

April 2000

Officers....

Greetings!

Attached is a reflection piece I wrote after we left the police station last evening.

My wife and I felt frustrated and/or angry and the attached will explain why.

We were very disappointed that you issued a ticket to our friend. We believe it was face-saving on your part, a way of saying that really, in the end, Charles [not real name] was still somehow "guilty" - but you were just letting him off lightly! We believe that was a cheap shot, and appeal to you to withdraw the ticket, despite your Supervisor's advice to the contrary, and an even harsher punitive attitude.

You are both fairly young and new in the system. There are refreshing winds blowing, thankfully, that threaten to change forever the punitive nature of our Canadian (and Western) criminal justice systems. Conferencing is one of those. The Victim Offender Reconciliation Program operated by F.R.C.J.I.A. in Langley is another. There are many other indications, too numerous to list. I appeal to you, if you are not already so oriented, catch something of these new winds!

You may be interested, for instance, in obtaining a copy of the proceedings from next month's International Conference on Penal Abolition in Toronto. It is attended by a wide range of professionals and others across the spectrum of the system. It is pursuing ways of holding offenders fully accountable, but not harming them. And it dramatically impacts more positively on victims, offenders, and communities, from numerous studies conducted worldwide in the past 25 years. I could readily point you to the burgeoning and voluminous literature in the field.

Harming offenders who harm others is counter-productive, criminal, crime-producing, and just plain stupid (as any victim who too frequently turns into an offender will tell you). I would gladly forward you a copy of the proceedings, once published. I am one of the plenary speakers.

Policing is, theoretically, about justice. As you know already, it rarely is in fact! As the Law Reform Commission first articulated it in 1976: "There is one law in Canada for the rich, another for the poor." That fundamental unjust systemic prejudice extends to others including youth and aboriginal peoples. You can be part of changing that injustice. You have years ahead of you with that potential. Or you can perpetuate it.

As to our friend? We do not condone "fish-tailing". He knew that, and hence his initial silence about the incident. Nor do we condone swearing at seniors (or anyone else). We have worked that through with him. But had you observed the fish-tailing incident on that road that day with no other vehicles around, we do not believe you would have issued him a ticket. Especially if he had not been a young male!

From beginning to end, we do not believe justice was done by you towards our friend. We believe you copped out on that opportunity.

His comments to us were: he cannot help now having a much more negative attitude towards “old people” as a result of this. We regret that this will have to be unlearned. Who will model “good seniors” to him now? He was owed an admission of wrongdoing by the elderly man, and an apology. He was owed an admission from the police that all youth are not, by definition, criminal when they are accused of wrongdoing, and he was owed an apology for your having made that automatic assumption.

Sadly, our friend has now generalized about “old people” the way I have seen far too often police and other justice professionals generalize about youth, natives, and other minority groups. In my “Reflections” I mention only a small number of studies that corroborate that observation.

But I do not want to generalize about justice professionals either. I have seen and worked with too many who are genuinely concerned about justice, and show consistent respect to others. I hope this is who you are too.

Thank you.

Sincerely

Wayne Northey

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### Reflection on Waylaid Police Charges

“Your friend is being investigated for dangerous driving, causing bodily harm, and uttering death threats.” The voice was that of a police Constable. It was evident from the Constable’s demeanour that our friend was likely guilty. He was adamant: “At the very least, after the investigation is done, he will lose his license.” After all, there was an elderly victim who had been rushed to the hospital after having been found unconscious on the road; there were stitches required to the arm of the victim; there was his claim that our friend had uttered death threats, “I’ll shoot you!”

Most damning: there was our male friend, not a female, guilty by association. He was, and associated with, a male youth....

Our friend had said nothing of the incident to us. He had done a “fish tail” with the car.... There was subsequent accompaniment of our friend to the police station. There was the hour plus wait despite our punctuality, while police attended to other “important” matters. There was the formal reading of rights; the setting up of the paraphernalia to accept a statement; the repeated insistence that the adults need not be present if the youth was so inclined.

Our friend described the incident differently. Very differently. He had a written and signed statement to hand over. He explained he had a school friend with him in the car who corroborated the account independently. (Neither had ever before been charged by the police.)

The event actually unfolded this way: Two youths doing a homework assignment were accosted twice by an irascible elderly “gentleman” on a dead end street. Our friend had done a “fish tail” from the side of the completely empty road. When he stopped where the man had flagged them down, he was immediately grabbed by the jacket, first with one, then two hands, while the “gentleman” shouted that he must get out of his car, come into his house, and wait for the police to arrive. Our friend refused. Repeatedly, given the other’s belligerent loud-mouthed insistence. The older man spoke with a thick accent. Our friend said several times, “I’ll sue you if you don’t let go of me!” The man would not let go, grabbed our friend with both hands finally, at which point he was sworn at. Three times the man swung and smacked, “You don’t talk to your elders like that!”, as our friend moved the car forward. The older man began running alongside the car, still hanging on. He suddenly let go. Our friend with his passenger slipped around the corner, and got out of there. Both vehicle occupants said they did not look back. That they had been totally freaked by this man’s maniacal behaviour.

