

**RACE RELATIONS:  
NATIVE PEOPLES AND THE ROYAL CANADIAN MOUNTED POLICE  
CANADA'S CHALLENGE**

by

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**Canada**

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**BY**

**IAN HAROLD BAND**

**A Thesis submitted to the Faculty of Graduate Studies of the University of Manitoba  
in partial fulfillment of the requirements of the degree of**

**MASTER OF ARTS**

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## ABSTRACT

This thesis is an examination of the relationship between Canada's Aboriginal peoples and the Royal Canadian Mounted Police, and how over time, this relationship has evolved. More and more, native peoples are calling for increased control over their own affairs, including native-controlled policing programs. Thus, in order to respond to these pressures there is a need for alternative approaches to the issue of federal, provincial, and local responsibilities for the delivery for policing services to native communities and reserves. Further, the recent political developments in relations between Aboriginal peoples and government have enhanced the position of Native peoples in society by emphasizing their unique rights, aspirations and cultural identities as individuals and communities. As the consolidation of special status becomes more firmly rooted in various services and programs, government has been, and will continue to be under pressure to deal with the policing needs of Native peoples in more direct terms. These developments are premised on the simple notions that Aboriginal communities are entitled to effective and culturally sensitive law enforcement services just as is any other community within Canada.

## ACKNOWLEDGEMENTS

I wish to express my sincere appreciation to several people for their assistance in the preparation of this study including, R.C.M.P. Inspector Claude Chapman, for his interest and general support; Corporal P.E. (Paul) Currie and Corporal J.E. (Joseph) Lafreniere, for their time and consideration during interviews; Dale Henry, former Assistant Commissioner and Commanding Officer for the R.C.M.P. in Manitoba, for his knowledge, experience and wisdom; Ovide Mercredi, Grand Chief, Assembly of First Nations, for his words and inspiration; Warren Fontaine, Deputy Chief, Dakota Ojibway Tribal Council, for his information; and Professor Rick Linden for his resources. Above all, I would like to sincerely thank my advisor, Dr. Kathy L. Brock, for her invaluable time, input and guidance throughout my work on this thesis.

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## INTRODUCTION

The relationship between Canada's Native peoples and the Royal Canadian Mounted Police (R.C.M.P.) has long been the focus of public attention. At times these two groups have enjoyed a mutual respect and understanding, whereby friendships developed in an atmosphere of peace and harmony. At other times, the relationship could only be characterized as one of misunderstanding, in which conflict, hostility and violence prevailed.

This history of relations was especially true in the West and the North where the R.C.M.P. established their roots and where today, they are responsible for much of the policing services to Native communities, including Indians, Metis, and Inuit. During the early days of Confederation, the North-West Mounted Police (N.W.M.P.) accompanied most treaty parties during the negotiation and signing of treaties. Their presence established a link between native communities and the federal government. Today this presence remains largely unchanged. The R.C.M.P. continues to serve as a highly visible national symbol, expressing a marginal association between both federal and provincial governments and Native peoples.

This relationship is being challenged today, in large part because Native peoples in Canada face a litany of social, economic, and political problems. Generally poor socio-economic conditions, low levels of formal education, high rates of unemployment, substance abuse, systemic discrimination, and inordinately high rates of incarceration are some of the obstacles Natives face on a regular basis. The high rates of arrests in many parts of the country give rise to serious questions regarding Native people - R.C.M.P. relations.

The issues surrounding native involvement with the criminal justice system were first raised in a systematic manner on a national level with the publication of Indians and the Law, in 1967. This report documented the socio-economic position of Native peoples in Canadian society and outlined the conflict between white and native societies within the criminal justice system. This report concluded that "underlying all problems" associated with Aboriginal people in Canada "are the prejudice and discrimination they meet in the attitude of non-Indians". Further, these attitudes result in Aboriginals believing they are not a part of the dominant Canadian society and that "their efforts to better themselves will fail because they do not have

an equal chance" when compared to non-Aboriginals.<sup>4</sup>

The White Paper, introduced in 1969 by the Trudeau government as part of its "Just Society" program, is considered by many to be the single most important catalyst in elevating the political consciousness of Aboriginal peoples and effecting a heightened sensitivity for their cultural legacy. The White Paper concluded that the economic and social stagnation of Aboriginals, coupled with their circumstances of dependency was a result of an antiquated government policy, commonly referred to as "internal colonialism". The White Paper proposed that the only way the country could progressively modernize its approach to this problem was for Aboriginal peoples to become fully and equally integrated with the dominant culture. This objective was to be achieved by repealing the Indian Act, removing any special status for Indians, dismantling the Department of Indian and Northern Affairs (DIAND), including all provincial economic, social, educational, health, and other services to Aboriginals.

The White Paper's recommendations invoked such an instantaneous and vociferous response from the entire Native community that it was withdrawn by the government in 1971.

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<sup>1</sup> Canadian Corrections Association, Indians and the Law. A Survey Prepared for the Honourable Arthur Laing. (Ottawa: Queens's Printer, 1967).

Native leaders viewed the proposals as a means of dispossessing Aboriginals of their lands and their rights, which in turn, would ultimately lead to cultural genocide. One of the more effective critics of the White Paper at the time was Harold Cardinal, who wrote a trenchant response to the White Paper entitled, The Unjust Society. Cardinal's book was essentially a plea to Canadians in general, to allow Native Indians to determine their own destiny.<sup>2</sup>

Conversely, the White Paper was responsible for accelerating an earlier trend designed to bring Aboriginal peoples into a consultative role in the development of Native policy. By providing core funding to political associations representing aboriginal groups, the government helped create the structures that aboriginal people now use to influence the public policy-making process including issues of justice and policing. If the federal government had not contributed the necessary financial

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<sup>2</sup> Cardinal, H., The Unjust Society: The Tragedy of Canada's Indians (Edmonton: M.G. Hurtig Ltd., Publishers, 1969). See also, "Citizens Plus" also known as the "Red Paper" (Indian Association of Alberta, 1970), "Wahbung" (Manitoba Indian Brotherhood), and "A Declaration of Indian Rights" - "The British Columbia Indian Position Paper", which became known as the "Brown Paper."

The focus of the Red Paper was preserving Indian identity. The Red Paper rejected the then current trend towards integrated education. The "Brown Paper" too interpreted the "White Paper" to be a policy towards assimilation and, in an attempt to avert the process, recommended that a provincial Indian School Trustee Association be established.

support, organizations such as the Assembly of First Nations, the Inuit Committee on National Issues, and the Native Council of Canada, among others, could not have generated a sustained campaign for the recognition of Aboriginal peoples and rights in the Constitution Act, 1982.<sup>3</sup>

Over the past two decades there has been an increasing number of initiatives taken by both government and Indian communities to address the problems encountered by native peoples in the criminal justice system. These have included among others, the development of the R.C.M.P. Native Special Constable program and the implementation of reserve-based policing services.

The primary impetus for the creation of many of these programs was the National Conference on Native Peoples and the Criminal Justice System held in Edmonton in 1975. Among the conclusions and recommendations of the conference, which was attended by federal, provincial, and native leaders, were the following:

1. Native Indians in trouble with the law do not have equal access to most of the regular services provided other suspects, convicted offenders, and ex-inmates;
2. Native persons should be closely involved in the

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<sup>3</sup> Boldt, M., Long, J., eds. The Quest for Justice; Aboriginal Peoples and Aboriginal Rights (Toronto: University of Toronto Press, 1988) pp. 8-9.

planning and delivery of services associated with criminal justice and Native people; 3. Native communities should have greater responsibilities for the delivery of justice services to their people; 4. Native communities must be given the resources to develop services for Native offenders which might (even should) look different from service offered to white offenders.<sup>4</sup>

Although these and other recommendations were given enthusiastic support by white, native and Inuit leaders, many observers maintain that, overall, there has been no reduction in the problems encountered by native peoples in the criminal justice system, nor any decrease in the high rates of arrests, convictions, and levels of incarceration found in many parts of the country. Griffith and Verdun-Jones believe this is due to the failure of the participants at the Edmonton conference to consider the causal factors related to native involvement in the criminal justice system, including the role of the deprived socio-economic conditions in which many native peoples live.<sup>5</sup>

A great deal of the present-day controversy surrounding Aboriginal politics can be attributed to the national campaign to patriate the constitution. After Prime Minister Trudeau raised the issue of Aboriginal Rights in 1980, Aboriginal organizations

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<sup>4</sup> Solicitor General of Canada, Report of the National Conference of Native Peoples and the Criminal Justice System - Native Peoples and Justice (Ottawa: Queens Printer, 1975).

<sup>5</sup> Griffiths, C.T., and Verdun-Jones, S.N., Canadian Criminal Justice (Toronto: Butterworths Canada Ltd., 1989) p. 551.

seized an opportunity to entrench these rights...and win respect for their claims and status in the nation's constitution. The critical point for this to occur happened in 1982 when the constitution was indeed patriated. Section 35 "recognized and affirmed the existing aboriginal treaty rights and freedoms of the Aboriginal peoples of Canada." Section 25 protected those rights from being challenged under the Canadian Charter of Rights and Freedoms.<sup>6</sup>

The Charter of Rights and Freedoms is one of several recent examples of fundamental pieces of legislation reflecting changes in society's attitudes regarding human rights and civil liberties. Other recent examples of the relationship between government legislation and societal attitudes can be found in the 1969 White Paper, which advocated a policy of assimilation, and the 1992 Beaudoin-Dobbie Report, which recognized inherent rights for native peoples and went as far as endorsing Aboriginal self-government. This and other legislation has had an impact on the status of native peoples in Canada.

As of late, Aboriginal groups are among several, who are actively exercising their collective rights. Considerable support for this statement can be found in Canada: The State of

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<sup>6</sup> See the Constitution Act, 1982, Section 35 and The Canadian Charter of Rights and Freedoms, Section, 25.



the Federation, 1990, where a noted constitutional expert argues that the values reflected by the Charter, including the recognition of the collective rights of the aboriginal people, "greatly expand the range of constitutional issues and the range of groups prepared to mobilize around them."<sup>7</sup> Furthermore, Aboriginals are demanding "that the political institutions be more representative of the diversity in Canadian society and that the norm of equality be respected and applied more rigorously than in the past."<sup>8</sup>

The move by the R.C.M.P to embrace the changes occurring in society toward Natives can be seen in their attempt to improve relations with native peoples by the adoption of new policies and programs. One such policy is to hire into its ranks a certain quota of Aboriginals which will reflect more closely the percentage found in larger society. Key measures of this kind are necessary to facilitate the process of improving relations and go a long way in addressing the demands put forth by Native peoples. Without such measures, it is unlikely improved relations between these two groups would be realized to any

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<sup>7</sup> Simeon, R., "Why Did the Meech Lake Accord Fail?", in Canada: The State of the Federation 1990. R. Watts and D. Brown, eds., (Kingston: Queen's University Press, 1990) p. 18.

<sup>8</sup> Brock, K.L., Fairness, Equity and Rights, A Draft Paper for the Royal Commission on Electoral Reform and Party Financing, April 25, 1991. p. 11.

significant degree.

The basis for this reasoning can be found not only in what the R.C.M.P. has come to represent over the years, in terms of a government agency, but also by the way in which the R.C.M.P.'s unique identity is defined in accordance with larger society. In other words, if relationship problems like discrimination exist in society as a whole, it is almost certain this type of problem will be found within government agencies because the agency itself is a product of larger society.

Therefore, focusing on the R.C.M.P. is important not only for both the aforementioned historical significance and the tripartite relationship arrangement, but also because the police are viewed to be on the "front-line" of the criminal justice system. In other words, when Natives encounter the law, it is often the R.C.M.P. they come into contact with. The R.C.M.P. are seen then, as a highly visible manifestation of power and authority representative of a larger Canadian society, its institutions, customs, and laws. A similar view is expressed by several noted scholars especially Loree.<sup>9</sup>

This thesis will examine the major issues surrounding

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<sup>9</sup> Loree, D. J., Policing Native Communities. (Ottawa: Canadian Police College, 1985) p. 80.

R.C.M.P. - native peoples relations and the various R.C.M.P. programs and policies aimed at improving this relationship which have developed over the years since Confederation. It will be argued that if Canada is to adequately respond to the challenge of improving relations between its federal police force and its Native peoples, then it must be understood that education is a key element to success. Further, this education process can be facilitated to a large degree, by employing a tripartite framework which will serve to clarify the complexity of this relationship and to help better illustrate its dynamics. Finally it will be argued, that if relations are to improve, concrete action must take place based on bilateral discussions, mutual agreement and shared responsibilities.

Included will be a review of the highlights of some of the recent major legislation, and how it has influenced the relationship between Natives, the R.C.M.P., and larger society. Emphasis will be placed on the developments in relations over the last twenty years. An historical overview will serve to provide the necessary background. This historical element will also serve to demonstrate the ways in which relations between Aborigines and the R.C.M.P. have changed over the years. In addition, the historical overview will be used to illustrate some of the primary factors which have influenced decision making on both sides.

Chapter One will outline the general cultural and linguistic demographics of Canada's Aboriginal peoples, as well as their legal status. Chapter two consists of an historical overview to provide the necessary background for an in-depth understanding of the present relationship. Chapter Three discusses and evaluates some of the non-native-controlled policing programs. By comparison, Chapter Four examines the strengths and weaknesses of some of the native-controlled policing programs. Finally, based on the data presented, a conclusion will be drawn to show what policies must be adopted in order that relations between these two groups improve.

The majority of native people in Canada have the lowest incomes, the highest rates of unemployment, the most deplorable living conditions, and the highest percentage of incarcerations than any ethnic group in the country. As a result, the relationship between Canada's Aboriginal peoples and the R.C.M.P. has become very tenuous. In order to better understand this relationship it is first important to understand "who is a native" and just how deplorable the situation is.

## CHAPTER I

### THE PROBLEM

#### CONTEXT

Native or Aboriginal peoples in Canada are distinguished by both their cultural and linguistic characteristics, as well as their legal status. As defined by the Constitution Act, 1982, Aboriginal peoples include the Indian, Metis and Inuit people. Status Indians are those who are registered under the Indian Act. Non-status Indians are those of Indian ancestry but who are not registered. Metis people are of mixed Indian and European ancestry. Inuit people are Aboriginal people who were formerly known as Eskimos. Because Indians comprise the great majority of the Native population, they will be the primary focus of this paper, though reference will be made to the other groups where required.

Within the 603 officially recognized Aboriginal bands,<sup>10</sup> there is a considerable degree of diversity in terms of their culture, social and political organization, and community resources. The majority of these bands are situated in either

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<sup>10</sup> Statistics Canada, Canada's Native People (Ottawa: Minister of Supply and Services, 1993).

rural or remote northern areas and represent nearly 65% of the total Native population. This compares to 25% of the national population for the same areas.<sup>11</sup> This high degree of remoteness has significant implications for the delivery of justice services to Native peoples, especially policing.

The distribution of Indian bands by population is as follows:

0 - 1000:	549
1000 - 5000:	52
5000 +	: <u>3</u>
	603 <sup>12</sup>

The average band size is 452 people. Approximately 135 bands are considered to be in remote or isolated areas.<sup>13</sup> Because isolation and small size increase average costs based on the absence of economies of scale, the delivery of appropriate and cost-effective policing services are directly affected. In other words, the size, location and geographic dispersion makes the delivery of effective policing service difficult and very costly for a large number of Indian bands.

Additionally, the rate of population growth of Indian bands

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<sup>11</sup> Munro, Hon. J.C., Indian Conditions A Survey. (Ottawa: Department of Indian and Northern Affairs, 1980) p. 12.

<sup>12</sup> Cadieux, Hon. P. H., Indian Policing Policy Review, 1990, p. 4.

<sup>13</sup> Ibid.

affects policing services. Generally, there is a strong correlation between an increase in population and an increase in demand for services. The rate of on-reserve population growth has averaged three per cent per annum over the past decade, compared with one percent for the national average. Further, as a result of Bill C-31, which made thousands of Aboriginals eligible for reinstatement of their status, this population is expected to increase dramatically by another 16,000.<sup>14</sup> These trends have been recognized for some time and have contributed to the pressures for special arrangements and increased policing services on Indian reserves.

#### CRIME RATES:

Recent studies register several important statistics when comparing crime rates of on-reserve Indians to national averages. First, crime rates for on-reserve Indians are considerably higher than for both off-reserve Indians and the national average. Secondly, the average number of on-reserve crimes per 1,000 is approximately four times the national average. Thirdly, The rate of on-reserve violent crimes (crimes against persons), is six times the national average. For property crimes, the rate is double the national average, and for other Criminal Code

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<sup>14</sup> Metis and Non-Status Indian Crime and Justice Commission, Report. (Ottawa: Supply and Services Canada, 1977) pp. 127; 152.

offenses, the rate is four times the national average.<sup>15</sup> Several factors are clearly related to the involvement of native peoples in the criminal justice system and will be discussed in detail later. For now, these figures indicate that the high incidence of crime places a heavy burden on local police services.

There is a strong correlation between native peoples involvement in criminal behaviour and socio-economic conditions. An early study of native offenders in Manitoba concluded, the problem of Native criminality is closely tied to the general socio-economic conditions which prevail in most Native communities.<sup>16</sup> A later survey of 316 native inmates in 24 federal and two territorial correctional institutions found:

over one-half of the inmates were from areas where more than 50% of the eligible work force was unemployed; nearly 50% of the inmates had relatives who had been in jail when they were growing up; 67% had been arrested by age 16; the first arrest for 57% of the inmates was for a property-related offence.<sup>17</sup>

These figures are hardly surprising given the current living conditions of many reserves.

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<sup>15</sup> Cadieux, Hon. P. H., Op Cit., P. 3.

<sup>16</sup> Metis and Non-Status Indian Crime and Justice Commission, Op Cit.

<sup>17</sup> Ibid.



Another element very closely connected to Aboriginal involvement with crime is alcohol. Depew states:

there may be no other factor as pervasively and consistently related to the nature of Native crime and deviance and which separates the circumstances of Native from non-Native involvement in the criminal justice system as the excessive and hazardous use of alcohol.<sup>18</sup>

The connection to crime with the related problems of alcohol abuse and the erosion of the Aboriginal family unit, has a direct impact on policing services. Studies have shown that police in rural and remote jurisdictions are often reluctant or unusually slow to respond to calls for assistance, "particularly calls involving domestic disputes".<sup>19</sup> It has been shown that alcohol is almost always involved in domestic disputes, particularly violent domestic disputes.<sup>20</sup> Further, because a police officer's job necessitates coming into contact with people at their worst, and because of the inordinately high incidences of alcohol-related violent domestic disputes in some rural and remote native communities, police officers are often reluctant to act quickly in what they sometimes tend to view as "routine"

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<sup>18</sup> Depew, R., Native Policing in Canada: A Review of Current Issues. (Ottawa: Solicitor General of Canada, 1986) p. 18.

<sup>19</sup> Marrison, P., Battered Native Women: A review of Police Powers and Services Available to Reserves. (Ottawa: Indian and Inuit Affairs, 1984).

<sup>20</sup> Cryderman, B., O'Toole, C., Fleras, A., Police, Race, and Ethnicity: A Guide for Police Services, Second Edition, (Toronto: Butterworths Canada, Ltd., 1992). pp. 136-37.

cases. When officers do become involved in alcohol-related domestic disputes, "there is frequently a reliance upon asserting authority" including the laying of charges. This led Depew to express the concern that Aboriginal peoples may be "over-policed" in terms of arrests and charging practices, and "under-policed" in terms of access to policing services.<sup>21</sup> This example demonstrates the complexity of the relationship between the R.C.M.P. and Native peoples and illustrates the need for corrective measures.

Substance abuse such as sniffing gasoline, solvents, paint, glue, nail polish and a variety of other chemicals is quickly becoming a major problem. Many times children are being exposed to substance abuse through their parents.<sup>22</sup> Some reserves such as Shamattawa, in Northern Manitoba, have "gas patrols" who comb the reserve in search of substance abusers. In this community of 700, nearly 90% of the residents are either solvent or alcohol abusers. Almost all observers agree that substance abuse is a

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<sup>21</sup> Depew, R., Native Policing in Canada: A review of Current Issues (Ottawa, Solicitor General of Canada, 1986) p. 23. See also, Indians and the Law, pp. 23-40.

<sup>22</sup> Lazaruk, S., "Native Conference Seeks Solution to Recurring Substance Abuse", in The Winnipeg Free Press, July 9, 1992. p. A2.

symptom of poverty, and extremely poor living conditions.<sup>23</sup> Again, this underscores the fact that the problems in relations between the R.C.M.P. and Native peoples goes much deeper than a problem of criminality.

