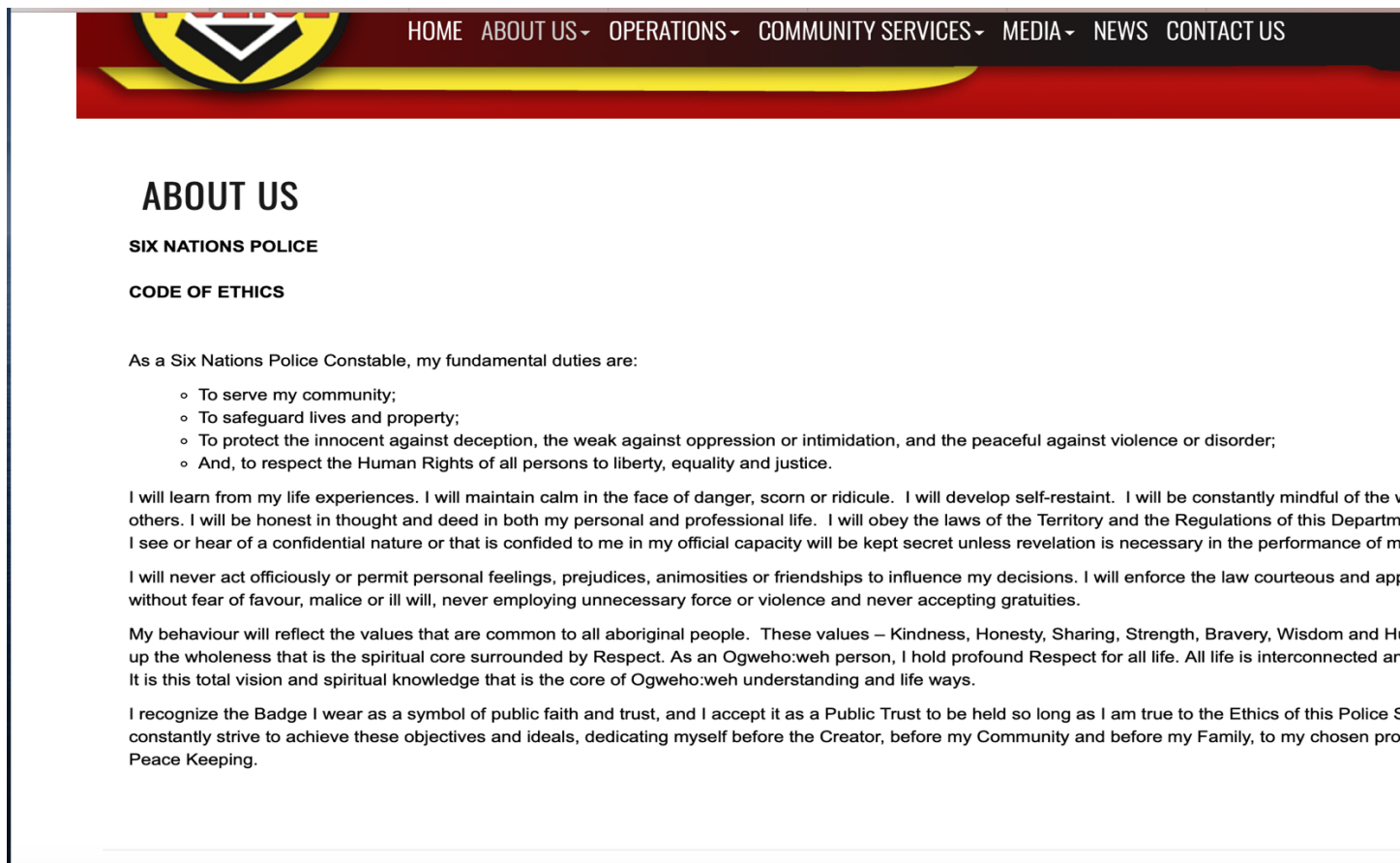


Figure 2: Six Nations Police, n.d.



Figure 3: Nishnawbe Aski Police Service (n.d.)

2. Use of force policy should be amended to include a written de-escalation policy to try to de-escalate before resorting to using force. One example of written policy:

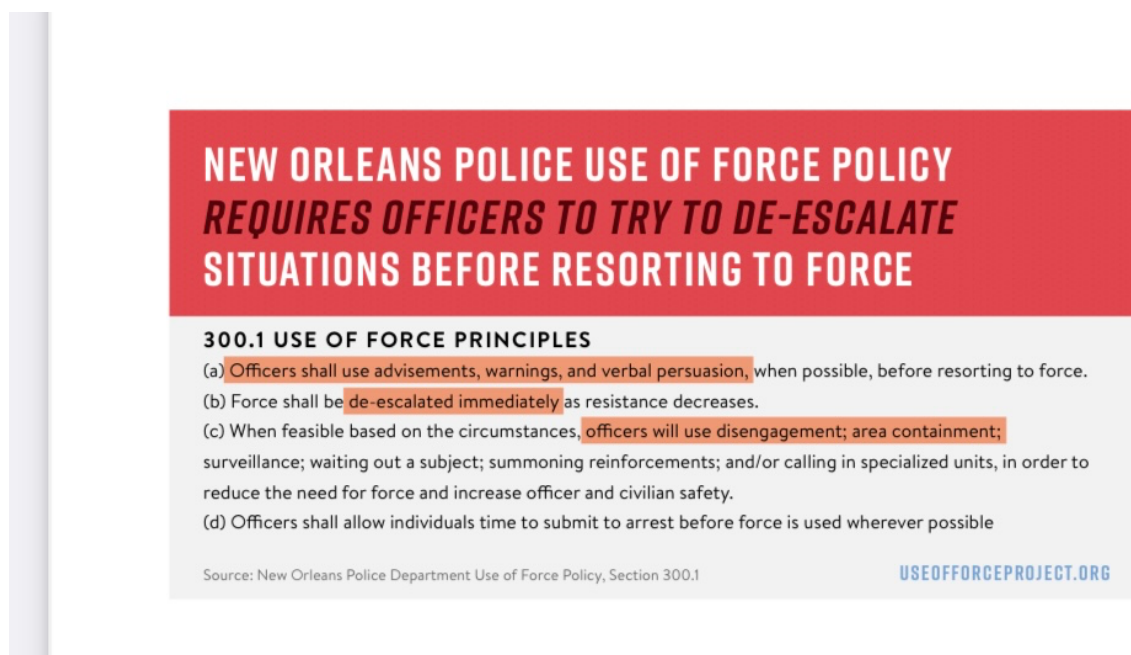


Figure 4: Project Zero, 2016

1. Language should be included in use of force policies that require officers to exhaust all other force options before choosing to use lethal force on citizens.



Figure 5: Project Zero, 2016

2. A Use of Force Continuum, like the one below, should be added to every provincial police act that governs firearms and the use of force.

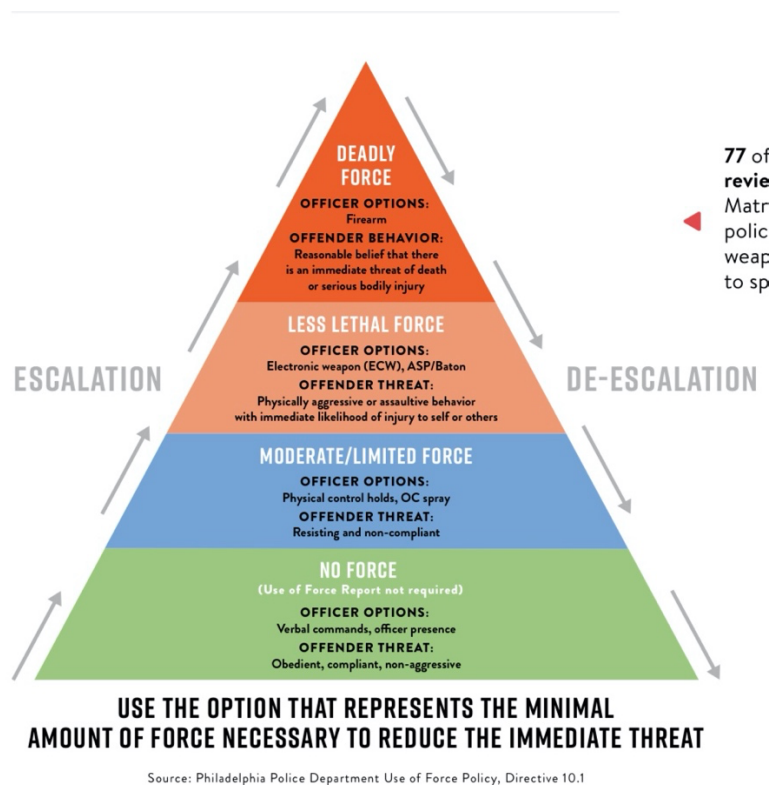


Figure 6: Project Zero, 2016

3. Guidelines to police response to PMI should be added into policy at the Federal and provincial levels to confront how the MHA and the *Code* intersect and hold opposing latent goals: MHA attempts to uphold the safety of PMI and provide guidelines for how police officers intervene in crises. The *Code* justifies use of lethal force on PMI when officers perceive a threat. This policy contradiction should be remedied by providing clear guidelines for police actions in response to persons in crises and mental wellness checks written into every level of policy, so police officers are aware that their duty is to protect the vulnerable.

