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Toronto police reviewing officers' conduct in nearly 100 cases following Torstar investigation into Charter violations

One officer was disciplined in Waterloo, where the force was unaware of six rulings in which judges found officers committed serious Charter breaches.

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A Waterloo Regional Police Service officer has been disciplined and the Toronto Police Service is reviewing the conduct of officers in nearly 100 cases after a [Torstar investigation exposed](#) court decisions that found police seriously violated the rights of the accused.

The police forces were previously unaware of these cases where judges had determined their officers breached the Charter of Rights and Freedoms, which makes it unlawful for police to use brutality against us, randomly search our homes or detain us without good reason.

The officers' violations were serious enough to prompt judges to toss charges, reduce sentences or exclude key evidence, like guns and drugs.

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Torstar notified the police forces of the cases as part of a [national investigation](#) that found many of these rulings fly under the radar of police services, raising concerns that officers who flout the law are not being held to account and the public is unaware of the scope of the problem.

Torstar's reporting has also helped prompt change within the Saskatchewan RCMP. Following questions from Torstar about rights breaches by its officers, the police service solidified a process for prosecutors to inform its criminal operations division in all cases where "Charter violations are a factor in a court decision," a spokesperson said.

In Waterloo Region, police chief Bryan Larkin credited Torstar for bringing to his attention six rulings where judges found officers committed serious Charter breaches.

"As a police leader, I'd probably very candidly say that we don't have a true understanding of the true impact of Charter breaches," said Larkin, who is also head of the Canadian Association of Chiefs of Police. "How do we improve as a profession, if we don't know what we don't know?"

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The police service said it could not identify the ruling that led to discipline or the officer involved, citing confidentiality provisions of the Police Services Act (PSA). Under the provincial legislation, disciplinary matters that are deemed to be not serious in nature can be handled through an internal informal process. Informal discipline cases are not made public.

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One ruling Waterloo Regional police didn't know about was a 2018 decision criticizing the force for the tactics it used to ensnare Michael Ball, a Kitchener man who was later convicted of killing his former girlfriend, Erin Howlett, stuffing her body into a duffel bag and dumping it into the Grand River in 2013.

Several months into their investigation, undercover officers taped an envelope to Ball's front door containing a newspaper article about the murdered woman's disappearance. An anonymous handwritten note scrawled across it read: "I KNOW YOU KILLED HER YOU A--HOLE!"

Two weeks later, with a judge's authorization, undercover officers staged a break-in at Ball's residence. They damaged his front door to make it look like a forced entry, stole guns and drugs from a safe, and left a second handwritten note, scrawled across another article about Howlett's disappearance that said: "I KNOW YOU DID IT AND NOW I HAVE PROOF!!"

Police knew Ball would call them to report the break-in, and when he did, homicide detective Richard Dorling and another officer who responded to the call used it as a chance to get him to answer questions about the murder. (The undercover officers who staged the break-in and left the notes were not identified in the ruling.)

At Ball's 2018 trial, the judge found he "was made to believe that he was the target of threats" through "abusive" police conduct that "created an aura of violence" — a violation of Ball's Charter rights.

While Dorling tried to keep his questioning about the supposed break-in and the homicide separate, the judge found, the "police conduct was designed to coerce Ball into speaking with them about the homicide."

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The judge threw out the statements Ball made to Dorling and the other officer after the staged break-in.

Ball was convicted in 2019 and sentenced to life in prison — a verdict he is appealing. Ball, through his lawyer, declined to comment.

Responding to questions for this story, Dorling's lawyer, Bernard Cummins, told Torstar in an email that Dorling was "one of many officers involved in a lengthy investigation who had to navigate a very difficult legal landscape."

"At all times, he did his best to comply with the Charter of Rights, and worked in good faith to apprehend a suspected murderer," Cummins said. "A jury agreed, and convicted Mr. Ball of first-degree murder."

Larkin said he would have wanted to be notified of the Charter ruling in this case, which came during a high-profile, first-degree murder trial. However, he defended the conduct of the officers, saying the police service worked with the Crown attorney and obtained judicial authorization.

"We actually had ongoing legal advice," said Larkin, who is set to retire in July.

Larkin said that while many Charter breaches do not amount to professional misconduct, the lines of communication between the courts and police services should be strengthened to give forces an opportunity to review these rulings.

“You have to get to the bottom of (whether) this was a training issue? Was it a legal argument? Was there actually wilful intent to breach the Charter?” he said.

These are questions the Toronto Police Service is now asking as it reviews 94 Charter breach rulings the service didn’t know about until recently — roughly two-thirds of the cases involving Toronto officers that Torstar identified. Toronto police said it could not identify which cases are now under review, citing privacy laws. In all of them, judges found officers committed serious rights violations.

Chief James Ramer said the force’s professional standards unit is looking at transcripts and speaking with the Crown prosecutor to determine whether discipline is warranted.

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“While we cannot speak to specific cases where PSA charges haven’t been laid, we want to stress that every member of the service must adhere to all procedures, standards, policies and protocols and they are held to account if they do not,” Toronto police spokesperson Connie Osborne said.

No provincial or territorial government has a formal notification system to inform police services when judges find officers have violated the Charter. A handful of police services told Torstar they are informed of Charter rulings

through systems they have developed with the courts. Saskatchewan RCMP created such a process earlier this year as a result of ongoing conversations with prosecutors and questions from Torstar, a spokesperson for the police service said.

Several other police forces said they reviewed Charter breach rulings involving their officers after Torstar brought them to their attention. Guelph police were unaware of a 2018 ruling in an impaired driving case where the officer failed to properly inform the driver of their right to a lawyer — a right the judge described as “one of the cornerstones of a free and democratic society” in his decision to exclude the breathalyzer evidence.

Guelph police lawyer Judith Stoffman said the force did not pursue charges under the PSA in that case.

The Ontario Provincial Police said it examined 37 rulings Torstar identified involving its officers. The review found “no systemic issue” related to Charter breaches within the service and no cases where the officer’s action rose to the level of misconduct, spokesperson Bill Dickson said. (Dickson did not say whether the police service was previously aware of these rulings.)

Torstar, with the assistance of Western University’s law school, identified more than 600 cases in the last decade where judges across Canada found police seriously violated the Charter rights of the accused. Since 2017, these rulings have come down at a rate of two per week.

Many police forces refused to say whether they were previously aware of the Charter rulings Torstar identified or what action, if any, they took to address the Charter-violating conduct of the officers involved.

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