Alcohol and substance related offenses provide the basis for native over-representation in the correctional system. This issue reflects the important substantive problems with which the police must deal with in many native communities. The practice of having the police trying to control the problem many times leads to conflict because the police are in a situation where they must enforce the law. However, as Depew and others have put forth, this is not really a criminal problem, rather it is a social problem due mainly to high levels of unemployment, poverty and the lack of opportunity for Natives in general to improve themselves.<sup>24</sup> Therefore, the R.C.M.P. and Native peoples often find themselves at odds with one another.

#### INCARCERATION RATES:

The over-representation of native Indians in many provincial,

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<sup>23</sup> Teichroeb R., "Task Force Visits Shamattawa, Hears Tales of Neglect, Abuse." in The Winnipeg Free Press, March 7, 1993. p.B1.

<sup>24</sup> Depew, R., Native Policing in Canada; A Review of Current Issues (Ottawa: Solicitor General of Canada, 1986) p. 23. See Also, D.J. Loree, Policing Native Communities (Ottawa: Canadian Police College, 1989).

territorial and federal correctional institutions calls for a focus of attention on this serious issue. A study conducted in 1987-88, found that while Natives comprise approximately only two percent of the national population, they account for nearly 12% of the federal penitentiary population.<sup>25</sup> In the western provinces and the territories, the figures are even more dramatic. While Natives made up five percent of the total prairie population they represented 32% of the total inmate population. Natives also represented the following percentages of total inmate admissions to jurisdictional institutions: Manitoba, 55%; Saskatchewan, 66%; Alberta, 31%; British Columbia, 19%; the Yukon, 60%; the Northwest Territories, 88%.<sup>26</sup> The same study showed Ontario with 9% of total admissions. Further, in the western provinces and northern territories the native segment of the inmate population is increasing. In Quebec the proportion has remained relatively stable. Only Ontario and the Atlantic region have recorded decreases.<sup>27</sup>

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<sup>25</sup> Cadieux, Hon. P. H., Op Cit. p. 3.

<sup>26</sup> Canadian Centre for Justice Statistics, Adult Correctional Services in Canada, 1987-88. (Ottawa: Supply and Services Canada, 1989) p. 122.

<sup>27</sup> See also, Siggner, A., An Overview of Demographic Social and Economic Conditions Among Canada's Registered Indian Population (Indian and Inuit Affairs Program, 1979), and The Growth of the Active Population Aged 15 to 64 Among Canadian Registered Indians from 1975 to the Year 2000 (Department of Indian Affairs and Northern Development, 1975).

Certain jurisdictions within a province show extremely high rates of native admissions. As well, distinctions can be drawn along age, gender and status lines. In the Kenora area of Northwestern Ontario, natives represented 75% of the total male admissions and 94% of the total female population to the local jail during 1980-81.<sup>28</sup> At the Headingly Correctional institute in Manitoba, Aboriginal people accounted for 37% of the total inmate population in 1983. By 1989 this figure had risen to 41%.<sup>29</sup> At the Portage Correctional Institute for Women in Manitoba, Aboriginals comprised 67% of the inmate population.<sup>30</sup> The Aboriginal population in institutions for young people in Manitoba was 61% in 1989.<sup>31</sup> Finally, in Saskatchewan, a study conducted in 1980 found that "male treaty Indians over fifteen were 37 times more likely to be incarcerated when compared with non-Natives, and Metis/non-status were 12 times more likely." The same study showed the rates for female natives were even higher. Compared to non-native females, "female treaty Indians were 118 times more likely to be incarcerated and female

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<sup>28</sup> Jolly, S., "Natives in Conflict With the Law", in Correctional Options. Vol. 2., 1982., pp. 83-84.

<sup>29</sup> Hamilton, H. C., Sinclair, C. M., Report of the Aboriginal Justice Inquiry of Manitoba, Vol. 1: The Justice System and Aboriginal People. (Altona: D. W. Friesen Ltd., 1991) p. 101.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

Metis/non-status Indians were 25 times more likely to be incarcerated."<sup>32</sup>

Many times native Indians are incarcerated for fine defaults, which tend to result from minor crimes such as liquor and vehicle-related offenses.<sup>33</sup> This is particularly true in Saskatchewan where Natives were institutionalized for non-payment of fines at twice the rate of non-natives, in spite of efforts to reduce the use of custody through fine option programs.<sup>34</sup> In Ontario, 16% of all native admissions were for non-payment of fines on provincial offenses.

Criminologists Mary Hyde and Carol LaPrairie found that Aboriginal crime was considerably different from non-Aboriginal crime. Their study showed that while there was in fact more violent crime committed by Aboriginal people than non-Aboriginal people, it was largely internally directed against family

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<sup>32</sup> Hylton, J. H., Admissions to Saskatchewan Correctional Centres: Projections to 1993. (Regina: Prairie Justice Research Consortium, University of Regina, 1980) p. 24.

<sup>33</sup> Schmeiser, D., The Native Offender and the Law, (Ottawa: Law Reform Commission of Canada, 1974).

<sup>34</sup> Moyer, S. F., et al., Native and Non-Native Admissions to Provincial and Territorial Correctional Institutions. (Ottawa: Solicitor General of Canada, 1985)

members. Indeed, the majority of crimes were petty offenses.<sup>35</sup> Further, this study found Aboriginals commit more social disorder offenses, and had higher overall rates of crime.

#### EMPLOYMENT RATES:

Criminological research has indicated that the lack of meaningful employment of the large majority of Natives is related to the probability of coming into conflict with law.<sup>36</sup> Conservative estimations show the national unemployment rate for Natives is roughly four times the non-Native rate.<sup>37</sup> This evidence strongly suggests that if unemployment rates for Natives were more closely in line with the national average then there would very likely be less probability of this group coming into conflict with the law.

Within the justice system itself in this province, only 3.16% or 36 of the Department of Justice's 1,141 employees (excluding corrections) were Aboriginal. Of these 36, 12 were court communicators (which are positions only available to Aboriginal

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<sup>35</sup> Hyde, M., LaPrairie, C., "Amerindian Police Crime Prevention", working paper prepared for the Solicitor General of Canada. (Ottawa, 1987) pp. 55-56.

<sup>36</sup> Hamilton, H. C., Sinclair, C. M., Op Cit., pp. 90-91.

<sup>37</sup> Hamilton, H.C., Sinclair, C.M., Op Cit. pp. 92-93.

persons), two were human rights officers, two were sheriffs, and one was an accountant. There is only one Aboriginal judge, and no Aboriginals in management positions within the department, no lawyers, and no policy and research officers.<sup>38</sup>

In the correctional field, the statistics are slightly more favourable. Of a total 1,197 employees, 6.43% or 77 are Aboriginal. Of these 77 people, 48 are correctional officers and 27 are counsellors (including probation officers).<sup>39</sup>

In fact, some studies of the causal relationship between unemployment and crime have focused on the attention which police forces give to the activities of the poor. While upper-class crime such as tax evasion, conflicts of interest, polluting, etc., go relatively unregulated and unenforced, crime is "found" among the poor because that is where it is sought.<sup>40</sup>

#### **NATIVE INDIAN - POLICE RELATIONS:**

Several researchers have shown that relations between the

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<sup>38</sup> Ibid., p. 106.

<sup>39</sup> Ibid., p. 107.

<sup>40</sup> Greenway, W. K., "Crime and Class: Unequal Before the Law", in Structural Inequality in Canada, J. Harp, J. R. Hofley eds., (Scarborough: Prentice-Hall, 1980) p. 257; Traub and Little, Theories of Deviance, p. 191.



police and native Indians in many urban and rural areas are poor. Mutual hostility and distrust form the basis of interaction, which in turn, increases the probability of conflict and high arrest rates.<sup>41</sup> Further, the quality and degree of relationship characterization is dependent upon which group one belongs to. Interviews conducted by Parnell with R.C.M.P. officers, native Indians and resource personnel (probation officers, social workers, community officials, and nurses) in five Yukon communities discovered that the officers tended to describe relations with native Indians as "good" or "very good". Native Indians viewed relations with police as "fair". The resource group depicted native Indian - police relations as "serious".<sup>42</sup> These findings clearly indicate there is a definite need to improve relations between these two groups. Several researchers have demonstrated that poor relations between the R.C.M.P. and native Indians increases the levels of hostility and distrust, in turn increasing the probability of conflict and high arrest rates.<sup>43</sup>

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<sup>41</sup> Skoog, D., L. W. Roberts, and E. D. Boldt, "Native Attitudes Toward the Police." in Canadian Journal of Criminology, 1980, Vol. 22, pp. 354-59.

<sup>42</sup> Parnell, T., We Mean No Harm - Yukon Indian-Police Relations: A Preliminary Study of Attitudes. (Whitehorse: Yukon Association of Non-status Indians, 1979) p. 6.

<sup>43</sup> See, Skoog, Roberts, and Boldt, 1980; Marrison, 1984; Depew, 1986.

A later survey conducted by Loree showed some indication that, in general, native Indian - police relations might have declined. Interviews with regular R.C.M.P. members in Alberta, Saskatchewan, and Manitoba found that almost 43% described the general state of relations between natives and non-natives as "fair", while nearly 34% characterized relations as "good". Only 3.7% of these officers depicted relations as "very good". The officers cited the greatest area of difficulty in policing native communities were "Differences in Cultural Values and Outlook on Life", Problems Linked to High Unemployment", and Dealing with Young People".<sup>44</sup>

Certain primary determinants influence the quality of native Indian - police relations. Parnel found in reviews of job performance that age, experience and personal style of individual police officers were key factors. Native Indians viewed younger R.C.M.P. officers as "cocky and aggressive", whereas the older more experienced officers who exercised discretion appropriately and became involved in the community to a greater degree, were viewed by natives in a much more positive fashion.<sup>45</sup> The Alberta Board of Review also found that abuses of police authority when dealing with native Indians was highest among

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<sup>44</sup> Loree, D. J., Policing Native Communities, p. 40.

<sup>45</sup> Parnell, T., Op Cit., p. 21.

young, inexperienced officers who had low levels of understanding regarding the people and communities they were policing.<sup>46</sup>

Recommendations calling for increased cross-cultural training find their justification in the levels of knowledge demonstrated by officers about native people and communities. A 1985 study found a meaningful proportion of sample R.C.M.P. officers described themselves as having only a "fair level" of general knowledge about native Indians. Officers were found to be most aware of the social and economic conditions of native Indians, and least aware of the history, culture, and traditions and the relationship between native peoples and the government.<sup>47</sup> These results clearly indicate the need for increasing the level of cross-cultural training.

A similar lack of knowledge can be found among native Indians, particularly concerning their legal rights and to the degree they understand the criminal justice process. Two supporting studies found almost 90% of the native Indians interviewed said they needed more information about their legal rights. Directly related to the issue of knowledge of legal rights is the issue of coercion. It was discovered that natives

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<sup>46</sup> Loree, D. J., Policing Native Communities, p. 94.

<sup>47</sup> Ibid.

in some jurisdictions were "highly susceptible to pressures from officers to plead guilty to alleged offenses prior to obtaining legal council.<sup>48</sup>

It has been shown that the lack of legal counsel, as well as the lack of time spent with legal counsel can have significant consequences on how an accused is dealt with in the criminal justice system. A 1991 survey discovered that Aboriginal inmates not only spent considerably less time with their lawyers than non-Aboriginal inmates, but Aboriginals who have been accused are more likely than non-Aboriginals to appear in court without a lawyer. While 61% of Aboriginals surveyed saw their lawyer three or fewer times, 63% of non-Aboriginal respondents saw their lawyers four or more times. Further, nearly half of the Aboriginal respondents saw their lawyers for less than an hour in total, compared to 46% of non-Aboriginal respondents who spent three or more hours with their lawyers.<sup>49</sup> The time spent with lawyers is relevant in order to demonstrate what can happen to a Native offender along the route through the criminal justice process.

Further, because police are on the "front lines" of the legal

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<sup>48</sup> Ibid.

<sup>49</sup> Hamilton, Sinclair, Op Cit., p. 102.

process it is important for them to be aware of what might happen to an offender as they move through the criminal justice system. Officers might not be so quick to over-police Natives, especially for minor first offenses, if they knew just how difficult the process can be for the Native offender.

## CONCLUSION

An examination of the accessible criminal justice statistics shows some recurring themes in native offender patterns which directly impact upon police practices and services. Native people are consistently over-represented in Canadian correctional institutions when compared to non-natives. However, it has been shown that crime rates vary considerably among Canada's native communities and therefore are a focus of concern. The fact that all Native communities do not experience the same rates of crime reveals the obvious fact that not all Native communities are the same. Therefore, stereotyping native communities in terms of levels of crime does nothing to further understanding and improving relations. Each Native community must be dealt with in an individual fashion in terms of decreasing the levels of crime and incarceration and the same applies to improving relations.

It is apparent that native offenses are strongly related to the excessive and pervasive use of alcohol and substance abuse. This characteristic, in combination with the prevalence of less

serious Criminal Code offenses, the relatively low socio-economic status, and the generally high level of unemployment of the majority of Natives, suggests that many problems in the relationship between native peoples and the R.C.M.P. may be more a function of native social disorder rather than an issue of serious criminal activity.

The disproportionate number of arrests of native people may often be incongruent with the nature of the policing problem at hand. It appears native people are subject to extremes in both over and under-policing. In some cases discrimination may also be present. When the police maintain a narrow focus on native criminality their role in the community becomes adversarial. Conversely, when the police under-emphasize their role in native communities many of the policing needs of Native people are likely to go unsatisfied. Without the redefinition of initiatives designed to decrease the rate of Native involvement in the criminal justice system, the demands of on-reserve policing will continue to increase.

In order to better understand the depth of the problem in relations between the R.C.M.P. and Native peoples and what can be done to improve relations, it will be very useful to examine the relationship from an historical perspective. It will be demonstrated that the problems of Native peoples in general, in

relation to the law, are the result of broad social, political and economic factors, which for the most part were and still are, beyond the control of many Natives. It will also be illustrated that the large percentage of Native peoples were forced to adapt to a culture they neither wanted nor really needed, often with devastating consequences for their people. Finally, it will be shown that there is a growing awareness on the part of Canadians in general, and the R.C.M.P. and Native peoples in particular, that these circumstances can no longer be tolerated.

## CHAPTER TWO

## HISTORICAL CONTEXT:

The controversy over relations between native people and the Mounted Police dates back to just before Confederation. The concept that a police force might express Canadian sovereignty and act as a vehicle for maintaining good relations with Natives was first suggested by Prime Minister Macdonald in late 1869, just before the Metis resistance temporarily hindered his goal to incorporate the Colony of Red River into the National Policy. He stated:

I have no doubt, come that will, there must be a military body, or at all events a body with military discipline at Fort Garry. It seems to me that the best Force would be Mounted Riflemen, trained partly as Cavalry...This body should not be expressly military but should be styled Police...<sup>50</sup>

His idea was at first rejected by opposition in favour of a purely military expedition, but was then accepted in the early 1870's, as a means of handling the many unique needs of settling the vast North-West Territories. The North-West Mounted Police (N.W.M.P.) were created under the Federal Act of 23, May, 1873.

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<sup>50</sup> Macleod, R. C., The NWMP and Law Enforcement 1873-1905 (Toronto, 1976) p. 8.



The prefix Royal was added to its title by grant of Edward VII in 1904. The force became the Royal Canadian Mounted Police (R.C.M.P.) when its exclusively western mandate ended in 1920. The Force is a central element in understanding the national design imposed upon western Canada and, by extension, of Canada as a whole.

Most analysts contend, that the N.W.M.P. were established to maintain law and order among the settlers and to protect the indigenous native population from unscrupulous traders and whisky runners. This is the decided view of Griffith and Verdun-Jones. This is also the opinion of Macleod who argues that the only possible Canadian west was a peaceful one. Gray notes, "Aside from sex-and-whisky-based enterprises, frontier Canada was almost unbelievably law abiding."<sup>51</sup> Further, Kelly and Kelly have stated the N.W.M.P. addressed the health and welfare problems of Canada's Indigenous people thereby establishing a positive and friendly alliance. Historian G. Friesen has written that the Mounties very quickly became the most important arm of the central government in its administration of the Northwest. He has stated:

They helped to supervise local Indian affairs, delivered mail, took the census, collected customs duties, provided medical services, established

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<sup>51</sup> Gray, J. H., Red Lights on the Prairies. (Toronto: MacMillan, 1971) p. 2.

meteorological records and crop reports, issued relief supplies, and, perhaps most important, acted as justices of the peace and thus tried the great majority of suspects they apprehended.<sup>52</sup>

Not all observers viewed the establishment and development of one of Canada's emerging national symbols in such altruistic terms. Brown and Brown among others, argue that the N.W.M.P. were established as a semi-military force designed to keep order on the prairies and to "facilitate the transfer of most of the territory of the region from the Indian tribes to the federal government with a minimum of expense and bloodshed".<sup>53</sup> Furthermore, these authors contend that:

the N.W.M.P. did not protect the rights and interests of the indigenous population but rather, collaborated closely with business interests such as the Canadian Pacific Railway, that were involved in the economic development of the prairies and the West.<sup>54</sup>

While there is disagreement over Prime Minister Macdonald's intentions for the force, the Mounted Police were to become a national symbol. Waldon noted, "that to attack the force, which embodied everything that was valuable in the Canadian tradition,

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<sup>52</sup> Friesen, G., The Canadian Prairies: A History. (Toronto: University of Toronto Press, 1984) p. 167.

<sup>53</sup> Brown, L., and C. Brown, An Unauthorized History of the RCMP. (Toronto: James Lorimer, 1973) p. 10.

<sup>54</sup> Horall, S. W., "Sir John A. Macdonald and the Mounted Police Force for the Northwest Territories", in Canadian Historical Review, Vol. 53, 1972, pp. 179-200.

was tantamount to attacking the country itself."<sup>55</sup> Indeed, the N.W.M.P. ensured that peace prevailed in an unstable region that had the potential to become extremely violent. Further, by keeping the peace, the Force allowed the government the time and financial resources to become involved in crucial developmental projects such as the railway and agriculture. By comparison, Friesen points out:

Where the Americans spent \$20 million annually fighting plains Indians in the 1870's, the Canadian government, whose total annual budget was \$19 million, spent less than \$400,000 per year on the Mounted Police.<sup>56</sup>

For the above-mentioned reasons the N.W.M.P. were regarded, at that time, as the most important institution in the territory.

#### HISTORICAL EVENTS:

In order to fully understand how relations between the Mounted Police and native peoples unfolded, it is necessary to briefly examine several key events which transpired before the two groups were introduced, and which ultimately led to the present state of relations.

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<sup>55</sup> Walden, K., Visions of Order: The Canadian Mounties in Symbol and Myth. (Toronto: Butterworths, 1982) p. 2.

<sup>56</sup> Friesen, G., Op. Cit. p. 166.

The idea that native peoples and the R.C.M.P. could utilize one another's expertise in a mutual effort to confront crime was first given formal practical consideration during the mid-nineteenth century. The relevance of this discussion will become more apparent in chapter four, where it will become evident that this practice was one of the seeds which later developed as a solution for the improvement of relations.

According to Depew, the indigenization<sup>57</sup> of police forces in Canada can be traced to the 1850's when native people were first recruited by colonial administrators to carry out law enforcement activities. At this time, indigenization was seen primarily as a utility function benefitting non-natives. This was so for two reasons. First, indigenization almost invariably involved the intervention of natives in non-native affairs because natives were useful in arresting "renegade" Indians and common criminals who sought sanctuary within the confines of native jurisdictions. Secondly, in the early days of law enforcement there was little concern by non-natives for the policing problems experienced by natives within their own communities. Beyond this, native police forces had no legitimate

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<sup>57</sup> Indigenization, with respect to policing, is generally defined as the systemic replacement of non-natives by Natives in the management and operational mechanisms of police agencies. See Depew R., Native Policing in Canada; A Review of Current Issues, p. 27.

basis for existence.<sup>58</sup>

To facilitate a better understanding of the relationship between native and non-native peoples, it will be useful to show that the relationship can be categorized into separate and distinct phases. The following account is largely based on Gerald Friesen's acclaimed interpretation of western history.<sup>59</sup> Following Friesen, we can distinguish four periods in the post-contact native experience:

the first was marked by native equality with Europeans; the second began when native equality was challenged and ended when it was destroyed; in the third, which extended almost to the present, the native existed on a plane of inequality, his destiny shaped largely by whites. The fourth commenced in recent decades and represents a native cultural and political resurgence. In the western interior, the era of equality endured from the 1640's to the 1840's. It was challenged and destroyed in the following half-century. The third era began in the 1890's and ended only in the last generation, about the 1940's. The final era extends from the Second World War to the present.<sup>60</sup>

The first inhabitants of Canada, the native people relied on plants and animals for food and moved regularly between various

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<sup>58</sup> Ibid.