4. Policy evaluation is required at the municipal level to determine how police departments are upholding and honoring the policies related to the police response to persons in mental health crisis or with developmental disabilities. (LE013). Police should allow for a systemic evaluation of their current progress in training officers on mental illness and de-escalation tactics and using lesser force options. Police departments should allow for an evaluation of their budget due to the lack of available 24/7 co-response teams and allocate more of the budget to these teams so frontline officers are not tasked with mental wellness checks at off-hours.
5. More accountability and transparency in lethal force investigations, implementation of recommendations from past coroner's inquests to address systemic failures and an overhaul of Special Investigations Unit policies to ensure the cooperation of police departments to ensure truthful representations of the facts, and to increase citizen's trust in the police (See Tulloch 2017).
6. Collaboration is required between mental health institutions and law enforcement to create open systems that work together to address service issues related to marginalized populations. On the municipal level, cities should allocate appropriate budgets to serve PMI, so law enforcement does not have to be a first response. Cities must develop new systems to respond to crises where the primary goal is upholding life and protecting vulnerable individuals experiencing emotional distress.

5.4 Reflexivity and Critical Reflection

My own social location and my perspective on the issue of lethal force was an important element of my critical analysis of the policies. Inevitably, my own lived experience deeply influenced and affected how I interpreted the data, and the conclusions I drew in respect to the

policy recommendations. As Absolon (2011) explains, research does not exist independently of the self. Therefore, it is important for researchers to accept responsibility for their intentions, how they interpret knowledge and the research that will be produced. Due to the fact that I am a member of a marginalized group that has experienced the impacts of police use of lethal force against a close relative, reflexivity was critical throughout my research process. “Adopting a reflexive research process means a continuous process of critical scrutiny and interpretation, not just in relation to the research methods and the data but also to the researcher, participants, and the research context” (Guillemin & Gillam, 2004, p.275). Throughout the process of the research, I found it difficult to be just a passive observer of the data I was analyzing. I felt so deeply connected to the data, and it held so many implications for me, it was so colored by my own experience that separating myself from it was impossible. In this way, there are limitations to this research, as I cannot speak for the side of law enforcement, but only on how lethal force policies deeply impact families, relationships and communities. I feel that field research would have offered a strong component to my analysis and may have enabled me to take a more removed and balanced perspective of the issue to gain a better understanding of how officers interact with the public, and the challenges they may be up against in dealing with citizens in mental health crises. The policies also paint a clear picture of how law enforcement operates, and the lived effects of the policies are evident through the tragic outcomes we hear of in the news, or observe in our communities, and in the lives of people we know. As a social worker in the mental health field, I have worked on the frontlines at the street-level for nearly a decade. Working in a shelter, I have attended to many individuals in the midst of crises or who were very emotionally distraught, desperately needing mental health services that were inaccessible due to their social location. Many situations have arisen that have required an urgent response, or what

we refer to in the shelter as a ‘critical incident’. Most of these involve mental health emergencies, physical health concerns or lateral violence between the residents in the shelter. To work as a frontline provider to this demographic, one needs to be trained in all types of non-violent crisis de-escalation, which basically uses the power of words, body language and conscious awareness to deescalate potentially violent situations. We found that with a certain style of communication, most incidents could be resolved without calling for law enforcement. In other instances, we stayed actively engaged when police have had to arrive and have had success in these interventions without any use of force. This experience can enlighten us to consider reform of law enforcement and finding alternatives to how we respond to crises and emotional distress in our communities. Often, someone is isolated and just needs to be heard and understood. By training both frontline workers and police officers in less violent force options to deal with present threats, we can transform the criminalization of mental illness to a more protective, empathetic response that does not dehumanize or, in worst case scenarios, kill.

I attended to reflexivity by constantly reminding myself how closely I identify with my own feelings and experiences and how at times, this can make me believe that this is the only reality. Sometimes I needed distance from my emotions to understand the circumstances and explore the conditions, culture and environment I am engaged with to understand how and why these policies exist. In the readings of the policies, I have attended to reflexivity throughout the research process by the continuous examination of the ultimate purpose of my research: to enable community life to prosper through challenging structural policies that threaten the lives of marginalized individuals. This was what I valued most in the research, that specific groups within our society will die due to these policies, and that these policies have not been changed, challenged or amended to correct this. The analysis enabled me to question the values and

assumptions that underpin our criminal justice system. I reflected on the fact that police lethal force cases usually begin with a small, petty type of crime that evolves into a police officer discharging their firearm. The pain ripples out to the community crippling ties to one another and causes trauma that lasts a lifetime, a system that will not offer justice in the aftermath, or even admit a wrongdoing. Restorative practices are needed to heal our society.

It is my hope that the reader takes away just one message from this study: that the current model of policing is failing many people in our modern society. With mental illness on the rise, as well as social isolation and inequalities in our society worsening due to a pandemic, police will continue to be the frontline extension of the mental health system until significant systemic changes occur. It is our responsibility to each other to create safer communities with interventions that uphold the human right to life for PMI. Law enforcement intervention with mental health crises needs to be reformed and supported by others in the mental health field to stay committed to the demographics we serve.

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