A month later, again, we are with our friend, the same partner Constables, in the same police interview room. No hour wait this time. “We are closing our file, and only giving your friend a ticket for driving without due care. [It was explained that he had failed to look in his rear view mirror while pulling away from the scene! And, yes, there was the fish-tail!] A traffic violation, not a criminal offence.” A few questions later, the answer: “It was all a misunderstanding. He [the older man] will never do such a thing again, I assure you.”

Incredible! The Constables had been ready to throw the book at our friend. Now, when it was clear that it was our friend who had been victimized, they could not usher us out of the police station fast enough! No apologies. Just the face-saving gesture of issuing a ticket, with the intimation our friend was being let off lightly – this time! A class act of blaming the victim.

“But our friend was assaulted.” (We had asked at one of the earlier interviews for charges not to be laid, but for an innovative police-run restorative justice “Family Group Conference”, now operating in BC, having originated in New Zealand. We wanted to have the opportunity to express our anger at the older man’s assault. We also wanted to hear his story. Further, at the least, this man had done real mischief in his initial lying to the police. How much of our taxpayers’ money went into that needless police investigation? As the police well know, “mischief” is also a criminal offence. And it could have turned out far worse for our friend! Then who would have been the “criminal”? See below the “Now imagine” paragraph.)

A smile. “It’s his word against your friend’s.” (Irony here: when it was that same reality initially, it was patently clear whose word was first believed and readily acted upon...)

“But there was a witness....”

“I assure you, it’s not worth pursuing. He’s learned his lesson. We asked him about the Conference. He was not interested.”

“Can you please give us in writing an assurance that our friend’s file will never resurface?”

“We don’t do that kind of thing. In fact, we’ve never been asked that before. But you may phone next week to ask about it, and determine it has been closed.”

“I have worked in the system twenty-five years.... That’s why I ask for the written assurance”.

I could have added: I’ve also read widely in the literature, and have heard first-hand far too many stories. I’ve read for instance the professionally highly acclaimed, case-filled 1994 publication, *Everybody Does It!': Crime by the Public*, by Canadian criminologist Thomas Gabor, in which he details the routine bending of the rules and specific lawbreaking by officialdom, including the police. “Opportunistic repeat offenders” he labels 90% of our Canadian law enforcers. But lest anyone feel smug, he has by this time in the book tarred us all with the same brush. Ouch! The truth hurts. We’re a society of hypocrites, claims Gabor and other researchers, when it comes to crime. We’re absolutely incensed that “they” get off so lightly, while never even acknowledging our own wrongdoing. “The 90% law-abiding”, used to be the regular designation of a former Vancouver police chief... Balderdash!

Now imagine a slightly revised scenario, but the same event. The youth is by himself in the car, from a “broken home” where there is ongoing parental tension with the friend, and no support in this instance. He has also had a criminal charge or two already.... The new charges are consequently laid. (I won’t go into all the intimidating ways the youth is “handled”.) “This will teach him a lesson!” The youth is raised to adult court given the seriousness. He is found guilty (a mere youth’s word against that of the “law-abiding”, “upstanding” elderly gentleman), sentenced to two years less a day, and a probation term. He’ll surely learn his lesson now.... Indeed....

Label a youth “criminal”, claims Judge Heino Lilles of the Yukon, as recounted in David Cayley’s challenging book, *The Expanding Prison*, and you often thereby create one until well into his twenties. This is especially so in Canada, where thirty-four percent of all youth appearing in court are given custodial sentences. (For starters, just look for the slashing marks on many of our incarcerated youth...) We are by far the harshest nation in the industrialized West in response to youth, much more punitive towards young offenders than our neighbours to the South.

Recently, our friend David Milgaard spent suppertime and the evening with us. In a country that sentences at least ten percent of its prisoners for serious and violent crimes they never committed<sup>1</sup>, and that deals with thirty-four percent of its youth in court very harshly, one is given pause. What about repeated police tunnel vision to “get our man”? (It could easily have been our friend!) What about Milgaard, sentenced at seventeen to “life” for a vicious crime he never committed? What about Donald Marshall and Guy Paul Morin, to name a few recent *known*

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<sup>1</sup> This is according to amongst others Rubin Carter, Director of Toronto-based AIDWYC, whose chilling story recently was retold in Norman Jewison’s movie, *The Hurricane*.

Canadian examples? What about an entire provincial justice system found to be pervasively criminogenic in both Nova Scotia and Manitoba in recent government-sponsored studies? What about the “Arbour Report” that discovered similarly of the operations of the Correctional Service of Canada? What about the widespread racism discerned in a recent study of Ontario’s justice system? What about the Rodney King incident? What about the facts behind the movie, *The Thin Blue Line*? I could go on indefinitely. *I have* worked in the system twenty-five years...

Does any of this give one pause when so many are so quick to “cast the first stone”?

There are alternative, nonpunitive, healing models of justice developing in Canada and throughout the world. What about another way of doing “justice”, Canada?