<sup>59</sup> Note: The Report of the Aboriginal Justice Inquiry strongly supports Friesen's interpretation but categorizes relations into three periods rather than four: The Era of Peaceful Co-Existence, 1660-1870; The Justice Regime Under Canadian Rule, 1870-1950; The Crisis in Aboriginal Relations with the Justice System.

<sup>60</sup> Friesen, G., Op Cit., p. 23.

"resource zones according to the produce of the season, the fortunes of the hunt, and their diplomatic relationships with neighbouring groups." In the first two centuries (approx. 1640 - 1840) after the advent of Europeans native peoples hunted, fished, and traded as they had done in preceding centuries. Natives utilised European trade goods such as axes and knives and their lives were altered by some European innovations, particularly the gun and the horse, but most importantly, they continued to exercise control of their domestic economies and their diplomatic alliances.<sup>61</sup>

Relations between western natives and non-natives during this two-hundred year period were distinguished by adaptation, relative peace, and cooperation. To be sure, with the advent of the Europeans in the 1600's fighting between these two groups did occur. However, warfare, particularly savage battles, occurred exclusively in eastern jurisdictions. The west, for its part, experienced skirmishes, uprisings, and rebellions. This relative peace which characterized the settling of the Canadian west was due largely, as has been demonstrated, to the presence of the Mounted Police.

Moreover, native populations in both eastern Canada were

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<sup>61</sup> Ibid., p. 462.

much more affected by losses in numbers by Europeans than European populations were by natives. As historians Finlay and Sprague illustrate, the Huron nation, between 1635 and 1640 were decimated by smallpox; in 1649 they were ravaged by war; then they starved. "Epidemic, war, and starvation was a sequence that would recur again and again as Europeans traded, invaded, allied, and oversaw the destruction of Indians".<sup>62</sup> The historical events which shaped relations in the east would dictate the political, social, and economic outcome of natives in the west.

During the 1870's, several treaties were negotiated by representatives of the Canadian Government and the natives of the western interior, in which native sovereignty over the land was extinguished in exchange for government promises of economic assistance, educational facilities, and the creation of reserves.<sup>63</sup> At the signing of the first treaty at Lower Fort Garry on July 27, 1871, uniformed troops were present as symbols of the power of the crown. Later, the N.W.M.P. would be dispatched to accompany treaty parties during the negotiating and signing of treaties. Their presence established a link between the native community and the federal government. The Mounted

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<sup>62</sup> Finlay and Sprague, The Structure of Canadian History, p.26.

<sup>63</sup> See, The Historical Development of the Indian Act, and The Treaties of Canada with the Indians.

Police were seen then, as they are now, as the "most visible manifestation of power and authority representative of a larger Canadian society, its institutions, customs, and laws."<sup>64</sup>

The signing of treaties and the establishment of reserves marked the initiation of the process describe as "directed social change". In this classic model of social analysis, one social group dominates another, manipulating and forcing it to adapt to the larger culture. In this sense, white Canadian expectations and policies would slowly supplant the ideas and ambitions of the Native people. Eventually, according to some theorists, there would cease to be a distinguishable native identity.<sup>65</sup> Evidence to support this theory can be found in part, with the shrinking size of reserves as early as the period between 1901-12. Due to the insatiable demand for agricultural land by immigrants flooding the west, many reserves were substantially reduced in size during this time, yet Indian people did not appear to realize any social or economic benefit. This process of domination and manipulation was repeated after World War I with the need to re-establish thousands of returning soldiers.<sup>66</sup>

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<sup>64</sup> Loree, D. J, Policing Native Communities, Introduction.

<sup>65</sup> See Ralph Linton, Acculturation in Seven American Indian Tribes (New York, 1940), and Melville Herskovits Acculturation: The Study of Culture Contact (Gloucester, Mass, 1938).

<sup>66</sup> Miller, K., Lerchs, G., The Historical Development of the Indian Act, p. 105.



By the time the Indian Act was passed in 1876, the federal government and its agents had established a system of "wardship, colonization, and tutelage" that limited not only native self-government but native economic development as well.<sup>67</sup> Friesen goes on to demonstrate that the natives of the prairies did not really understand the system of legal negotiation and the subsequent implications of such a process. When treaties were signed the native peoples assumed they possessed full aboriginal rights, but they were not informed of the limitations of the Indian Act. Only later did they learn of these restrictions.<sup>68</sup>

The new justice system, as represented by the consolidation of several pieces of legislation into the Indian Act, 1876, and later revised in 1880, was soon being employed as a means of supervising their established customs and beliefs, their traditional economies, and their politics and education. Friesen points out that the Indian Act was "at once protective and coercive". It aims to protect and nurture Aboriginal people but also to assimilate them into Canadian society.<sup>69</sup> In every

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<sup>67</sup> Ibid.

<sup>68</sup> Milloy, J. S., The Era of Civilization: British Policy for the Indians of Canada 1830-1860, DPhil thesis, Oxford University, 1978, and J. S. Milloy, The Early Indian Acts: Developmental Strategy and Constitutional Change, paper presented to Brandon Native Studies Conference, 1981.

<sup>69</sup> Friesen, G., The Canadian Prairies, A History p.157.

aspect of life from criminal law to education, and religious expression, from hunting to agriculture, from voting to the use of lawyers, Aboriginal peoples encountered regulations that restricted their freedom.<sup>70</sup>

Traditional systems of government were replaced by a confining and illusory form of democracy in which the real power rested with the federal government in the name of an Indian agent. Indian agents supervised voting, chaired meetings, kept official records, decided when, where, and if the chief and council would meet, and controlled the council's agenda.<sup>71</sup> Through An Act to amend "The Indian Act, 1880, all Indian agents were given significant power, by being appointed as justices of the peace. Each agent had full authority to conduct trials anywhere in the country involving Indians charged with disobeying the Indian Act or with certain crimes under the Criminal Code.<sup>72</sup> As a result, Indian agents could direct the police to prosecute "troublemakers" and then could judge them accordingly.<sup>73</sup> The Act also meant that the personal mobility of the Indian was severely restricted. Many hunting parties in

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<sup>70</sup> Hamilton A., Sinclair, C., Report of the Aboriginal Justice Inquiry of Manitoba p. 64.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid., p. 65.

<sup>73</sup> Ibid., p. 65.

search of food had to be rounded up and brought back to the reserves by members of the North-West Mounted Police. Moreover, in some instances the police were charged with the task of seeing to it that Indians never left their reserves unless they had permission from the Indian agent.<sup>74</sup> These types of practices marked the beginning of a period when relations between the Mounted Police and native Indians began to deteriorate.

Due to the wide discretionary powers of Indian agents there was a great danger that some agents could have abused their authority.<sup>75</sup> Further, the use of agents was only applied in cases where native peoples were involved. In other words, Non-Natives were entitled to a fair and impartial trial with legal representation. It soon became obvious to the Native that a double-standard was applied based on race. Since the Mounted Police were the enforcers of this double-standard, native peoples viewed them as part of an unfair process.<sup>76</sup> This would have a significant impact on relations between the Mounted Police and

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<sup>74</sup> Friesen, J. W., The Cultural Maze, (Calgary: Detselig Enterprises, 1991). p. 15.

<sup>75</sup> Cardinal maintains that some Indian agents actively worked to thwart the ambitions of some native individuals, and in particular, native organizations which might pose a threat to the agent's power and potentially to his job.

<sup>76</sup> By virtue of the Indian Act of 1876, Indians were required to carry pass-cards in order to leave and return to their reserves.

native peoples.

#### EARLY RELATIONS:

Both the success and the failure of the "Mounties" in their relations with Aborigines is rooted in the relationship between early society of the western interior and the police force itself. It is apparent that the latter two nurtured the other. Macleod states the officers were crucial in the process:

As a group the officers were elitist, sure of their position in society and, as such men tend to be, secure in their strongly held opinion and attitudes. They came to the North-West determined to mould it according to their image of what Canadian society should be. For these men the frontier environment was not an active force in the shaping of the social order, but a passive framework within which social roles could be worked out.<sup>77</sup>

This opinion is supported by Friesen who argues very convincingly that the western frontier of Canada was highly class-structured. With the arrival of immigrants from Ontario in the 1870's, the west was assumed to have, as did the rest of Canada, a "better class", and "lower elements". Further, within this general grouping the Mounted Police officers were virtually the "cream of the crop". Stability was the ideal of the middle-class society, and the Mounted Police, who shared this ideal,

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<sup>77</sup> Macleod R. C., The NWMP and Law Enforcement pp. 7-72.

ensured that it would be maintained. Friesen goes on to state:

They (officers) were Anglican or Roman Catholic in religion, and experienced in military affairs. They were well-educated,..., and, as in other cases where federal political priorities had to be respected, they represented the regional, ethnic, and religious balance of the national population.<sup>78</sup>

Studies show that the social influence of the officers was enormous; they did indeed ensure that the "better element" would set the tone of society in the Canadian west.<sup>79</sup> The consolidation of this pretentious social attitude was the by-product of the traditional British and European way of thinking. For example, the presumption that only officers were gentlemen, and that other ranks must be recruited from the lower elements of society appears to have influenced perceptions of Natives and the role they might have played in establishing, early in the relationship, a policing alliance.<sup>80</sup> Ultimately, this attitude would have a negative impact upon relations.

According to one of the more contemporary comprehensive assessments of the Mounted Police, historian W. Morrison has written, that the attitude of the Force toward the native community was not as heroic as it is so often portrayed by non-

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<sup>78</sup> Friesen, G., The Canadian Prairies, A History p. 169.

<sup>79</sup> Ibid.

<sup>80</sup> The Bill carried no reference to a multi-racial force.

native historians. Morrison has stated, "the evidence in police records shows that they looked upon them (Natives) with a mixture of paternalism and contempt."<sup>81</sup> Moreover, Morrison claims, "the evidence of contempt is massive.". He has demonstrated the following:

...for the police they (Natives) were always "lazy"; the word appears like a Calvinist refrain through their reports..."the more you do for them the more you may"...often seen as "a dirty nuisance"...the police took an unsentimental view of the Indian... and they judged them inferior.<sup>82</sup>

Morrison draws the conclusion, that the effects of poverty which are so often misunderstood and misrepresented (and the complete failure to comprehend that before the arrival of Europeans on the North American continent Natives generally, enjoyed highly successful survival patterns), became in the mind of the police inextricably associated with the native identity.

Further evidence to suggest that the Force might not be as extraordinary as popular myth might have us believe, can be found in the work done by J. Milloy. He illustrates that if ever there was a case of a "public facade of morality and private hypocrisy" it could be found in the Victorian and Edwardian standards of the time. Further, within the Force this attitude was particularly

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<sup>81</sup> Morrison, W. R., Showing the Flag. (Vancouver: University of British Columbia Press, 1985) pp. 144; 167.

<sup>82</sup> Ibid.

evident with respect to women, but nowhere was it more evident than in the Force's treatment of native women.<sup>83</sup> "Members...were expected to adhere to the strictest code of Victorian morality," and the careers of married men could be damaged or ended by "irregularity".<sup>84</sup> However, the Force's hierarchy was tolerant of what Morrison terms "liaisons" with native women - a convenience to men stationed in isolation for considerable lengths of time. When it came to the question of marriage though, orders were issued that there were to be absolutely no marriages of any kind with native women.<sup>85</sup>

During the fur trade it was common for marriage "a la facon du pays". However, as Sylvia Van Kirk has established, cross-cultural marriage was not acceptable among new Canadians of the West.<sup>86</sup> The police were not exempt. When an Anglican missionary was asked by an officer for permission to marry a native woman, the missionary declined saying, "he would prefer reporting to Ottawa that the officer had blown his brains out,

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<sup>83</sup> Milloy, J.S., A Partnership of Races-Indian and White, Cross-Cultural Relations and Criminal Justice in Manitoba, p.140.

<sup>84</sup> Morrison, W. R., Showing The Flag, p.151.

<sup>85</sup> Milloy, J.S., Op Cit., p. 141.

<sup>86</sup> Van Kirk, S., The Custom of the Country: An Examination of Fur Trade Marriage Practices. See also, Sylvia Van Kirk, Many Tender Ties: Women in Fur-Trade Society in Western Canada, 1670-1870 (Winnipeg: Watson and Dwyer, 1980) p. 4.

though he did not at all protest the current relationship."<sup>87</sup>

To be fair, the Mounted Police were not exceptional in their views towards cross-cultural marriages or their general view of native people; the Force merely reflected the prevalent norms and values of the majority of Canadians. The Mounted Police, as Morrison rationalises:

displayed an attitude of Social Darwinism typical of their era...Few Canadians...were so free of ethnocentrism that they would have granted the native people equality, either in theory or in fact; thus, the police held no more than the current public and official view.<sup>88</sup>

According to Friesen, Milloy and Miller, ethnocentric attitudes were the result of the unfolding of Canadian culture in the west. Structures designed to control and reshape the environment, in the image of eastern culture, appeared before settlers, who in turn, were influenced by this eastern mentality. The pioneer's dream of building a new equalitarian society on the western frontier were altered. Instead, an essentially eastern Canadian culture was to develop. This culture consisted of an

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<sup>87</sup> Morrison, W. R., p. 152. Note: Van Kirk notes, that in most other areas of the world sexual contact between European men and native women had been essentially peripheral to the white man's trading or colonizing ventures. In the Canadian West, however, alliances with Indian women were the central social aspect of the fur traders progress across the country. p. 4.

<sup>88</sup> Ibid., p. xv.



ideal middle-class "order, morality and stability", and was to be nurtured by the politically right of that class; the politicians, journalists, educators, the business elite. The Mounted Police who shared this ideal ensured that it would be maintained.<sup>89</sup> Further, in enforcing the law, the police and most of the officials of the justice system acted not only as agents of justice but also as a cultural force. In other words, "law enforcement was not only about legality but also about the enforcement of cultural conformity."<sup>90</sup> It is in this light, that the political role of the Mounted Police, which called for a policy of assimilation rather than one geared to peace order and good government, must be viewed. Miller has illustrated that it was in the service of that policy, more than for the purpose of protecting natives, that the police endeavoured to enforce it because "it would thwart the movement (for land claims and other treaty promises) of Indian politicians among the reserves".<sup>91</sup>

Milloy argues convincingly that those who were unable to

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<sup>89</sup> Friesen, G., The Canadian Prairies, p.170.

<sup>90</sup> Milloy, J. S., A Partnership of Races, p. 142.

<sup>91</sup> Miller, J., SkyScrapers Hide the Heavens. A History of Indian-White Relations in Canada, (Toronto: University of Toronto Press, 1989) p. 192. See also, The Dispossessed. See also the work done by Friesen, p. 171. Note: It was also used in an attempt to enforce compulsory school attendance and the prohibition of a native religious ceremony known as the Sun Dance.

adequately adjust to an appropriate middle-class lifestyle, or those who were determined to defend and maintain their traditional culture, (or even those who advocated values that challenged the established order), or those who "were damaged beyond repair by the relentless development of a modern society", would be seen largely as repudiating the cultural framework of the "establishment" and would thus be viewed as a threat to stability. Milloy continues by arguing that, "in some way they would have to be reduced to order" by the dominant society in order to fit with the acceptable norms and attitudes of the time.<sup>92</sup> When it became increasingly obvious that a large majority of natives were not, for reasons beyond their control (and which will be discussed later) adjusting to the dominant society's definition of success, native peoples increasingly turned to recapture their traditional cultures in order that they might recapture their own unique identity and embrace those values which they deemed important. Unfortunately, the foundations of their culture (including some languages and certain ceremonies like the Potlatch and Sun Dance) had either crumbled somewhat over the years or had been altogether outlawed.<sup>93</sup> As a result, many Natives felt lost or trapped

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<sup>92</sup> Milloy, J. S., A Partnership of Races, p. 143.

<sup>93</sup> Prime Minister Macdonald's government had imposed a sentence of two to six months imprisonment for anyone found guilty of participating in either the Potlatch or Tawanawa dance. Local officials and missionaries described these dances as

between cultures.<sup>94</sup> As the victim is sometimes blamed, they too were so designated and defined largely by the dominant society as a problem of their own making. The police and the criminal justice system were to deal with them accordingly.<sup>95</sup>

Interesting to note is the assertion by both Friesen and Morton who maintain that Native economies in the Americas were not more "impoverished, precarious or more miserable than their contemporary European counterparts". Such findings help to dispel the predominant myth (of that time and even today) that before the advent of European society in Canada, Native economies were "solitary, poor, nasty, brutish and short."<sup>96</sup> Indeed, recent

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"debauchery of the worst kind" and were considered by the Deputy Superintendent-General to have "pernicious effects" upon Indians. In a sense this was landmark legislation because it represented the first in a long series of attempts by Parliament to protect Indians from themselves. See, Miller, K., Lerchs, G., The Historical Development of the Indian Act, pp. 81-2.

<sup>94</sup> For a fuller understanding of what it means to be caught between cultures see, Canadian Corrections Association, Indians and the Law. p. 56.

<sup>95</sup> This conclusion is also supported by former R.C.M.P. Assistant Commissioner J.B.D. Henry, who has stated publicly, with respect to relations between native peoples and police, that mistakes have been made in the past and there comes a time when we (society) must recognize this fact and do something to correct the problem. This view was expressed by Henry at The Canadian Public Personnel Management Association symposium on Race Relations in the Integrated Workplace, at the Winnipeg Convention Centre, May 20, 1993.

<sup>96</sup> Hobbes, T., Leviathan, C.B. MacPherson, ed., (Middlesex, England, Penguin Books, 1968). Part 1, Chapter 13.

studies of hunting-gathering-fur-trading societies suggest that natives may have lived a life of relative "comfort and plenty."<sup>97</sup> The hunter-gatherer-trader did not labour constantly in search for food. In fact, it is apparent that when societies gave up a hunt-based economy in favour of agriculture, the actual per capita work-load increased. The argument that native societies were impoverished depends, of course, upon a "subjective evaluation of material accumulation". Friesen argues, that if we view human needs as being finite - "perhaps consisting of health, food, shelter, a sense of belonging to the universe" - then these societies were as "wealthy as they wished".<sup>98</sup> Because these societies chose the easier life of hunting, they necessarily accepted the need for mobility and the unsuitability of property accumulation. When their traditional way of life was so drastically altered by a society with a different value system, problems in relations began to develop, including those between the R.C.M.P. and native peoples. Prior to reserve-based life though, the hunting and gathering societies of the western interior realized "economic, political, and religious arrangements as satisfactory and conducive to human happiness, for most members of the community, as those of any other

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<sup>97</sup> Friesen, G., The Canadian Prairies, A History, p. 20.

<sup>98</sup> Ibid.

society".<sup>99</sup>

#### SOCIAL AND ECONOMIC CIRCUMSTANCES:

As just illustrated, generalizations about broad patterns of conduct within diverse cultures can be deceptive, therefore a number of supplementary points must be made in order to clarify certain aspects of native social organization vis-a-vis policing. The political and diplomatic decisions of the plains and woodlands bands of the western interior were normally taken after discussion in councils composed of most of the male adults.<sup>100</sup> The band leadership exercised authority in the usual areas of jurisdiction and were generally chosen by ability as well as by heredity. According to Friesen, the style of leadership was one which exercised authority by persuasion and example rather than by commands or force. Further, this system of government may seem casual by today's standards, but it satisfied the needs of their society. Police functions were regularly performed during summer gatherings by a warrior order, particularly during the critical buffalo hunts when discipline was integral to success.<sup>101</sup>

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<sup>99</sup> Sahlins, M., Stone Age Economics, pp. 1-39.

<sup>100</sup> Friesen, G., The Canadian Prairies, A History, p. 16.

<sup>101</sup> Ibid.

Understanding these and other fundamental elements about certain native societies contributes to a better understanding of how ethnocentrism can cause relations to deteriorate and, how cross-cultural awareness can serve as an excellent basis for improving relations. It has been illustrated, cross-cultural education was not a significant component in the early evolution of relations between natives and non-natives; only quite recently has it developed as a more prevalent and effective means of improving relations. This and other solutions to problems in relations will be discussed in chapter four with specific reference to policing.

Trends showing how the evolution of regional and national economic forces also played a role in shaping relations between natives and non-natives can be found when one examines, even the most briefest of economic sketches. Milloy has illustrated from Confederation to the mid-twentieth century, native communities were either "marginalized", separated from the central dynamic of regional economic development and thereby impoverished, or they continued to exist in the old west and thus within the traditional fur trade relationship with whites.<sup>102</sup> In any case, their experience did not include involvement with courts and jails to any significant degree, as it has for the latter

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<sup>102</sup> Milloy, J. S., A Partnership of Races, pp. 124-125.

part of this century. In other words, the roots of the problem were beginning to take hold but the problem itself would develop later. One can begin to see more clearly now, that relations had already entered the third era as outlined by Friesen, in which Natives had lost much of their autonomy. Their destiny was now being largely shaped by whites.

Evidence to support this era of growing inequality can be found in statistics covering a 20 year period (1913/14-34), on the inmate population of the Headingly Prison. These figures disclose, that on average, the percentage of native inmates during this period was 0.70%. It only went over 1.0% in 1928 (1.1%), 1932 (1.5%), and in 1924 it reached a record high of 1.8%. In terms of actual numbers, the record high was 25 of a total of 1578 inmates in 1932. In a group as small as 567, in 1913, there were only 6 natives. A group as large as 2956, in 1930, had 19 native inmates.<sup>103</sup> On a national scale, at the beginning of the first decade of this century, "It was very unusual too, for native persons to be involved in any criminal activity". Among the 1423 people incarcerated in Canadian penitentiaries, only 57 were classified as either Indians or mixed ancestry.<sup>104</sup> But by the middle of this century, as

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<sup>103</sup> Ibid., p. 125.

<sup>104</sup> Fidler, M., Steven, J. R., Killing the Shamen, p. VII.

shown previously, incarcerations rates began to reach epidemic proportions. By the 1990's, relations between the R.C.M.P. and Aborigines had developed into a full-scale problem.

This notable shift in the history of relations was the result of several factors working simultaneously to bring about a situation which was very much beyond the control of most native communities. The unfolding of these events would eventually help to determine the current state of relations between Native peoples and the R.C.M.P.

Two very significant factors which influenced the outcome of present-day relations were the advance of agriculture and then the industrial frontier.<sup>105</sup> Roughly up until the mid-1940's, hunting, fishing, trapping and trading was still a part of the way of life for many native bands. For many native communities these activities were carried out not only as a means of maintaining their preferred and traditional way of life, but also as a necessary means to supplement their incomes from government transfer payments. Often times these activities were carried out

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<sup>105</sup> Jackson, M., Locking Up Natives in Canada: A Report of the Committee of the Canadian Bar Association on Imprisonment and Release. (Vancouver: University of British Columbia Press, 1988). See also, Finlay, J.L., and D.N. Sprague, The Structure of Canadian History, Friesen, G., The Canadian Prairies: A History, and Milloy, J.S., A Partnership of Races.



just to meet a lifestyle of bare subsistence.<sup>106</sup> Further, the natural resource base for many reserves was not large enough to sustain a growing population. In some cases reserves were located on extremely unproductive land, making it difficult or almost impossible to support even a static population for a any length of time, let alone one that was growing rapidly.<sup>107</sup>

The West was marked out primarily for agricultural development with farm and market connected by rail and an expanding and improving road system. Though farm production remained central to the western economy, by the late 1930's diversification had clearly occurred. Commercial fishing, mining, pulp and paper and hydro-electricity industries had developed along with a growing urban manufacturing base. The rapid expansion of these industries coupled with the swelling tide of immigration from the East and from Europe, left many reserves like "islands surrounded by a sea of occupied farm lands and industry."<sup>108</sup> Eventually, many reserves would either feel the pressures from non-native encroachment, or in some cases, be

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<sup>106</sup> York, G., The Dispossessed: Life and Death in Native Canada

<sup>107</sup> Robertson, H., Reservations Are For Indians, Second Edition (Toronto: James Lorimer and Company Ltd., 1991).

<sup>108</sup> Milloy points out, "that according to Departmental plans framed in the 1870's, agriculture development was to spearhead the process of cultural change that would induce assimilation", in Partnership of Races, p. 107.

completely disrupted and forced to relocate altogether in order to make way for the advancing dominant culture.

It has been demonstrated that even though some aboriginal communities saw the need for change and made every effort to adopt an agricultural way of life, they were never given a chance to succeed.<sup>109</sup> Although the federal government had established assistance programs for Native peoples to develop and improve their reservations through farming and agriculture, it soon became clear that the provisions they were promised were far short of the assistance many reserves required to be successful at farming their lands.<sup>110</sup> Robertson has illustrated that in 1877, the entire Indian population of Saskatchewan received "two ploughs, two harrows, 13 spades, 18 axes, and 41 hoes, four oxen, one bull and one cow". Further, these provisions were of the most inferior quality.<sup>111</sup> Other examples of the lack of commitment by the federal government to fund native enterprises to a successful level can be found in the works of York, Milloy, Cardinal, Jackson, Boldt and Long.

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<sup>109</sup> Tobias, J., "The Subjugation of the Plains Cree, 1879-1985", in Out of the Background, pp. 190-219.

<sup>110</sup> Cardinal, H., The Unjust Society, York, G., The Dispossessed.

<sup>111</sup> Robertson, R., Reservations Are For Indians, pp. 28-9.

The ambiguity of the federal government had become by the mid-1940's, blatantly obvious. The government not only expected Natives peoples to end their "savage" and largely nomadic way of life in favour of the white "civilized" way, thereby assimilating them into the dominant culture, natives peoples were concurrently isolated from the dominant population and were given inadequate assistance. This dichotomy of government policy established right from the very beginning a pattern of relations which would eventually prove quite disastrous especially for native peoples.<sup>112</sup> Largely as a result of social, economic and political circumstances beyond their control, native peoples would be relegated to the lower strata within the dominant society, and dealt with accordingly by the police and the criminal justice system.

Similar circumstances existed in two other areas of potential growth: forestry and fishing. Again, the government did not provide the necessary capital to purchase equipment or set up skill training and education for successful Aboriginal enterprises. As a result, development in these areas was

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<sup>112</sup> Most authors agree that the government's implementation of this practice would initiate the chronic pattern of dependency of native peoples on government assistance.

minimal.<sup>113</sup> Due to the lack of necessary capital native peoples could not compete easily, if at all, in the labour market or in resource development. Further, the hunting and fishing rights of aboriginal people were weakened by the Indian Act. Section 73 allows the federal government to pass regulations to limit hunting and fishing on reserves, and Section 88 allows provincial governments to put reserves under the jurisdiction of provincial game conservation laws.<sup>114</sup> Milloy maintains that the consequences of these developments "were more varied than the arrest, trial, fines, and imprisonment of individuals for violations (hunting out of season or on Crown land for example)."<sup>115</sup> By the mid-1940's most reserve economies were stagnant and native people had to look beyond the government and

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<sup>113</sup> Coates, K., "Best Left as Indians", in Out of the Background: Readings on Canadian Native History, R. Fischer and K. Coates eds., (Toronto, Copp Clark Pitman Ltd., 1988).

<sup>114</sup> P.R.E. Group, Indian and Northern Affairs, The Historical Development of the Indian Act, Treaties and Historical Research Centre. Further, The Migratory Birds Convention Act of 1917 conditionally prohibited Indians in Canada from hunting all game-birds at any time of the year. This became a national issue for Indians who argued it abrogated treaty hunting rights.

<sup>115</sup> Milloy, p. 118. In 1985, the Supreme Court of Canada upheld the validity of a 1752 treaty that gave Micmacs the right to hunt at all times of the year. The court warned that Indian treaties should not be given a narrow, technical interpretation, but a broad interpretation to reflect the understanding of the Indians who signed the treaties. See, York, G., The Dispossessed, p. 71.

the reserve.<sup>116</sup>

Thus in order to survive, old ways had to be amended by new ways and in doing so many natives sought work outside the reserve. This labour drain on reserves was especially apparent during World War II, when the war brought military service and jobs with good wages for Indians.<sup>117</sup> After the war however, demand for help lessened considerably and more and more Indians were finding themselves out of work. Moreover, because so many Indians took off-reserve jobs during this period their fledgling agricultural programs were seriously jeopardized. When the war ended and those who had served their country and wished to return

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<sup>116</sup> This is the view of most authors and historians including Milloy, Friesen, and York. Heather Robertson has noted that, "reserves stood still until 1946, then began to go backwards. In 1944 12,000 Indian children were without educational facilities. The money spent on all roads on Indian reserves amounted to the cost of one mile of trunk highway. Indians were suffering from epidemics of gonorrhoea and jaundice; drugs were doled out by missionaries; R.C.M.P. constables pulled teeth. 1943, Indian Affairs stated that reserves would be abolished in 25 years. In the intervening period, the Indians continued to put forward objections to their treatment, and today, more than 25 years later, they are still on reserves and still complaining about them", in Reservations are for Indians, pp. 30-31.

<sup>117</sup> The Historical Development of the Indian Act states that Canadian Indian participation in both World Wars was strong. Noel Dyck has given the example of John R. McLeod, a Cree from Saskatchewan, who along with many other Indians enlisted in the Canadian army, in spite of the fact that as an Indian he was "not a full-fledged citizen and could not be conscripted". See, Dyck, N., "Negotiating the Indian Problem", in Out of the Background pp. 273-74.

had little or nothing to look forward to in this sector.<sup>118</sup> By 1976, about one-quarter of the registered Indians lived off their reserves and by 1980, this proportion would reach one-third.<sup>119</sup> Eventually, many native Indians had no choice but to work outside the reserve at such tasks as harvesting wild rice, fishing, hunting, raising cattle, cutting wood, haying and selling various items such as clothing and senega root. Further, native peoples during this time were always just unskilled transient workers for, and never partners in management with, non-native enterprises.<sup>120</sup> Eventually a seasonal pattern of on and off-reserve work was established leading to the condition described earlier as being caught between two worlds. The pattern of government support, which began when native peoples were first assigned to reserves, was deeply entrenched by the end of World War II. By 1949, native peoples were second class citizens in both an economic and political sense.<sup>121</sup> It will be later

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<sup>118</sup> Milloy, p.109.

<sup>119</sup> Statistics Canada, Canada's Native People, See also, Siggner, A., The Growth of the Active Population Aged 15 to 64 Among Canadian Registered Indians From 1975 to the Year 2000.

<sup>120</sup> Milloy, J.S., A Partnership of Races, p. 110.

<sup>121</sup> Until the 1960's, Native Indians were not permitted to vote in federal elections unless they relinquished their Indian status. New Brunswick and Prince Edward Island did not give Indians the franchise until 1963, and Alberta and Quebec refused to allow Indians to vote until 1965 and 1969 respectively, See York, G., The Dispossessed, p. 59.

demonstrated how these factors have contributed to the deterioration of relations between the R.C.M.P. and native peoples.

Poor relations between the R.C.M.P. and native peoples are also the result of the lack of federal resolve to establish and develop schools on Indian reserves as had been promised in treaties, numbers one to five.<sup>122</sup> After all, it has been illustrated that it was the intention of the governments all along, to assimilate natives into the dominant white culture. In other words, financially speaking, it would be in the best interest of the federal government to spend as little as possible establishing schools on reserves. Instead, the government removed native children far away from their homes and their culture (often with the assistance of the R.C.M.P.) in an attempt to "educate and civilize" them.<sup>123</sup> Most analysts agree this

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<sup>122</sup> Morris, A., The Treaties of Canada With the Indians of Manitoba and the North-West Territories (Toronto: Belfords, Clarke and Co., MDCCCLXXX).

<sup>123</sup> Sir Hector Langevin maintained in 1883, in a House of Commons debate, that Indians at these schools would increase their knowledge of agriculture, mechanical skills and general education more effectively away from their traditions and influence of their band. William Patterson, Liberal Member for South Brant, agreed that there would be no solution to "the Indian problem" by "shutting them up in the reserves and maintaining the tribal relation for all time to come". See The Historical Development of the Indian Act, p. 78.

experiment failed drastically.<sup>124</sup> This practice was often met with tragic consequences and did very little in preparing young native people for future employment in either the dominant non-native culture (or even their culture for that matter).<sup>125</sup> Most important for this study, it did little to improve relations between the R.C.M.P. and native peoples.<sup>126</sup>

Almost everywhere in Canada, conditions inside the reserves are deplorable. It will be demonstrated that the extremely poor state of most reserves impacts negatively on relations between

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<sup>124</sup> Largely as a consequence of an ill-conceived federal education policy for native peoples, about 35,000 adult Indians are now considered illiterate and virtually unemployable. See Robertson, Reservations are for Indians, p. 28. See also Siggner, Overview of Demographic and Economic Conditions Among Canada's Registered Indian Population.

<sup>125</sup> Only recently have testimonies by native peoples come forth and been made widely known; illustrating the type of treatment they were subjected to by Missionaries and teachers at schools in an attempt to "civilize" native peoples. Often native children were physically or emotionally abused by teachers for speaking their mother tongue. Incidents of sexual abuse by teachers and clergy have also been documented. See, The Report of the Aboriginal Justice Inquiry of Manitoba, pp. 509-46. See also, Cardinal H., "The Little Red Schoolhouse", in The Unjust Society, pp. 51-61.

<sup>126</sup> In a recent attempt to improve relations between the R.C.M.P. and residents of Northern Manitoba's Garden Hill Indian Reserve, the R.C.M.P. have ignored an order to remove two illegally-held children visiting their grand-parents. Although contempt of court charges will be filed for failing to help the mother who lives off the reserve, the Mounties are ignoring the order because of political pressure from band leaders and for fear of "making waves with the band". See, "RCMP Stall on Custody Order", in The Winnipeg Free Press, April 18, 1993, p. A1.



the R.C.M.P. and native peoples. Because of widespread poverty and welfare dependency, native peoples must wait for government-constructed housing. Increasing populations on generally small-sized parcels of land (some suffering the effects of mercury pollution and hydro development) have resulted in severe overcrowding on most reserves. York found that in 1985, 18 percent of all reserve houses were occupied by two or more families.<sup>127</sup> According to a study commissioned by the Indians Affairs Department, a house is normally considered to be overcrowded when it has more than one person per room. By that standard, 36 percent of all households on reserves are overcrowded. By comparison, only 2 percent of the Canadian population lived in over-crowded conditions.<sup>128</sup>

York has also illustrated that even if a house on a reserve is not over-crowded, it is likely to need major repairs.<sup>129</sup> According to a government study, 47 percent of houses on reserves are substandard, very poor or beyond repair. Further, all of these houses needed "immediate, serious rehabilitation." Only

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127 York, G., The Dispossessed, p. 72.

128 York, G., The Dispossessed, p. 72.

129 I have also personally witnessed these conditions myself. When working for a lumber company one summer in the late 1980's, I delivered building supplies to several reserves surrounding Kenora, Ontario. Most of the buildings were substandard.

11.5 per cent of houses on reserves are in good or top condition.<sup>130</sup> Further examination has uncovered the following statistics:

One-third of all houses on Canadian reserves have no running water. Drinking water is usually collected from a river or an outdoor tap, and outdoor latrines are commonly used. More than half of all houses on Indian reserves have no central heating. Instead, they are crudely equipped with cooking stoves or wood stoves, often homemade ones, constructed of empty barrels. These stoves are a major cause of fires on reserves.<sup>131</sup>

The housing on many reserves is so poor in fact, that it has been described by many observers as barely above the levels of shelter in a Third World village.<sup>132</sup> It will be shown that substandard or unsanitary living conditions can have a significant negative impact upon relations between native peoples and the R.C.M.P.

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<sup>130</sup> See York, p. 73. See also, Robertson, p. 193. See also Cardinal, Indian Conditions: a survey, reported in 1980, that to eliminate the backlog for housing of 2,000 units annually, the current rate of construction (2200 units annually) would have to be doubled for five years, p. 31. Both York and Robertson, et al. have demonstrated that this rate has not improved and that extremely poor housing conditions still exist.

<sup>131</sup> York, G., The Dispossessed, p. 73. York has also found that in the past decade the federal government has spent more than \$600 million on Indian houses that urgently needed replacement. However, the Indian Affairs Department acknowledges that 2000 houses are still desperately needed on reserves. A further 10,000 families on reserves are waiting for housing. And there is still no improvement in the overall percentage of Indian reserve households living in substandard conditions.

<sup>132</sup> Minister of Indian and Northern Affairs, Indian Conditions: a survey. See also, York, Robertson, Siggner et al.

Other factors associated with a breakdown in relations between native peoples and the R.C.M.P. can be found in the appalling lack of medical services on or even near many reserves. Because most reserves are located in remote or isolated areas they must often travel considerable distances to receive medical attention. Moreover, Canada's native people are still dying from "Third World diseases" such as tuberculosis, gastroenteritis, and pneumonia. The rate of tuberculosis for example, on Indian reserves on the Canadian Prairies between 1970-81 was 161 per 100,000. This was ten times the rate of non-natives. Comparatively, the tuberculosis rate for the country of Tanzania for the same period was between 50 to 100 per 100,000.<sup>133</sup> Other diseases such as rickets, meningitis and hepatitis intestinal infections, respiratory diseases, skin and infectious diseases are all much more common among Indians than non-Indians. Rheumatic fever, which frequently results from poverty and overcrowding, occurs four times as often among Manitoba Indians as among the province's non-natives. Infant mortality, another indicator of poverty on reserves, is still twice as bad as the rate among non-natives. If an Indian child survives infancy, there is still a strong chance of premature death. A study in Manitoba found that the death rate among Indian children up to age fourteen was four times greater than the rate among non-

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<sup>133</sup> York, G., The Dispossessed, p. 75.

native children.<sup>134</sup>

The previously mentioned conditions and statistics impact on relations between the R.C.M.P. and native peoples in the following way. According to Siggner demographic factors such as poverty (or poor social conditions) and high unemployment rates tend to be associated with violence (ie. crime), as well as the size and youth of the minority group involved in the criminal activity.<sup>135</sup> Statistics show that the main growth will occur in the "active population" aged 15-64, and will expand rapidly (32%) between 1985 and the year 2000.<sup>136</sup> In the Canadian Indian population Siggner has detected "a rapidly growing and predominantly young active population whose aspirational levels are also growing". Presently, half the Indian population is under 15 years of age.<sup>137</sup> According to Siggner, this population is fairly spread out across the country, but the recent phenomena of "growing Indian cultural consciousness, political awareness, and

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<sup>134</sup> For a recent account of these statistics see York, G., The Dispossessed, pp. 74-6. For a more general account see, Munro, J. C., Indian Conditions: A Survey.

<sup>135</sup> Government findings also strongly support this argument. See, Munro, J. C., Indian Conditions: A Survey, p. 39.

<sup>136</sup> Siggner, A., The Growth of the Active Population Aged 15 to 64 Among Canada's Registered Indians From 1975 to the Year 2000, p. 2.

<sup>137</sup> Robertson, R., Reservations Are For Indians, p. 28.

social movements have led to a crystallization of issues and a crystallization of opinions on these issues."<sup>138</sup> Moreover, in 1975 Siggner stated, that given the current demographic, social and economic conditions it seems very possible that the following could occur:

...a large, young and potentially unemployed population could be prone to civil disobedience and militancy manifested through demonstrations and occupations of government installations, and subsequently degenerate into violent confrontations.<sup>139</sup>

One only has to recall the example of the 1990 land-claim conflict at Oka, Quebec, and the armed standoffs at Kanesatake and Kahnawaka, to put into perspective the severity of the situation that Siggner had warned about. The R.C.M.P. were involved in that confrontation as they were with numerous other recent examples. These include the blocking of roads by native peoples through their reserves in Kenora, Ontario, and the demonstrations by West Coast Indians against forest companies, to name but a few. For obvious reasons, confrontations of this sort impact negatively on the state of relations between these two groups.

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<sup>138</sup> A multitude of authors and academics have maintained this assertion, primarily Siggner, A. J., An Overview of Demographic Social and Economic Conditions Among Canada's Registered Indian Population, See also, Long and Bolt, Depew, Miller, Loree, York, et al.

<sup>139</sup> Siggner, A. J., The Growth of the Active Population Aged 15 to 64 Among Canadian Registered Indians From 1975 to the Year 2000, p. 13.

Furthermore, the poor state of most reserves in conjunction with high unemployment rates has done little to encourage aboriginal youth to aspire toward a positive self-image of themselves or their culture. As previously illustrated, the R.C.M.P. are by tradition and historic precedent, generally viewed by the majority of native peoples to be more closely associated with the protection and promotion of the cultural norms and values of the dominant society, than with native cultural norms and values. It has also been illustrated that this end has been achieved not only through the means of law enforcement, but through cultural enforcement as well. Many aboriginal have shown, and are still showing everyday, the symptoms of alienation from the dominant culture. It has been demonstrated that these symptoms have often manifested themselves in the form of crime. This in turn, has impacted negatively on relations between themselves and the R.C.M.P.

Further evidence to support the previous association of crime and poverty (and the declarations made by Siggner) can be found in the research conducted by Skoog and Barker. These authors have stated that Aboriginal Canadians are:

simply so far behind in terms of income, education, and access to the amenities and rewards of life that most Canadians take for granted that they find (native peoples) in a situation where conflicts with the law

may be inevitable.<sup>140</sup>

Affirmations such as this beg the question, "is there something unique about Aboriginal culture that brings their people into such high rates of conflict with the law"? In answer to this question, Skoog and Barker suggest, "that it is not so much that differential contact with the law derives from ethnicity but from cultural ethics obtained from class position." Extensive literature exists on how the process of economic deprivation leads to the development of a unique culture, ie. "the culture of poverty".<sup>141</sup> Frideres commenting on Canadian Aboriginal people has stated:

As individual are prevented from entering the modern economy, a cultural ethos emerges which is quite different from that expressed in the modern economy. Anthropologists have referred to this distinctive ethos as the "culture of poverty". When the goals of higher status are denied to people, other forms of adaptations are created, for example, withdrawal and rebellion, in order to deal with the despair and hopelessness that are central to this culture. This encourages individuals to develop a different perspective on life and on how to deal with everyday occurrences. Once an individual is placed within the traditional culture of poverty, it is almost impossible to get out.<sup>142</sup>

From this perspective, these authors agree that what must done to

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<sup>140</sup> Skoog, D., Barker, I., Effects of Contact With Police Among Aborigines in Manitoba - Final Report, A. Reid ed., p. 24.

<sup>141</sup> Ibid.

<sup>142</sup> Frideres, J. S., Canada's Indians: Contemporary Conflicts, pp. 372-73.

solve the problem of over-representation (and systemic discrimination) in the criminal justice system involves a real commitment to improve the economic and social conditions that have resulted from some hundred years of economic domination by white society. Further, only when this development occurs can any greatly significant and sustained improvements be made in the relationship between native peoples and the R.C.M.P.

Another extremely important factor which is closely associated with an historical decline of relations between the R.C.M.P. and native peoples has been the ongoing struggle with alcohol. Since the introduction of alcohol to native culture by whites as a trading commodity, alcohol has developed into a problem of epidemic proportion. Largely in response to the growing border liquor trade problem, the Mounties and Indian Affairs, in 1944 began to discuss ways of providing constables for reserves throughout the country. Prior to this, because relations were still more casual than intense, the system for policing reserves remained patchwork, with only some reserves being policed. Plans by the federal government to expand its policing network rested largely on finances.<sup>143</sup>

Evidence to illustrate the growing concern that liquor

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<sup>143</sup> Milloy, J.S., A Partnership of Races, p. 133.



trafficking was growing out of control, and of the difficulties the R.C.M.P. were having controlling this problem, can be found in the exchange between the Chairman of the Special Joint Committee and Chief John Thompson. Chief Thompson stated:

I would say something about that, Mr. Chairman...There is a lot of liquor all around the reserve. It is right up to the edge of the reserve, and it comes into the reserve; and the mounted police cannot stop it. I went to the mounted policeman and I told them there is a flood of beer around here, and the mounted policeman said: "I can't stop it", so I says to him, why not? <sup>144</sup>

It would later become apparent that the answer to Chief Thompson's question was, in part due to a lack of federal resolve. The failure by the federal government to settle this issue, via the R.C.M.P.(who were charged with the responsibility to control the problem), would be viewed in the eyes of Aborigines, as yet another example where a treaty promise (in this case to protect natives from liquor), had not been kept.<sup>145</sup> The government sought to correct the problem by

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<sup>144</sup> Ibid., p. 134.

<sup>145</sup> As outlined in Treaty No. 1, Morris, A., p. 31. "The principle features being the relinquishment to Her Majesty of the Indian title...providing for the prohibition of the sale of intoxicating liquors on the reserves". Treaty No. 6 states, "Her Majesty further agrees with her said Indians that within the boundaries of Indian reserves, until otherwise determined by her Government of the Dominion of Canada, no intoxicating liquor shall be allowed to be introduced or sold, and all laws now in force or hereafter to be enacted to preserve her Indian subjects inhabiting the reserves or living elsewhere within her North-West Territories from the evil influence of the use of intoxicating liquors, shall be strictly enforced". in The Treaties of Canada with the Indians, p. 353.

increasing the presence of the R.C.M.P. on more and more reserves. This action, coupled with the federal policy of assimilation gradually caused tensions to increase.

Beginning in the late 1960's, the subject of native policing became increasingly important as a focus of attention for criminal justice agencies, government officials, and Native people in Canada. Changes in the political circumstances of native individuals, associations and communities have already been identified as the primary impetus behind redefinitions of native policing. Further, it has been shown that patterns of native involvement with the law are distinct, in relation to the general Canadian population. The recognition of this fact has also led to a review of policies and programs aimed not only at the administration of current native policing arrangements, but also at the complexities of policing native communities and how they should be dealt with within the general scope of non-native law enforcement.

Up until the early 1970's, the bulk of policing services across Canada were provided to aboriginal communities, including those in Quebec and Ontario, by the R.C.M.P. which had

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For a list of unkept or narrow versions of treaty promises by the federal government, see The Report of the Aboriginal Justice Inquiry of Manitoba. pp. 115-210.

detachments in most of the larger native communities. The R.C.M.P. performed this responsibility as a function of their federal role in enforcing the Indian Act, consistent with the then current view that the federal government was responsible for all aspects of Indian Affairs.<sup>146</sup>

Although policing is within provincial legislative jurisdiction, policing on Indian reserves gives rise to special considerations.<sup>147</sup> These considerations have led to the establishment of special Federal-Provincial arrangements for reserve policing. The federal government has the constitutional authority to legislate with respect to law enforcement on reserves under Section 91(24) of the Constitution Act, 1867.<sup>148</sup> Thus it has the power to establish band and tribal police forces through the application of its Section 91(24) authority. To date, it has not chosen to exercise this authority, but has contributed financial assistance to a range of policing services.<sup>149</sup> The provincial governments have constitutional jurisdiction over the administration of justice within each

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<sup>146</sup> Cadieux, P. H., Indian Policing Policy Review, p. 7.

<sup>147</sup> The Canadian Constitution, 1982, Sec. 92(14).

<sup>148</sup> Ibid., Sec. 92(24).

<sup>149</sup> Cadieux, P. H., Op Cit., p. 7.

province, including policing (Section 92(14)).<sup>150</sup> Legally this will authorize on-reserve law enforcement, providing that the terms of Section 88 of the Indian Act are met.<sup>151</sup> The provincial and territorial governments also have an obligation pursuant to the Charter of Rights and Freedoms "to provide equal treatment in the provision of government services to all residents of the provinces or territories."<sup>152</sup>

Recently, there has been a sense of urgency to develop comprehensive native police programs at and beyond the reserve level. Depew attributes this to the "accelerating social and political relevance of a wider range of Indian, Inuit and Metis groups and organizations across the country".<sup>153</sup> Depew explains, that socially, native policing is an issue that has an impact on the broader concerns of native cultural identity and community survival. And politically, native policing is a major item which continues to be presented by Indian, Inuit and Metis organizations to all levels of government.<sup>154</sup>

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<sup>150</sup> The Canadian Constitution, 1982, Sec. 92(14).

<sup>151</sup> Cadieux, P. H., Op Cit., p. 9.

<sup>152</sup> Ibid.

<sup>153</sup> Depew, R., Op Cit. p. 36.

<sup>154</sup> Depew, R., Op Cit. p. 36.

**CONCLUSION:**

Historically, aboriginal peoples have seen the R.C.M.P. as representatives of a culture which is immensely unlike their own. Their encounters with the R.C.M.P., are for the most part, rooted in a history of cultural oppression and economic domination, during which the use of Aboriginal languages, governments, customs and religion was penalized by laws developed by the same legal structures the R.C.M.P. represent. Although, today's R.C.M.P. cannot be blamed for the historical circumstances of aboriginal peoples, the R.C.M.P. must understand the background which has affected the conditions in which most native peoples find themselves today.

It has been illustrated that natives peoples do not enjoy the same standard of economic well-being as the general Canadian population. As the previous research has suggested, low levels of employment and the socio-economic circumstances of Indians help to explain the reasons why native peoples are at high risk in terms of coming into conflict with the law. In turn, this situation has a direct bearing the relationship between native peoples and the R.C.M.P. Without programs which can change the rate of Aboriginal participation in the criminal justice system, the demands of the on-reserve native population on the criminal justice system will continue to increase at a rate much higher than could be expected from the Canadian population as a whole.

Over the last twenty years there have been substantial and inescapable pressures brought to bear on the federal government to articulate a clear and concise policy of on-reserve policing. In order to respond to these pressures, there was and still is, a need for innovative approaches to the issues of responsibility and methods for policing reserves. Over the last two decades, native groups and organizations have been demanding equality of access to suitable policing services, at a level and calibre available to non-native communities in their region. The principle thrust of their argument has been that equality in essence cannot be obtained by dealing with people in unlike situations in the same manner. In other words, if the problem of over-representation by native peoples in the criminal justice system is to be properly addressed, then allowances have to be made for social, cultural and historical differences between native and non-native peoples. Given the very high levels of over-representation by native peoples in the criminal justice system in comparison to non-native statistics, it appears that allowances for cultural, social, and historical differences have not always been taken into account. This is especially true when viewed in the context of the types of crime typically associated with the incarceration of native peoples.

While certain initiatives by the R.C.M.P. have constituted a sincere attempt to fulfil the objective of improving relations

between the Force and native peoples, these strategies, for various reasons, have not always been completely successful. However, these approaches have provided important examples of both suitable and unsuitable courses to follow in the complex area of race relations. The following chapter will examine the major developments in the relationship between native peoples and the R.C.M.P. over the last twenty years.

## CHAPTER THREE

Several observers have demonstrated that prior to the mid 1960's, the federal government displayed a lack of commitment to native cultural factors as an element in the formulation of native policing policies and programs.<sup>155</sup> However, after the mid 1960's, (partly in response to increased political pressure by aboriginal organizations calling for more control over their own affairs ie. native self-government, and Aboriginal rights, including issues of native policing), there is an effort on the part of the federal government to improve relations between the R.C.M.P. and Canada's native peoples. This effort was to be realized by placing native policing within the broader context of culture and community. Evidence of this can be found when the Department of Indian Affairs and Northern Development (DIAND) commissioned a study by the Canadian Correctional Association which tabled a report in 1967, entitled Indians and the Law. This report made a number of recommendations relating to the improvement of the policing services provided to Indian communities, including the expansion and improvement of the band constable system.

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<sup>155</sup> Depew. R., Op Cit., p. 27.



Further evidence showing renewed government interest in improving policing relations can be traced to the late 1960's. A program known as Circular 34 was published in 1969 and effected an increase in the number of band constables from 61 in 1968 to 110 in March, 1971. This program was further delineated by Circular 55, released in September, 1971, which provided that the objective of the band constabulary was to "supplement the senior police forces at the local level, but not supplant them".<sup>156</sup> This was an important step in improving relations, but as Depew states, "for federal authorities and Native people the crucial issue remains the specific institutional interpretation to be given to indigenization."<sup>157</sup> It should be noted that, indigenization in this context, is synonymous with affirmative action.<sup>158</sup>

It is assumed that the implementation of indigenization or affirmative action programs help to improve relations between native peoples and the R.C.M.P., and assist in reducing the level of native involvement in the criminal justice system. The

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<sup>156</sup> Henry, J.B.D., Presentation To: The Public Inquiry Into The Administration of Justice and Aboriginal People. (Ottawa: R.C.M.P., December, 1988). Vol. 1, Part I, p. 9.

<sup>157</sup> Depew, R., Native Policing in Canada: A Review of the Current Issues (Ottawa: Solicitor General of Canada, 1988) p. 27

<sup>158</sup> For a detailed discussion on this see, "Law Enforcement and Race Relations in Canada", in The Reid Report, (Winnipeg: The Angus Reid Group, 1992), Vol. 7, No.7, July/August 1992.

rationale for implementing programs of this type find their justification in a number of ways. First, if the community in question is of a particular culture, ie. language, customs and traditions, then it only stands to reason that the force policing that community would be more effective if at least some of its members were able to speak the language and understand the culture of those with whom they must deal. For example, it would be ludicrous to have only French-speaking police in an English-speaking community, or vice-versa.

Secondly, affirmative action programs convey a clear message that genuine efforts are being made to improve relations. Researchers Skoog and Barker state:

Ideally, the police force should mirror the ethnic composition of the community it serves...The hiring of a small number of Aboriginal officers would be misinterpreted as a transparent gesture designed to pacify relations with police among Aboriginals without allowing Aboriginal officers to make a meaningful impact on the force or on the community it serves.<sup>159</sup>

Further, to a certain extent, non-native police officers tend to be less familiar with local cultures (even after training) and are frequently unprepared to give an understanding and familiar

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<sup>159</sup> Angus Reid Group, "The Effects of Contact with Police among Aboriginals in Manitoba," research paper prepared for the Aboriginal Justice Inquiry, Winnipeg, 1989, p. 76.

evaluation of them as an essential part of policing.<sup>160</sup> It is generally believed that indigenous police officers have a greater capacity, than non-native officers, to minimize the differences between themselves and the natives they police, through the application of culturally-sensitive police discretion.<sup>161</sup> It is the opinion of many observers, that cross-cultural differences between Natives and non-Natives seriously impacts on both native over-involvement with the police and over-representation in the correctional system.<sup>162</sup>

Further grounds for supporting the hiring of Aboriginal people are as follows:

- Aboriginal youth will see such officers as excellent role models.
- The general population will benefit from seeing

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<sup>160</sup> Loree, D. J., Policing Native Communities (Ottawa: Canadian Police College, 1989) pp. 55-60. See also, Angus Reid, Effects of Contact With Police Among Aboriginals in Manitoba, 1989, Van Dyke and Jamont, Through Indian Eyes: Perspectives of Indian Special Constables on the 3B Program in "F" Division (Regina: R.C.M.P., 1980) pp. 108-111.

<sup>161</sup> Ibid.

<sup>162</sup> In an earlier Angus Reid survey, 85% of a group of 78 police officers, judges, lawyers, social workers, community leaders, and crown prosecutors responded that on-going cross-cultural awareness training for police officers was necessary to improving relations with the native community. There was a general awareness among this group that the R.C.M.P. were more culturally aware than municipal or city police forces due to the training they received, however, this assertion did not preclude that the R.C.M.P. could not do more to improve relations. See, Angus Reid, Effects of Contact With Police Among Aboriginals in Manitoba, pp. 32-40.

- Aboriginal people in positions of responsibility, protecting the public peace.
- Aboriginal officers will be able to do preventative policing more effectively among Aboriginal community members.
  - Because Aboriginal officers have a better understanding of Aboriginal culture, they will be better able to determine whether a situation they encounter requires an arrest or can be settled in an alternative way.
  - When making an arrest, Aboriginal officers will be better able to make certain that Aboriginal people understand their rights and what is happening.
  - Aboriginal officers will be better able to assist those wishing to give statements and ensuring that their true intent is reflected.<sup>163</sup>

One of the questions which arises when hiring persons of Aboriginal descent is the degree to which individuals can be characterized as "Native". Some individuals consider themselves to be Aboriginal although they may possess only a very small ratio of "Nativity". For the sake of argument, these individuals might have been socialized outside of their traditional societies, perhaps in the mainstream of the dominant culture. These individuals might use their ancestry only when it is convenient to do so, ie. for the purposes of a job or for receiving benefits. The relevancy of this question is important not only from the legal perspective of who may or may not qualify to be registered under the Indian Act (as discussed in Chapter I), but it is also important in determining which individuals will reflect the norms and values of the communities they are

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<sup>163</sup> Hamilton, A., Sinclair, C., The Report of the Aboriginal Justice Inquiry of Manitoba p. 602.

policing in the closest way possible.

Moreover, the question of reverse discrimination usually arises when affirmative action policies of this type are implemented for the purposes of hiring. However, in the light of fairness, equality and efficacy, one can hardly make a very strong case against the hiring of a certain percentage of native peoples so that the number of native officers is more representative of their total population, especially since it has been shown, that in the past, native peoples have suffered a high extent of hiring discrimination within the criminal justice system, including policing. For these reasons (and for others which will be discussed later), the R.C.M.P. undertook to implement the hiring of native constables. This practice came about in the early 1970's.

Following the 1967 study by the Canadian Corrections Association, and in light of Circulars 34 and 55, a second, more comprehensive study was commissioned. The 1973, Report of the Task Force: Policing on Reserves, explored ways and means of upgrading the policing services provided to Indian communities, and correcting imbalances that exist in the composition of employees. This report focused on the band constable program and the employment of Indians in an inclusive policing role, and suggested the expansion and improvement of the band constable

program.<sup>164</sup> As a native policing policy, its approach was aimed at attaining a number of primary objectives. These have been restated for simplicity as:

- (1) The improvement of police service delivery to native communities;
- (2) The reduction of Native involvement in the criminal justice system;
- (3) The relaxation of tensions between the police and the native community;
- (4) The strengthening of native traditions;
- (5) The participation of native people in the policing process;
- (6) The provision of employment and career opportunities for Native people; and
- (7) The reduction and/or re-direction of non-native police workloads.<sup>165</sup>

In all of the above proposed goals the fundamental ingredient was seen to be the quality and character of the individual native constable. At this level of indigenization it was assumed that a native police officer is the best resource available to both native people and police organizations. In other words, the unique position of the native constable (compared to the non-native) would be "seen as a control for cultural awareness and sensitivity in the policing process and therefore as a guide\agent for appropriate and effective police service delivery

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<sup>164</sup> Cadieux, P. H., Indian Policing Policy Review, p. 7. For purposes of clarification, Band constable systems are those where the principle authority is vested in a Band Council. It should be remembered though, that Band Councils are, for all intents and purposes, responsible to the federal government.

<sup>165</sup> Indian Affairs and Northern Development, Report of the Task Force: Policing on Reserves. (Ottawa, Ont., 1973).

to native communities".<sup>166</sup>

Under the new program native police officers would provide police protection, law enforcement, crime prevention and community relations on reserves and areas adjacent to them.<sup>167</sup> In light of this development, the Task Force examined several options before recommending the adoption of Option 3b. They were as follows:

OPTION ONE - BAND COUNCIL POLICING

- a) By-law enforcement.
- B) Supernumerary Special Constable enforcing by-laws and minor offences.
- c) Supernumerary Special Constable enforcing certain federal and provincial laws.

OPTION TWO - MUNICIPAL POLICING

- a) Purchase of police services from existing forces.
- b) Band would be considered a municipality for policing purposes.
- c) Use of existing police services.

OPTION THREE - PROVINCIAL POLICE

- a) A separate Indian Police Force.
- b) An Indian branch or contingent of an existing police force from which it would be an integral part.<sup>168</sup>

The Task Force results found that Option 3b was given the

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<sup>166</sup> Depew, R., Native Policing In Canada: A Review of the Current Issues, p. 34.

<sup>167</sup> Henry, J.B.D., Presentation To: The Public Inquiry Into The Administration of Justice and Aboriginal People, p. 10.

<sup>168</sup> Ibid., pp. 1-2.

greatest preference by both natives and non-natives. Further, it was acceptable to most provincial governments and police forces. All parties involved expressed two principal reasons for their selection. First, Option 3b would provide a high standard of policing. Secondly, Aboriginals could make a major contribution.<sup>149</sup> The report concluded that Option 3b should be made available to interested bands.

The simplest form of policing, structurally speaking, lay in the existing Band constable program (or variations of this system) where the principle authority resides with a Band Council. The second and third options respectively, become increasingly more complex and sophisticated in terms of structure. The strengths and weaknesses of these options will be discussed later.

These options may be reduced in terms of authority, jurisdiction, administration and support structures, to two distinct categories and a third transitional or intermediary category. According to Depew they are as follows:

- (1) police programs controlled by Natives;
- (2) police programs controlled by non-Natives; and
- (3) "evolutionary" programs that transfer control from

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<sup>149</sup> Ibid., pp. 2-3.



non-Natives to Natives over a period of time.<sup>170</sup>

Further, despite the apparent variance in native policing options, there is a homogeneous premise underlying all of them. Ultimately, police forces servicing would be accountable to non-native government and be moulded in the image of non-native police models and organizations, and be controlled by non-native authorities.<sup>171</sup> The significance of the Task Force not to consider the wider context of native culture and society for the structure of native policing arrangements will become apparent later.

As mentioned earlier, a major milestone in the evolution of native policing was the National Conference on Native People and the Criminal Justice System held in Edmonton in 1975. Aside from the general concerns already expressed by native people regarding the Criminal Justice System, these proceedings drew public attention to a variety of native policing issues that continue to be highly relevant. The key themes expressed by native groups at the conference included:

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<sup>170</sup> Depew, R., Native Policing in Canada: A Review of the Current Issues p. 39. See also, Head, J.B.D., "Native Policing", in Presentation To: The Public Inquiry Into The Administration of Justice And Aboriginal People, pp. 2-5.

<sup>171</sup> Harding, J., "Policing and Aboriginal Justice", in Canadian Journal of Criminology, R. Linden ed., (Ottawa: Canadian Criminal Justice Association, 1984) Vol. 33, pp. 363-83.

- (1) A degree of native control in the administration of justice;
- (2) Native representation in (alternative) justice systems;
- (3) Improved police service delivery via greater access to the police;
- (4) Closer integration of the police with the community; and
- (5) Preservation of native culture via stronger ethnic identities.

A survey conducted by Jolly, Peters and Spiegel points out that the 1973 Task Force on reserve policing had already constructed a policy framework which was intended to address these themes, however their reemergence two years later suggested a measure of Native dissatisfaction with the Task Force's recommendations.<sup>172</sup> According to this survey, the level of dissatisfaction was due to the fact that many senior federal civil servants had not even read the recommendations and there was no attempt to define the terms "justice" and "native services" in relation to native peoples and the law.

The importance of all of these recommendations is the objective of equitable and culturally sensitive policing so that it is directly linked to the participation of native people in the direction, administration and operation of native policing services. What remains to be determined, and what will be discussed later in this chapter and the next, are four primary

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<sup>172</sup> Jolly, S., C. Peters, and S. Spiegel, Progress Report on Government Action Taken Since the 1975 Federal-Provincial Conference on Native Peoples and the Criminal Justice System (Ottawa and Toronto: Solicitor General of Canada and Ontario Native Council on Justice, 1979).

considerations. First, how to provide policing services to native communities in a culturally sensitive way which will meet the level and quality of services available to non-native communities. Secondly, adapting the policing services to reflect the social and cultural environment and the needs of the community. Thirdly, training officers to mutually acceptable standards prevailing in each region. Finally, the extent to which the parties will exercise their responsibilities.

Several and varied native policing programs are either in operation or are available to certain native communities throughout Canada. Native policing programs can be generally grouped into two categories; non-native controlled or native-controlled. A third category involves a transitional or phasing-in process which transfers control from non-natives to native over a period of time.<sup>173</sup> Since the first two categories are by far, more numerically significant they will be the focus of discussion.

Non-native-controlled policing programs include the R.C.M.P. Native Special Constable Program and the Indian policing programs operated by the provincial police in Ontario and Quebec. Native-controlled police programs are separate, autonomous forces which

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<sup>173</sup> Henry, J.B.D., Op Cit., p. 13.

operate on several reserves across the country. These forces range in size from the largest - the Amerindian Police in Quebec (73 constables), to the Dakota-Ojibway Tribal Police in Manitoba (25 constables), to the Blood Tribal Police Force in Alberta (8 constables).<sup>174</sup> In addition, there are a large number of band constables (who are responsible to the local band council) who are involved in dealing with community matters and enforcing band by-laws.<sup>175</sup>

#### **NON-NATIVE-CONTROLLED POLICE PROGRAM; OPTION 3B:**

Established in 1973, Option 3b was designed to encourage more Native people (in particular reserve Indians and Inuit)<sup>176</sup> to join the R.C.M.P. and train as constables, at a time when a sufficient number of Aboriginal people could not be attracted via the regular recruiting and training process. Under this program, the recruitment, training, and supervision of Native Special Constables (NSC) rested solely with the R.C.M.P. New recruits were not expected to meet the same entrance

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<sup>174</sup> Cadieux, P. H., Indian Policing Policy Review, pp. 27-37.

<sup>175</sup> Griffiths, C., Verdun-Jones, S., Canadian Criminal Justice (Toronto: Butterworths Canada Ltd., 1989) p. 555

<sup>176</sup> Depew R., Native Policing in Canada, p. 40.

requirements as regular officers. Minimum educational requirements were relaxed and drew upon candidates from a variety of educational backgrounds. Prior criminal records would not automatically prevent candidates from NSC appointment. Recruits received 16 weeks of training at the R.C.M.P. Depot in Regina, compared to the 25 weeks for regular recruits. Although NSC's were paid a lower salary than regular members, NSC duty on reserves was not taxable for Status Indians.<sup>177</sup> There was a provision however, for NSC's to transfer to regular member status via the normal application procedures.<sup>178</sup> By 1987-88 there were 189 NSC's throughout Canada (except Ontario, Quebec, and New Brunswick). This brought the total number of Native officers across the entire country to 708.<sup>179</sup> The total number of R.C.M.P. officers at this time was approximately 15,000.<sup>180</sup>

NSC police service is delivered through R.C.M.P. detachment offices responsible to an R.C.M.P. division. Therefore, an NSC is accountable to the local detachment commander and not to the local Band Council.<sup>181</sup> All operational decisions at the

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<sup>177</sup> Hamilton, A., Sinclair, C., Op Cit., p. 613.

<sup>178</sup> Griffiths, C., Verdun-Jones, S., Op Cit., p. 558.

<sup>179</sup> Cadieux, P. H., Indian Policing Policy Review, p. 27

<sup>180</sup> R.C.M.P. Sergeant Paul Currie, Telephone Interview, February 4, 1993.

<sup>181</sup> Depew, R., Native Policing in Canada, p. 41.

detachment level are ultimately subject to Divisional Command approval while all decisions regarding administration, policy and management are made by the Native Policing Branch at the R.C.M.P. Headquarters office in Ottawa.<sup>182</sup> NSC's may enforce Federal and Provincial statutes, the Criminal Code, the Indian Act and Band by-laws. However, unlike their training in other areas of law, NSC's received no training in Band by-law enforcement.<sup>183</sup> NSC's had full peace officer status both on and off reserves performing duties generally comparable to those of regular members of the R.C.M.P.<sup>184</sup> NSC's assumed primary responsibility for liaison with reserves. It will be shown later that this policy would be subject to considerable criticism even though transfers from reserves were obtainable.<sup>185</sup>

Financing for this program was provided jointly by the Department of Indian and Northern Affairs and by the participating provincial/territorial governments. According to the latest available figures (1987-88), this cost-sharing

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<sup>182</sup> Cadieux, P. H., Indian Policing Policy Review, p. 27.

<sup>183</sup> Depew, R., Op Cit., p. 41.

<sup>184</sup> Cadieux, C., Op Cit., p. 27. There is an apparent difference of opinion on this issue. The AJI contends that NSC's, were in fact, assigned lesser duties than regular members. This question will be discussed in further detail in a following section.

<sup>185</sup> Depew, R., Op Cit., p. 41.

arrangement saw DIAND funding 46% of the total cost and the other governments concerned funding the remaining 54%. The total cost for the program, for the same period, was \$9,026,000. The average cost per NSC was \$47,750.<sup>186</sup> Due to the reduced period of training for NSC's the cost per constable was somewhat less.<sup>187</sup>

#### IMPACT ON NATIVE INDIAN - R.C.M.P. RELATIONS:

Despite the fact that the NSC program continued to expand for almost twenty years, evaluations of its impact on relations between aboriginals and the R.C.M.P., and on the crime rates on native reserves and communities have shown mixed results. Depew believes that to some extent, the lack of agreement is due to unresolved definitions on critical policy issues such as "separate, autonomous police forces."<sup>188</sup> Additionally, Haveman et al. have noticed that:

Most studies done by and for Indigenous organizations approve of autonomous policing while those done by or for government agencies appear to prefer policing by

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<sup>186</sup> Cadieux, P. H., Op Cit., p. 27.

<sup>187</sup> Ibid.,

<sup>188</sup> Depew, C., Native Policing in Canada, p. 41.

special constables.<sup>189</sup>

Given the history of relations between the federal government and Native people, disagreement over the issue of policing is as Depew states, "expected and perhaps inevitable." However, the lack of consensus over the impact of Option 3b in any given community, "may also be a reflection of the underlying variation in native policing conditions, problems, needs and priorities across the country or, equally, of the method of evaluation."<sup>190</sup> In other words, based on available material, a variety of conclusions may be drawn about program effectiveness from a multiplicity of policing localities.

With this in mind, several studies for government indicate that the Native Special Constable Program received the support of some native communities.<sup>191</sup> It has also been reported that many Natives considered the program as "an improvement over prior policing arrangements such as policing by regular, non-native

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<sup>189</sup> Haveman, P., et al. Law and Order for Canada's Indigenous People. Report prepared for the Ministry of the Solicitor General, Research Division (Ottawa, 1984) p. 37.

<sup>190</sup> Ibid., p. 42.

<sup>191</sup> Penner, K., Indian Self-government in Canada: Report of the Special Committee. (Ottawa: Supply and Services Canada, 1983) p. 66.



R.C.M.P. officers or Band Constables.<sup>192</sup> Further, many communities see the program as "acceptable, given current levels of native human and material resources, though not necessarily preferable to a separate, autonomous native police force".<sup>193</sup>

Further analysis of the NSC program have shown some positive outcomes. As a result of the augmentation of NSC's to R.C.M.P. detachments, complaints about offences coming to the attention of the police have increased.<sup>194</sup> Although the increase in complaints tends to increase the workload of the detachment, the greater flow of information would lead to improvements in communications and other relations between the police and native communities. Especially noteworthy, is that Natives displayed a better understanding and respect for the criminal justice system, while some non-Native R.C.M.P. officers appeared to be better informed about cross-cultural issues and were prepared to alter their attitudes and approaches to native policing.<sup>195</sup> Probably

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<sup>192</sup> Evalucan, Ltd., Evaluation of the R.C.M.P. Indian Special Constable Program (Option 3B). Unpublished Report for the Department of Indian Affairs and Northern Development, Program Evaluation Branch (Ottawa, March 1978).

<sup>193</sup> FSIN Study, Joint Canada-Saskatchewan-FSIN Studies of Certain Aspects of the Justice System as They Relate to Indians in Saskatchewan. A Report Prepared by the Working Group on "Law Enforcement", Ministry of the Solicitor General, December, 1984.

<sup>194</sup> Henry, J.B.D., Op Cit., Chap. II, p. 5.

<sup>195</sup> Van Dyke and Jamont

the strongest evidence in support of the program can be found in the conclusion drawn by Depew who states that certain Bands continued to seek this type of policing arrangement for their communities. This, he maintains, was an obvious indication to the R.C.M.P. that their program was successful.<sup>196</sup>

Another benefit of the NSC program can be found in increased employment opportunities for Native people. Many Natives view employment with the R.C.M.P. as a promising career.<sup>197</sup> Further, employment as an NSC (or regular force member) may serve as a "stepping stone" to more lucrative jobs or other employment where the skills acquired as an NSC are transferable.

Other reports have demonstrated further positive reviews of the NSC program including the recent and critically discriminating Report of the Aboriginal Justice Inquiry of Manitoba. This report stated that they had received "some positive comments about the program during our visit to Little Grand Rapids". Tony Bittern, who was an 11 year member of the Force and became the only special constable to be placed in charge of an R.C.M.P. detachment (God's Lake) was "obviously very

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<sup>196</sup> Depew, R., Native Policing in Canada, p. 43.

<sup>197</sup> Skoog, D., L.W. Roberts, E.D. Boldt, "Native Attitudes Toward the Police", in Canadian Journal of Criminology, Vol. 22, 1980.

proud of his years in the R.C.M.P., and said the special constable program was a good one." Further, he pointed out that the R.C.M.P. did not have to introduce the program and praised the Force for adjusting its entrance requirements so Aboriginal people could become officers.<sup>198</sup> Other strengths of this program, as outlined by this report, were derived from the fact that the program operated along the same lines as most civil servant jobs. This is to say that there was considerable job security, and health and welfare benefits. Finally, as part of a large force there was opportunities for advancement, particularly as NSC's became regular members.<sup>199</sup> The fact that smaller reserve-based police forces would not likely be able to offer the same benefits and opportunities that the R.C.M.P. could provide, might prove to be a drawback for these forces when new recruits are considering job opportunities or careers as law enforcement officers.

Positive findings for the NSC program were not universal however, as there was a sizable number of problems with the NSC program which led to "considerable tension, hostility and conflict" in some native communities.<sup>200</sup> As a result, many

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<sup>198</sup> Hamilton, A., Sinclair, C., Op Cit., p. 613.

<sup>199</sup> Hamilton, A., Sinclair, C., Op. Cit. p. 613.

<sup>200</sup> Depew, R., Op Cit., p. 43.

Aboriginals left the force. Further, because NSC's received less training than other recruits, they were not recognized as full-fledged Mounties by other officers, or by those in the community they served.<sup>201</sup>

In addition, the R.C.M.P. method of assigning NSC's to their home reserves was "severely criticized" because it often leads to extreme pressure on the individual. Evidence to support this can be found in a number of independent studies as well as from declarations by R.C.M.P. officials.<sup>202</sup> Wachtel established that when NSC's police their home communities social pressures and conflicts of interest at the level of kinship become especially disturbing.<sup>203</sup> Van Dyke and Jamont revealed, that almost one-third NSC's interviewed had, at some time during their career, "been required to arrest or charge their mother, father,

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<sup>201</sup> Hamilton, A., Sinclair, C., Op Cit., p. 613.

<sup>202</sup> Assistant Commissioner R.H.D. Head has stated in the report Policing For Aboriginal Canadians: The R.C.M.P. Role, 1989, "that on average Native members are (now) posted in excess of 430 miles from where they were raised. Further, the majority of Native members favour posting away from where they were raised". p. 291. In an interview with Assistant Recruiting Officer, Claude Chapman, March, 1993, he stated that for some time now, the general practice regarding non-natives, has been to place constables in provinces other than their home province or the province in which they have resided in for any extended period of time.

<sup>203</sup> Wachtel, D., "Indian Law Enforcement", in L. French (ed.) Indians and Criminal Justice. (Totowa: Allanheld, Osmun & Co., 1982) p. 116.

brother or sister."<sup>204</sup> For obvious reasons, these authors have concluded that this procedure would be extremely traumatic for most individuals. As a result, this practice impacted negatively on relations between the R.C.M.P. and native peoples.

The method of assigning NSC's to their home communities had additional consequences at the recruiting stage. Parnell discovered that there was a very strong relationship between the reluctance of some Natives, when considering employment with the R.C.M.P., and the stresses associated with the home-reserve policing policy.<sup>205</sup> Yet as Depew points out, the assignment or reassignment to a community other than where one has established roots, does not necessarily resolve the dilemma, since extended kinship networks may extend across several communities.<sup>206</sup> Further, although transfers to other areas outside one's own cultural-linguistic group were possible, Van Dyck and Jamont rationalise that such a practice would seem self-defeating given the nature of the NSC's role as cultural mediator (and linguistic interpreter) between the R.C.M.P. and the

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<sup>204</sup> Van Dyke, E. W., Jamont, K. C., Through Indian Eyes, p. 99.

<sup>205</sup> Parnell, T., We Mean No Harm - Yukon Indian-Police Relations: A Preliminary Study of Attitudes. (Whitehorse: Yukon Association of Non-Status Indians, 1979).

<sup>206</sup> Depew, R., Native Policing in Canada, p. 43.

specific native community.<sup>207</sup>

The rationale for the policy discouraging regular members from working in their home community (as was the case with NSC's), should have been exactly the same for Natives as it was for non-Natives. It seems apparent though, a double standard was applied regarding this issue. Finkler has demonstrated that reports and recorded cases of NSC's and/or their families being isolated, rejected, harassed or threatened by members of native communities as a result of their police status and responsibilities have occurred.<sup>208</sup> Furthermore, Van Dyke and Jamont have suggested that like regular members, NSC's may be subject to manipulation and exploitation by community members for a variety of reasons (eg. gaining access to information). Additionally, constables may be reproached as biased, especially if relatives of the police are perceived by the community to be

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<sup>207</sup> Skoog, D.M., I. Barker, Effects of Contact with Police Among Aborigines in Manitoba - Final Report Prepared by the Angus Reid Group for the Aboriginal Justice Inquiry, July, 1989, p. 43. This report demonstrates that over half the R.C.M.P. reported that language differences were a significant factor in relations. Further, Sergeant Lafanier, R.C.M.P. Coordinator for Native Policing in Manitoba, has stated that Native Constables now are often returned to their home province or another province in which their native language skills can be of service to the Force. Returning constables to their home community is now practiced only in exceptional situations. Telephone interview, May, 1993.

<sup>208</sup> Finkler, H. Inuit and the Administration of Criminal Justice in the Northwest Territories: The Case of Frobisher Bay. (Ottawa: Indian and Northern Affairs, 1976) pp. 66-7.

given preferential treatment.<sup>209</sup>

As a result of this method of placement, Native Special Constables faced a unique predicament and their positions have been described as truly marginal. Van Dyke and Jamont underscore the problem in the following way:

...The Indian Special Constable is caught in the position where he has one foot in each world and responsibilities to both. As a result, sometimes it is very difficult to find a place to lay one's head. All too frequently the result is that the Indian Special becomes more and more isolated from meaningful contact with either world.<sup>210</sup>

Such depictions of the problems faced by NSC's do not stand alone. The Native counselling Services of Alberta describe the difficulties the following way:

R.C.M.P. constables are usually strangers to the reserves they police, they live off the reserve and they are usually transferred before they become familiar with it. On the other hand, local Indian police constables are usually residents of the reserve and are familiar with local customs and problems. However, this is also to their disadvantage in that they are subject to considerable family, clan and local political pressure.<sup>211</sup>

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<sup>209</sup> Van Dyke, E. W., Jamont, K. C., Through Indian Eyes, pp. 99-102.

<sup>210</sup> Ibid., p. 125.

<sup>211</sup> Native Counselling Services of Alberta, Policing on Reserves: A Review of Current Programs and Alternatives. (Edmonton, 1980) p. 32.

The previous evidence has illustrated that the practice of placing NSC's in their home communities impacted negatively on relations between the R.C.M.P. and native peoples.

Despite the previously noted encumbrances of policing home communities, some individuals may still request, for various reasons to be placed there. For the most part, the Force tries to accommodate the placement preferences of its members. These might include a personal desire on the part of the individual or the desire to apply individual expertise. Conversely, the Force may require the use of a rare talent or skill which a particular person might possess. Unique abilities might include knowledge of certain languages, exceptional communication or diplomacy skills, or talents to interpret and convey subtle social nuances of certain cultures. Leadership abilities or participation in community programs such as neighbourhood watch, or sports and recreational programs (which serve to improve community relations) might also be taken into consideration by the Force. The placement of individuals in their home community with certain skills or abilities has obvious implications for the improvement of relations between native peoples and the R.C.M.P. On the other hand, these considerations are often over-shadowed by the negative aspects of placing native constables in their home community.



Presently, the R.C.M.P. have taken steps to discontinue the practice placing NSC's in their home communities unless exceptional circumstances exist. Further, each case for placement is decided individually upon merit. The factors which determine whether or not constables may be placed in their home community include (in no particular order) the expressed desire of the individual, the level of maturity and/or record of performance, the number of years of policing experience, and the degree of necessity by the Force for this individual to be located there.<sup>212</sup> Further, this initiative seems to have resulted in a positive response from native constables, the native community and others critical of the former practice.<sup>213</sup>

On a personal level, some former NSC's have voiced their concern regarding the conduct of some other members of the force.<sup>214</sup> Racists' slurs or derogatory comments imply that the Aboriginal person is less than an equal, or is not welcome on the force. Chief Enil Keeper, who was at one time an NSC, spoke of being called names and was given the dirty jobs to do. He was referred to as "Blood" and was accused by one officer of being a

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<sup>212</sup> R.C.M.P. Sergeant Lafaniere, Telephone Interview May 11, 1993.

<sup>213</sup> R.C.M.P. Corporal Paul Currie, Telephone Interview, July, 1992.

<sup>214</sup> Hamilton, A., Sinclair, C. Op Cit., p. 613.

"faggot." His partner would say things like "Come on let's go and shoot another Indian."<sup>215</sup> Although such accounts of prejudice call into question the degree of representativeness, they do suggest that native peoples might have to face additional personal barriers in a force that is largely non-native.<sup>216</sup>

Probably the greatest source of problems which existed in the 3b program centred around the issue of rank.<sup>217</sup> In other words, the institutional interpretation given by the R.C.M.P. to Option 3b created confusion over the actual duties a NSC is to perform. Henry has raised several questions which hit directly upon the problem:

What is expected of the Indian Special Constable? Is he to police Indian Communities or is he to teach regular members to do so more meaningfully or effectively? Is he a liaison officer only between the Force and the community or is he a general duty policeman? Does his training match up or correspond with what he is expected to do in the field? If he is to provide insight and advice to regular members on how to interact with Indian communities, does his rank as a "Special Constable" prove conducive to this advisory

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<sup>215</sup> Hamilton, A., Sinclair, C., Op Cit., p. 613.

<sup>216</sup> Presently, the R.C.M.P.'s 15,600 members are 87 per cent white males, 9.4 per cent women, 2.6 per cent natives and 1.4 per cent visible minorities. The Force's long term goal is to have at least 20 per cent women, 2.1 per cent natives and 6.3 per cent visible minorities. See, Cox, B., "White Males Can Apply to Force Again: changes address reverse racism", Winnipeg Free Press, Feb. 15, 1993, p. A3.

<sup>217</sup> Henry, J.B.D., The R.C.M.P.'s Presentation to The Public Inquiry into the Administration of Justice and Aboriginal People p. 129.

function?<sup>218</sup>

In answer to these questions J.B.D. Henry is forthcoming with R.C.M.P. data. He suggests that there was a tendency to apply the NSC program in an inconsistent manner. Moreover, Henry stated at that time, "the program desperately requires redefinition from the viewpoint of practical policing at the community level."<sup>219</sup>

Furthermore, the issue of rank led Van Dyke and Jamont (and Henry) to note:

...the Task Force report 3b option originally specified "an Indian Branch or contingent of an existing police force of which it would be an integral part". The option does not specify that Indian policemen should be placed in the rank of "Special Constable". On a practical level, our information suggests that the "Indian Special Constable" program tends to get caught up in the emphasis of rank (i.e. "Special Constable") rather than culture (i.e. Indian).<sup>220</sup>

For the purposes of practical policing, an NSC may be assigned a broad range of duties depending on the abilities of the individual, local community circumstances and/or the policing orientation of specific detachments. Henry admits that because

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<sup>218</sup> Ibid., p. 128.

<sup>219</sup> Ibid., p. 129.

<sup>220</sup> Van Dyke, E. W., Jamont K. C, Op Cit., p. 129.

all NSC's are not deployed in the same way, it was paradoxically a great strength and a prominent weakness of the NSC program.<sup>221</sup> Because of the number of uncontrolled variables mentioned, having a loosely defined job description is a "major positive feature" in terms of having the "flexibility, if understood and used properly," to deal with varying circumstances. However, if there is no standard or consistent understanding amongst detachments, regarding the intent and purpose of the program, it can result in inconsistencies which may prove to very negative.<sup>222</sup>

These "inconsistencies" undoubtedly contributed to the surprisingly large percentage of NSC's who reported that the job performance requirements expected from them were very obscure. The problem is underscored with the following statistics:

...forty-two per cent (42%) of the respondents stated that they know their job clearly. When the individuals were asked what their job is, the response was nearly unanimous. "I do exactly the same job as a regular member". However, for fifty-eight per cent (58%) of the Special Constables their understanding of the requirements of the job is very fuzzy in their minds.<sup>223</sup>

As a result of this confusion, misunderstandings over the precise

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<sup>221</sup> Henry, J.B.D., Op Cit., p. 128.

<sup>222</sup> Ibid., p. 128.

<sup>223</sup> Van Dyke, E. W., Jamont, K. C., Op Cit., p.57.

role of the NSC may lead to unnecessary complaints from the public if officers themselves are projecting an air of uncertainty when on duty. Moreover, frictions between officers could further undermine the job performance and effectiveness of constables if uncertainties exist.

The question of the precise role of the NSC was further exacerbated by the R.C.M.P. policy requiring NSC's to wear uniforms distinctly different from those worn by regular constables. The distinction in uniforms gives symbolic expression to the subordinate or auxiliary status of NSC's as affirmed by their lower entrance and training standards, differential pay, and "special" rank. Further, as Van Dyke and Jamont elucidate, special uniforms are symbolic reminders for both the NSC and the native community that the NSC "contingent" is separate from the Force and poorly integrated with the overall native policing mandate of the R.C.M.P. In practice, these factors often serve to undermine the authority, morale and effectiveness of the NSC.

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A primary issue which has continued to be problematic is that of native control and input into program development and policy initiatives. In fact, the fundamental recommendation of the

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224 Van Dyke, E. W., Jamont, K. C, Through Indian Eyes, p. 58.

Aboriginal Justice Inquiry in Manitoba has been for Aboriginal police forces to take over the present R.C.M.P. responsibilities for all police services in Aboriginal communities as soon as possible.<sup>225</sup> It has been illustrated that historically, representatives of native communities have neither had much opportunity nor power to direct policy initiatives and program developments toward the "specific and often unknown" policing problems of their communities. Both R.C.M.P. officials and aboriginals leaders, as well as many independent sources, have agreed that little or no level of control, coupled with a lack of input into program development and policy initiatives, has been a focus of concern for both parties when the question of what can be done to improve relations is raised.

Moreover, many observers contend that the native traditions thought essential to the "institutionalization" of the police, such as "police personnel and control, relationships to political authorities, and philosophy of operations (ie. general models and principles of native policing)" are often neglected when Natives are excluded from real decision-making.<sup>226</sup> As a result, the native policing policy objectives as outlined by the 1973 Task

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<sup>225</sup> Hamilton, A., Sinclair, C., Op Cit., p. 611.

<sup>226</sup> Harding J., Op Cit., pp. 363-383. See also, Hylton, J. H., Admissions to Saskatchewan Correctional Centres, Projections to 1993. (Regina: Prairie Justice Research Consortium, 1980).

Force (as well as aspirations toward native self-government) have remained largely unsatisfied. Indeed, it has already been shown that this was one of the reasons for holding the conference in Edmonton just two years later.

In 1990 the R.C.M.P. eliminated the Native Special Constable Program in a quest to achieve more equalitarian standards. In order to ensure that Aboriginal constables have the same status and opportunities as other members of the Force, all new recruits now train to be full constables. Those who were special constables have undergone training to upgrade their status to full constable. As part of the new program, those who lacked the minimum education requirements were given up to two years to enable them to achieve grade twelve equivalency. Further, new recruits are given the opportunity to spend some time with the R.C.M.P. in their home communities to familiarize themselves with police work prior to attending the training depot. These actions have served to improve relations between the R.C.M.P. and native communities although some criticisms regarding this latest initiative still remain.<sup>227</sup>

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<sup>227</sup> The Report of the Aboriginal Justice Inquiry of Manitoba (AJI) believes the grade 12 criterion for recruitment is an unnecessary impediment to the employment of Aboriginal people on police forces. The AJI believes recruitment should be based on competency and job-related skills, rather than educational attainment. p. 614.

## CONCLUSION

Since the 1960's there has been an evolution in the development of policing programs by the R.C.M.P. in an attempt to improve relations between themselves and native peoples. Beginning in the early 1960's, the approach by the R.C.M.P. for policing native peoples was characterized by virtually no input from native peoples in the administration and implementation of policing services. Between 1965 and 1973 government began to recognize that the poor state of relations was the result of the severe problems of over-incarceration of native peoples, as well as the unfulfilled policing needs at the reserve level. The acknowledgment of these problems was reflected in the initial development of a band constable program (Circular 55) and the preliminary contention that the responsibility and administration of policing reserves could be shared between native peoples and the R.C.M.P. It was also during this time that the input from native peoples in the administration of policing services expanded, albeit in a limited way.

In 1973 the R.C.M.P. began to experiment by strengthening the Native component of their regular policing program with the addition of an initiative known as Option 3B. This expansion was considered by Native leaders as an improvement to the former method of policing but not necessarily preferable to native-



controlled policing programs.

More recently, attempts to increase native involvement in substantive decision-making have been manifested at the level of formal meetings between R.C.M.P. detachments and natives communities. Depew maintains, as do others, that although it is not entirely clear to what degree, if any, these provisions have reduced native grievances over the issue of control, "the available information suggests, that in some cases, these efforts have failed to establish and maintain close and effective working relationships between Natives and the police."<sup>228</sup> Some of the most convincing evidence to support these claims occurred in the early 1980's, when the Indian Associations of Alberta withheld public support for the program while the Native Counselling Services of Alberta proclaimed the program unviable and "politically defunct."<sup>229</sup>

The lack of support by Natives for a program which is placed under the hegemony of the federal government (R.C.M.P.) is in retrospect hardly surprising. The 1973 Task Force had not anticipated the political evolution of natives communities nor the pressures that would be exerted by native groups and

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<sup>228</sup> Hamilton, A., Sinclair, C. Op Cit., pp. 626-27.

<sup>229</sup> Native Counselling Services of Alberta, Op Cit.

governments to define native policing options more directly in terms of native interests and concerns. This development was largely activated by the type of legislation established in the late 1960's (as outlined at the beginning of this report).

The White Paper and the associated consultative process generated some positive side-effects for a great majority of Aboriginal people. One such benefit was the creation of a program under the secretary of state to grant necessary core funding to political associations representing aboriginal groups such as the Assembly of First Nations, the Inuit Committee on National Issues, the Metis National Council, and the Native Council of Canada.<sup>230</sup> By providing funding to aboriginal groups, the federal government facilitated the establishment of organizations that aboriginal people now use to influence the public policy-making process, including issues concerning native policing. If aboriginal organizations had to depend exclusively on financial support from their respective constituencies, there is little doubt that these groups could have mounted the sustained campaign for the necessary recognition of aboriginal peoples rights (including issues concerning native policing) in the Constitution Act, 1982, or the subsequent attempt to have native self-

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<sup>230</sup> Boldt, M., Long, J.A., The Quest For Justice: Aboriginal Peoples and Aboriginal Rights (Toronto: University of Toronto Press, 1985) p. 8.

government entrenched in the Meech Lake Accord, 1990.

The following chapter will examine the native-controlled policing programs which developed during the period between the late 1960's to the near present. This is a time when the concept of "native self-government" native rights and issues concerning native policing also grew in prominence. An assessment of the strengths and weaknesses of some of the various programs will be given in an effort to determine if relations between native peoples and the R.C.M.P. have improved as result of increased native control.

## CHAPTER FOUR

## INTRODUCTION

There are considerable and unavoidable pressures being brought to bear on the federal government to articulate a clear policy on native-controlled policing programs. This fact, is evidenced in part, in the previous chapter, where it was shown that the R.C.M.P. moved to alter their Native Special Constable Program in order to be more responsive to the policing needs and concerns of the native community. However, for many native communities this action does not go far enough. More and more, native peoples are calling for increased control over their own affairs, including native-controlled policing programs. In order to respond to this pressure, there is a need for alternative approaches to the issue of federal, provincial, and territorial responsibilities for the policing of reserves. The outcome of these new approaches will ultimately affect the state of relations between the R.C.M.P. and native peoples.

Further, the recent political developments in Native - government relations have enhanced the position of Native peoples in Canadian society by emphasizing their unique rights, aspirations and cultural identities as individuals and

communities. Thus, as the consolidation of special status becomes more firmly rooted in various services and programs, government has been, and will continue to be, under pressure to deal with policing needs of Native people in more direct terms.

It has been illustrated that policing is a vanguard of relations between Natives and government and often bears the brunt of native criticism. Tensions which may develop at the community level however, often find their origin and context in far broader political arenas. As a more vocal and coherent political force native organizations and communities continue to question their worlds concluding that they are problematic. The fact that native life, comparatively speaking, is indeed problematic has been clearly demonstrated in this report. Consequently, native peoples are demonstrating that they are increasingly prepared to exert their own influence on the form and content of native policing services.

In light of these political and social developments, alternative approaches to native-controlled policing programs continue to develop. These programs are premised on the simple notion that native communities are entitled to effective and culturally sensitive law enforcement services. Further, it is the opinion of the Indian Policing Policy Review that native peoples "can legitimately expect to increase their control over their own

future and be policed increasingly by native peoples, irrespective of which policing program is responsible for providing the service".<sup>231</sup>

This chapter will examine some of the various native-controlled policing programs which are in existence today. Throughout the process of this examination a comparative assessment will draw out the individual strengths and weakness of each program based on the following criterion: 1) Program Authority; 2) Band By-law Enforcement; 3) Career Path Mobility; 4) Attrition; 5) Training; 6) Work Conditions; 7) Individual Impact; 8) Community Impact; and 9) Cost-sharing Arrangements.

#### **NATIVE-CONTROLLED POLICING PROGRAMS:**

"Native-controlled" or "Option 3a" policing programs include those in which a substantial degree of authority has been placed within the jurisdiction of local native communities. This control is typically embodied in the Band Council or a Police Commission or Committee composed of Band members and law enforcement professionals from the various levels of government. The goal of

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<sup>231</sup> Cadieux, P. H., Indian Policing Policy Review p. 22.

these programs is to provide a measure of self-determination for Aboriginal people by granting local control of an "indigenized" or culturally compatible police force. "Native-controlled" then, does not mean that all aspects of police organization and operations are under full control of local native communities rather, only certain elements are, to some degree.

There are several Option 3a programs which are currently in existence and which will be discussed. They vary in terms of organization, jurisdiction, policy strategies and management issues. Many are shared cost programs involving individual agreements between the two senior levels of government. There is a limited number of native-controlled policing programs and primary control still resides with the federal government.

**(1) THE BAND CONSTABLE PROGRAM:**

The initial design for native-controlled policing on reserves is the Band Constable Program. The program was created in 1971 when the Department of Indian Affairs (DINA) issued Circular No. 55 to all Chiefs, Indian Band Councils, Regional Directors, District Supervisors and Superintendents of Indian Agents.<sup>232</sup> This initiative intended to provide law enforcement of a limited

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<sup>232</sup> Head, H. D., Policing for Aboriginal Canadians: The R.C.M.P. Role (Ottawa: R.C.M.P., 1989) p. 105.

scope. This meant that constables would deal primarily with civil matters, including the enforcement of Band by-laws.<sup>233</sup>

The objective of the Band constabulary, over and above the matters of Band jurisdiction, is to supplement locally the senior police forces but not to supplant them. Cooperation is essential between the local R.C.M.P./Provincial Police detachments and the Band Constables, both in order to achieve positive relations and to ensure policing services are delivered as efficiently and effectively as possible.

The supervisory arrangement sees that Band Constables are employed by, and report to Band Councils. Although constables are recruited by bands, the Province must also sanction the selection. In all provinces, except Ontario and Quebec, the R.C.M.P. act under contract as the enforcement arm of the provincial government. On direction from the Justice Department of each province, the R.C.M.P. performs security checks on the

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<sup>233</sup> The Band Constable is the enforcement appendage of the Band and is responsible for those areas of local concern which are not in the jurisdiction of the R.C.M.P. or of the Provincial Police (Ontario and Quebec). These include areas such as the enforcement of Band by-laws of a "civil nature" (pounds, fencing, zoning, construction, sanitation, etc.), school zone crossing, juvenile guidance and other educative and preventative work, maintaining order at various Band functions and at Band elections, policing of Band property, and other functions normally carried out by a Village or Town constable. See, Head, H. D., Op Cit., p. 106.



names submitted by the bands. In 1987-88 there were 182 Band Constables serving all provinces and territories except British Columbia, Ontario, and the Northwest Territories.<sup>234</sup>

Recruits attend DINA sponsored training programs usually lasting two weeks, however they range in duration from 0-20 weeks depending on course availability and the amount of training required by each individual. Constables are not allowed to carry firearms, however the Minister of Justice can approve the carrying of firearms if adequate training is provided.<sup>235</sup>

Financial accountability for the program rests with the Department of Indian and Northern Affairs (DIAND). Circular 55 expressed that (DIAND) has no desire to impose upon Bands a policing system for which they have no desire. All that is involved with respect to the employment of Band Constables, is an offer of support. If Band Councils choose to find some other means to finance the employment of Band Constables, such as the exclusive use of Band funds or the raising of funds through local assessment of taxes, then that is their privilege. Further, Band Councils may wish to employ more constables or to pay higher salaries and assume other costs than are provided for in Circular

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<sup>234</sup> Cadieux, P. H., Op Cit., p. 31.

<sup>235</sup> Hamilton, A., Sinclair, C., Op Cit., p. 614.

55; but if they do so, the additional funds required must be found outside the program.<sup>234</sup>

Local community level accountability of native constables combined with financial arrangements that exclude the involvement of provincial governments seem to be the main reasons why this program continues to expand throughout Canada.<sup>237</sup> However, the program seems to suffer from a number of structural constraints. First, the training is inadequate. DINA sponsored training programs are by comparison to other successful programs, too short a period to receive adequate training.<sup>238</sup> Further, there is no methodical strategy to training. In some cases, training is accomplished through contracts with the Provincial Attorneys-General; in other cases, the R.C.M.P. agree to provide training; and in some very remote or isolated areas, training courses are not available at all. In the last instance, Band Constables are often required to police reserves with little or

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<sup>236</sup> Hamilton, A., Sinclair, C., Op Cit., p. 108. The 1987-88 operating budget amounted to a total of \$2,250,000, with an average cost per constable ranging between \$19,000 - 34,000, depending on the amount of training required. See also, Cadieux, P. H., Op Cit., p. 31.

<sup>237</sup> Depew, R., Op Cit., p. 67.

<sup>238</sup> Most native-controlled policing programs require 16-20 weeks of training. See, Cadieux, P. H., Op Cit. By comparison, the R.C.M.P. Indian Special Constable Program required 16 weeks at the Regina Depot Academy, along with six months of supervised field training.

no suitable formal instruction.

Secondly, extremely low salaries lead to high turn-over rates. Most bands do not have the financial resources to compete with the more well-established and better funded policing programs, such as the R.C.M.P. As a result, many constables soon decide that band policing is not a financially viable career choice and give up policing altogether, or they transfer to the R.C.M.P. This issue is central to the effectiveness and survival of band policing.<sup>239</sup>

Thirdly, poor infrastructures in the way of inadequate equipment and facilities results in a restricted range of policing services by band constables to the community. This problem could easily be overcome by the shared use of local lockup facilities for arrests made by band constables when no R.C.M.P. officer is available in the community.<sup>240</sup>

Finally, the fact that band constables are not recognized as peace officers under the Criminal Code, "would appear to restrict police effectiveness and efficiency, and preclude the delivery of

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<sup>239</sup> All the panel members discussing this issue agreed on this point. The Native Aboriginal Youth Conference, "Sharing Visions - Sharing the World", University of Manitoba, May 18-21, 1993.

<sup>240</sup> Hamilton, A., Sinclair, C., Op Cit., p. 615.

more comprehensive police services to the community.<sup>241</sup> A large number of observers familiar with this issue, recognize that band constables, given their limited range of training, will not be as effective in providing the same level of policing services as a fully trained police officer. For the most part, the majority of band constables accept this fact for the time being. However, as the inadequacies of the band constable are sometimes magnified in these situations and their self-esteem, with respect to the policing and protection of their own community, is sometimes undermined to some degree, eventually, this could result in a growing animosity by some native constables toward the R.C.M.P. and could lead to deteriorating relations.<sup>242</sup> Although in many instances good working relationships have been established between the R.C.M.P. and most band constables, several observers believe that "a much greater degree of cooperation must be developed".<sup>243</sup>

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<sup>241</sup> Depew, R., Native Policing in Canada, p. 67. See also, Hamilton, A., Sinclair, C., Op Cit., p. 614.

<sup>242</sup> With respect to this issue Loree has stated that, "It is increasingly recognized that it is unreasonable to expect communities alienated from the law, and policing, to be overly concerned with, or supportive of, processes they feel are imposed upon them." See, Loree, D. J., Policing Native Communities, (Ottawa: Canadian Police College, 1989). p. 98.

<sup>243</sup> Hamilton, A., Sinclair, C., Op Cit., p. 614, et al.

**(2) THE AMERINDIAN POLICE PROGRAM:**

The Amerindian Police Program (APP) was established in 1978 and is essentially a DIAND derivative. The program is available to Indian reserves in Quebec. The primary objective of the APP is to redefine relations between native communities and the Quebec Provincial Police by decreasing the role of the latter in the policing of reserves. This objective is expected to be achieved by securing a greater degree of control over their own destiny, including policing, through the policy of self-government.

Currently, there are approximately 73 native constables providing policing services to 23 reserves among five Indian bands.<sup>244</sup> The Amerindian Police Council, which consists of representatives from each participating band provides direction, management and supervision of policing services. Quebec does not officially recognize the Council which is established under federal statutes.<sup>245</sup> Delivery of services is through a service management division (Amerindian Police Service) which consists of a director, a legal advisor, three controllers, one analyst and three chief supervisors. Each constable is accountable to a station supervisor, who in turn, reports to a

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<sup>244</sup> Cadieux, P. H., Op Cit., p. 32.

<sup>245</sup> Cadieux, P. H., Op Cit., p. 33.

chief supervisor.<sup>246</sup>

Unlike other native-controlled policing programs offered in Canada, the Amerindian police operate their own training facility at Point Bleu, where new recruits receive a 20-week training course. Further, while the training program is similar in content to the one supplied to Quebec's regular police force, the training centre itself is autonomous and staffed primarily by Native instructors.<sup>247</sup>

The selection and recruitment of native constables falls under the obligation of the Personnel Controller of the APP Police Services. The standards that apply to selection and recruitment are relatively high compared to the criteria used by other native-controlled police forces. The average education for candidates of the APP ranges from 10 to 12 years. There are no provisions to recruit native women to the program because management considers women to be incapable of physical force when required to do certain job tasks.<sup>248</sup>

Constables possess full peace officer status under the Quebec

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<sup>246</sup> Depew, R., Op Cit., p. 56.

<sup>247</sup> Cadieux, P. H., Op Cit., p. 32.

<sup>248</sup> Depew, R., Op Cit., p. 56.

Police Act, although their authority is restricted to Indian reserves which participate in the program. Constables are empowered to enforce the Criminal Code, federal and provincial statutes and Band by-laws. However, in practice constables enforce only a few written Band by-laws while there is practically no enforcement of the Criminal Code. According to Depew, this is because the Criminal Code appears difficult to enforce in most situations due to the lack of community co-operation.<sup>249</sup> As a result, emphasis is placed on patrolling, general peace-keeping, enforcing provincial highway code violations, intervening in family disputes, assaults and investigating thefts and vandalism. All serious crime is investigated by the Quebec Police Force.<sup>250</sup>

The financial responsibility of the program rests solely with the federal Department of Indian and Northern Affairs. The total cost of the program in 1987-88 was \$3,684,400. The cost per constable was \$45,900.<sup>251</sup> This compares favourably to the \$47,750. cost per constable under the former R.C.M.P. Native Special Constable Program.

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<sup>249</sup> Skoog, D., Barker, I, in Effects of Contact With Police Among Aboriginals in Manitoba, Reid, A., ed. p. 13.

<sup>250</sup> Woods Gordon, Amerindian Police Program Evaluation (Ottawa: Department of Indian and Northern Development, 1982) pp. 93-94.

<sup>251</sup> Cadieux, P. H., Op Cit., p. 33.

**PROGRAM IMPACT:****Community Response:**

Woods Gordon Management Consultants carried out an extensive evaluation of the program and found that although this program is regarded as a limited success, the APP is a significant improvement over previous policing arrangements for Indian reserves in Quebec. On one hand, the quality of services provided by the Amerindian Police is reported to be greater than that previously supplied by Band police. Further, the Amerindian Police are not only called upon more frequently by community members when compared to the use of non-native police, but the APP has also reduced the level of non-native mediation on reserves. It has been reported, for example, that 80% of the reserve population currently policed under this program call only the Amerindian Police, especially in the cases of domestic disputes, fights and thefts.<sup>252</sup> Therefore, combined with the reduction in the use of non-native policing, the presence of Amerindian police appears to have significantly reduced cultural misunderstandings. As well, the excessive use of force has declined appreciably. As a consequence, it is reported that community members feel more secure under the APP. Additionally, a greater understanding and consideration for the criminal justice

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<sup>252</sup> Woods Gordon, Op Cit. p. 119.



system is apparent amongst community members.<sup>253</sup>

On the other hand, Woods Gordon report that 50% of the Amerindian Police reported a lack of community cooperation when trying to mobilize policing operations. The level of community support also appears to be linked to the type of incident in question. "Half of our sample mentioned they would not notify the Police if they were informed of a drug network, but 73% would provide the information in the case of a theft."<sup>254</sup> Although community opinion is divided regarding the issue of the adequacy of police staffing, there is general agreement that native constables are often unavailable, inaccessible or slow in responding to calls for assistance. Further, the poor level of social skills demonstrated by some officers is closely associated with the level of complaints from the community. Finally, there has been considerable infighting and although turnover rates are a factor in this program, the rate is an improvement over the band constable program.<sup>255</sup>

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<sup>253</sup> Woods Gordon, Op Cit., p. 119.

<sup>254</sup> Woods Gordon, Op Cit., p. 117.

<sup>255</sup> Woods Gordon, Op Cit., p. 117.

**Individual Response:**

At the level of individual impact, one of the leading, beneficial characteristics of the APP is the reportedly high degree of career alignment among Amerindian police constables. Indeed, the majority of constables signified their intention to pursue a career of this type for 20 years or more. Promotional opportunities for advancing constables were further enhanced by the fact that the APP has a good attrition rate due in part to the length of its existence. Evaluators also found that most APP constables were generally satisfied with their salaries, benefits and overall working conditions. However, it has also been illustrated that the higher the level of employment within the program, the greater the degree of dissatisfaction over salaries, especially when compared to non-native police forces such as the QPP.<sup>256</sup> This issue is the primary reason for the rate of turnover.

At the level of inter force impact, it was found that relations between the Amerindian Police and both the Quebec Provincial and Municipal Police were excellent, although there is some evidence to show that certain members of the Amerindian Police Service are considered by other police forces as substandard constables. In spite of these problems, the concept

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<sup>256</sup> Woods Gordon, Op Cit., p. 117.

and application of a self-reliant, native-oriented police agency is regarded by a significant number of Indian reserves in Quebec as an important factor in the relationship between native communities and non-native police. In fact, 76% of Band members interviewed opposed elimination of the program on the grounds that this would lead to a deterioration in community order and the "return" of undesired external, non-native police agencies.<sup>257</sup>

Although the Amerindian Police Program can be characterized as a program with a high degree of Native control, it nonetheless generated considerable confusion over the roles, responsibilities and powers of the various parties involved in the program. This was particularly true of band councils which expressed dissatisfaction concerning their lack of input, at the reserve level, into the recruitment and selection of APP constables. For example, 80% of the reserve population surveyed (including officers), supported the recruitment of women, however as mentioned previously, management opposed this policy. As well, dissatisfaction was expressed by band councils regarding their general exclusion from decisions involving the administration and direction of the program primarily in areas such as work schedules, the quality of policing, police service management,

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<sup>257</sup> Woods Gordon, Op Cit., p. 50.

and the absence of mechanisms for community input.<sup>258</sup> Due to the fact that control is ultimately concentrated at the level of the Director, many Natives perceive police Headquarters as authoritarian, while management is seen as autocratic and too centralized. This situation could be aggravated by the fact that at the time of this evaluation, the position of Director was held by a non-native.

At the level of quality control, it was found that 30% of the Amerindian officers were inadequately trained, with 46% of these officers waiting between 1 to 3 years before attending the APP training course. Further, the content of the training course itself was insufficient in so far as it focused more on the issues of urban policing, rather than on rural/remote policing where policing needs of native communities differ profoundly.<sup>259</sup>

Finally, once posted to a reserve, Amerindian Constables often experience insufficient supervision from their superiors, as well as inadequate support from Headquarters. Supervision and especially support mechanisms are vital particularly at this level because the social pressures of policing can impact

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<sup>258</sup> Woods Gordon, Op Cit., p. 50.

<sup>259</sup> Woods Gordon, Op Cit., p. 50.

negatively on families and individuals. These types of pressures are also contributing factors to high attrition rates among employees of the program.

### (3) THE DAKOTA OJIBWAY TRIBAL COUNCIL POLICE PROGRAM:

The Dakota Ojibway Tribal Council (DOTC) Police Program was established in 1978 to provide policing services to eight reserves in Southwestern Manitoba. According to Depew, this program represents an important step towards alternative policing arrangements for native communities in Western Canada. The goals of the DOTC program were ambitious. This program not only sought to improve the quality of police services to the participating reserves through preventative policing and, thereby reducing the involvement of band members in the criminal justice system. In addition to its explicit concern with native policing, this program sought to play an integral role in the development toward greater self-governance on reserves.<sup>260</sup>

By 1987-88, the program employed 22 constables, plus a Chief of Police, a Deputy Chief and an Administrative Secretary. The majority of police officers are recruited from one of the eight

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<sup>260</sup> Depew, R., Op Cit. p. 61.

Tribal Council reserves. All but one police officer are native Canadians and several are Metis. All applicants are initially screened by the Police Chief and then interviewed by the Police Commission. The educational requirements for constables are less rigorous than most other police programs. However, the actual qualifications of applicants varies with educational levels ranging from Grade 9 to some university training. Consistent with other policing programs in Canada, this program does not automatically prevent the appointment of a constable who has a criminal record.

All DOTC police candidates are required to attend a 17 week training program at the R.C.M.P. Depot Division in Regina. The style and substance of the course is similar to that formerly given to R.C.M.P. Native Special Constables, although training is periodic and not ongoing. The two-week Circular 55 training course has been provided in the past. Following formal training, DOTC constables are given informal training by senior DOTC police officers and the R.C.M.P.<sup>261</sup>

DOTC police constables have partial peace officer status with jurisdiction restricted, by joint agreement of the Province and the DOTC, to participating reserves and adjacent areas.

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<sup>261</sup> Cadieux, P. H., Op Cit., p. 35.

Officers in this program are generally not authorized to carry firearms. This can be contrasted to the Amerindian force who have full peace officer status but do not appear to use it in actual practice. DOTC police are empowered to enforce provincial statutes, Criminal Code offences, traffic offences, and Band by-laws, although major Criminal Code violations must be reported to the R.C.M.P. for disposition. The R.C.M.P. maintain control over the investigation and prosecution of serious crimes although the DOTC police may assist.<sup>262</sup>

The delivery of service is the immediate responsibility of the Chief of Police who reports to the DOTC Police Commission. The Commission consists of 12 members including the chief and/or band representatives from each reserve, and one representative each from the R.C.M.P., DIAND and the Manitoba Attorney General. The Police Commission is intended to have ultimate authority in the program and is formally responsible for overall financial matters, program policy and operations control.<sup>263</sup>

Finances for the program are shared between the federal government (DIAND) and the province of Manitoba. DIAND provides for 85% of the funding and the province contributes the remaining

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<sup>262</sup> Cadieux, P. H., Op Cit., p. 35.

<sup>263</sup> Cadieux, P. H., Op Cit., p. 35.

15%. The total cost of the program in 1987-88 was \$1,008,750. The cost per constable in the same year was \$44,850.<sup>264</sup> This compares favourably to the \$47,750. cost per constable in the former R.C.M.P. Native Special Constable Program.

The history of the DOTC police program has been particularly troubled. In 1980, the program underwent a serious setback when the Chief of Police was fired and all the officers resigned. A major factor in the collapse of the program was political interference on the part of many of the reserve chiefs at the administrative level.<sup>265</sup> Although the program was re-instituted in 1981, this program has continued to be plagued by adversity at the levels of administration, operations and funding. These problems in turn, are reflected in a high turnover rate. However, despite these afflictions, this program has re-established a positive working relationship with reserve communities.<sup>266</sup> Singer and Moyer maintain that the increase in acceptance of the program is closely tied to the local impression that the DOTC police fulfill a unique role in the

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<sup>264</sup> Cadieux, P. H., Op Cit., p. 36.

<sup>265</sup> Singer, C., Moyer, S., The Dakota-Ojibway Tribal Council Police Program: An Evaluation, 1979-1981 (Ottawa: Solicitor General of Canada) p. 52.

<sup>266</sup> Depew, R., Op Cit., p. 63.



native community.<sup>267</sup>

When the program was first established, community support for it was quite limited. This is evidenced by the fact that many reserve residents were reluctant to call for assistance from DOTC constables. Community support was initially low mainly because officers were poorly visible within the community and demonstrated "inconsistent or too lenient enforcement practices" particularly concerning driving and liquor offences. Further, problems with respect to constables being posted to their home reserves were also troublesome.<sup>268</sup>

These problems continue to exist, although to a lesser degree. The perception and expectation of DOTC constables performing a multi-purpose role including peace keeping and the maintenance of law and order, in addition to broadly based social services that include dispute mediation and conflict resolution at the interpersonal level and miscellaneous activities such as "taxi or ambulance driver, alcohol or social worker, and dog catcher", has led to an increased respect for officers as reserve police.<sup>269</sup>

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<sup>267</sup> Singer, C., Moyer, S., Op Cit., p. 51.

<sup>268</sup> Depew, R., Op Cit., p. 63.

<sup>269</sup> Depew, R., Op Cit., p. 63. See also, Singer, C., Moyer, S., Op Cit., p. 20.

From the perspective of the police, one of the strongest features of the program has been the increased level of cooperation between the DOTC police and the R.C.M.P. Their continual interaction and mutual assistance in the policing of reserves has led to a reportedly good working relationship and a more efficient division of labour between the two police agencies.<sup>270</sup>

The situation regarding individual officers is somewhat more tenuous, in terms of career direction and job satisfaction, particularly when compared to other native police programs. Only a small number of constables wish to make a long term commitment and establish a career for themselves within the program. There is strong evidence to suggest that continually high attrition rates are the result of low levels of quality control within the program itself.<sup>271</sup> Singer and Moyer have also shown that there are other factors involved which have contributed to high attrition rates. These are reported to include personal unsuitability for police work, the social demands of policing reserves, inadequate infrastructures, and political interference

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<sup>270</sup> Depew, R., Op Cit., p. 64. Also, Interview with Deputy Chief of DOTC Police, Warren Fontaine, May 21, 1993, and the former head of Native Policing Services for the R.C.M.P. in Manitoba, Paul Currie, May 21, 1993.

<sup>271</sup> Hamilton, A., Sinclair, C., Op Cit., p. 616.

from Band Councils in administrative matters.<sup>272</sup>

Two other key issues as seen by Depew, factor into the equation of problems initially associated with the DOTC police program. These relate to the matter of organizational status and program funding. First, the lack of a clearly defined and explicitly articulated division of responsibilities between the Police Commission and Police Chief has led to several serious difficulties at the level of program administration and operations. For example, overlap between these two led to a significant disorder over policy formulation.<sup>273</sup> Further, at the level of police recruitment, Police Commission appointments were not always congruent with the recommendations of the Police Chief. In addition to these issues, the arrangement of a greater degree of formal instruction by the R.C.M.P., better in-service training and improvements in administrative and practical skills were referred to as areas where improvements could be made.

Secondly, the adequacy of program funding was initially a contentious issue. According to Singer and Moyer appropriation of funds had been frustrated by the lack of long term financing obligations by the funding agencies. As a result, opportunities

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<sup>272</sup> Singer, C., Moyer, S., Op Cit.

<sup>273</sup> Depew, R., Op Cit. p. 65.

for long term planning were undermined by an inadequate monetary structure. According to the source, this issue continues to be controversial. On one hand, proponents of native-controlled policing programs maintain that the issue of funding continues to be a problem.<sup>274</sup> On the other hand, advocates of non-native-controlled policing programs have argued, and continue to argue that the levels of funding were in the past adequate, as they are currently.<sup>275</sup>

It has been demonstrated that, in Canada police services for some native communities are being furnished by a number of policing programs which offer a variety of organizational structures that include both native and non-native controlled options. However as Depew points out, the underlying premise of all these programs is that "ultimately police forces servicing native communities would be accountable to non-native government and would be moulded in the image of non-native police models and organizations" and controlled by non-native authorities.<sup>276</sup> Although, it has been illustrated that these programs have made a positive impact on the nature of relations between the R.C.M.P. and native peoples, it is also evident that certain difficulties

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<sup>274</sup> Hamilton, A., Sinclair, C., Op Cit., p. 616.

<sup>275</sup> Singer, C., Moyer, S., Op Cit.

<sup>276</sup> Depew, R., Op Cit., p. 39.

exist in program implementation, administration and operations. These problems reflect unresolved policy, program and implementation disagreements between Natives and non-natives. Further, these differences draw attention to the "environmental constraints on policing in native communities and the limitations of indigenization as a comprehensive approach to native policing in Canada".<sup>277</sup>

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<sup>277</sup> Depew, R. Op Cit., p. 72.

## CHAPTER FIVE

## CONCLUSIONS AND RECOMMENDATIONS

It has been illustrated that many of the policing problems between the R.C.M.P. and Canada's native peoples are directly or indirectly the result of historical economic, social and political circumstances. To more fully appreciate the present realities of relations between these two groups, it is essential to consider these as causal or contributing elements in the evolutionary process of this relationship. Many of these circumstances still remain and, given the nature of Canadian society and its institutions, it is doubtful that any profound change in the social, or economic conditions will occur for most Native communities in the immediate future. However, in the political arena, especially over the last two decades, native people have been increasingly vocal in their demands for wider public and official recognition of their historically unique status and cultural heritage.

Ultimately, the direction and extent of political reform as a condition for native policing will rest on which course local native communities, the two levels of government and the Canadian electorate are prepared to pursue. Though, as many observers contend, unless government makes allowances for native political

and cultural aspirations in the area of policing, relations between government and the Native community will likely become considerably more difficult.

Just as important is the reality that in order for any sustained success to occur this process must be executed in a mutual fashion. Government must do its part in being attentive to the ramifications of local native conditions for native policing options and, therefore be prepared to, modify existing arrangements to accommodate reasonable and preferred alternatives. Likewise, the Native community must be equally flexible in their choices, moderating their political and cultural aspirations by understanding the limitations of their own communities and the constraints of the wider policing environment.

Unquestionably, such a process must begin with the pragmatic generalization that greater education is a key factor in cultivating a more harmonious relationship between cultures. Joint understanding and shared knowledge can only assist in reducing ignorance, ethnocentrism, prejudice and discrimination on both sides of the relationship. Education, whether it be formal, or in-service training can be approached from several different directions depending upon the particular needs of those individuals or communities in question.

In addition to encouraging continuing education in general, more specific needs may continue to be met by working with universities in different regions through the ongoing development of interdisciplinary programs for both the R.C.M.P. and native communities. Cross-cultural training courses must continue to have both a theoretical and practical orientation with an increased focus on history, sociology, political science and the basic principles of law. This focus could also include, for example, an emphasis on the situation of native peoples in Canada as well as the role of police in society. Courses of this nature are currently in place at the Canadian Police College in Ottawa and have been so for some time however, a much greater emphasis must be placed on the validity and accessibility of cross-cultural education.<sup>278</sup>

There is an increasing body of literature, including that jointly produced by Dr. Neil Winther and R.C.M.P. Corporal Paul Currie, as well as certain recommendations found in the Report of the Aboriginal Justice Inquiry of Manitoba, which denotes the numerous benefits gained by greater community involvement in the

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<sup>278</sup> See Winnipeg Free Press, Tuesday, February 23, 1993. "For the first time residents of God's Lake Narrows First Nation can complete a five-year university course while living at home and caring for their families", p. B3.



policing process.<sup>279</sup> Programs aimed at increased community participation are based on the rationale that greater involvement in the decision-making process will contribute to greater feelings of responsibility for policing the community. Further, it is increasingly recognized that it is unreasonable to expect communities alienated from the law, and policing, to be overly concerned with, or supportive of, processes they may feel are imposed upon them.<sup>280</sup> Loree holds that it might not only be appropriate, but also beneficial to relations, to solicit and give serious consideration to input from community leaders regarding community involvement. The perception, Loree rightly argues, "especially among those defined as militants, that the police are an occupying force of an external society may never be completely eliminated but it can certainly be reduced."<sup>281</sup>

The expansion of community relations activities will likely derive the greatest positive results when directed toward young people. A 1985 survey of R.C.M.P. officers found public relations programs and more active involvement in community social and

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<sup>279</sup> Winther, N., P. Currie, Northern Fly-in Sports Camps: A Joint Development\Crime Prevention Project, A Paper Presented at the North-American Society for the Sociology of Sport Conference, Edmonton, Alta., Nov. 5, 1987. See also, Hamilton, A., Sinclair, C., Op Cit., pp. 597-600.

<sup>280</sup> Loree, D. J., ed., Future Issues in Policing: Symposium Proceedings (Ottawa: Canadian Police College, 1989) p. 98.

<sup>281</sup> Ibid., p. 99.

sports programs were the most frequently mentioned ways to achieve improved relations through youth.<sup>282</sup> Programs of this type offer a medium whereby police officers and young people can get to know one another in an friendly atmosphere. Too often, police officers and youth meet under circumstances which are not conducive to establishing important bonds of goodwill and trust. Programs geared toward native youth can go a long way in helping to overcome mistrust, suspicion and cultural bias on both sides of the relationship. Programs of this type can also be implemented regardless of whether a police force is native-controlled or non-native controlled.

Since native youth are especially susceptible to becoming involved with the criminal justice system, a united effort is required to investigate their policing needs and, in particular the role of preventative policing strategies at the community level. With this purpose in mind, Commissioner of the R.C.M.P., N.D. Inkster pledged to Aboriginal Canadians in 1989, that the R.C.M.P. would hold a series of regional conferences "designed to improve relations and understanding between natives peoples and the police."<sup>283</sup> Additionally, there was a commitment made to

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<sup>282</sup> Ibid., p. 55.

<sup>283</sup> Statement of Objectives for The National Youth Conference "Sharing Visions - Sharing the World", University of Manitoba, May 18-21, 1993.

address concerns relating to Aboriginal youth. In a joint effort to establish a framework for dealing with these issues, The R.C.M.P. in Manitoba, the Manitoba Aboriginal Youth Career Awareness Committee and the Winnipeg Police Department planned a four day conference at the University of Manitoba in May, 1993. This conference provided a forum for finding solutions to the following objectives:

1. The detailing of educational and career choices, with the examination of life skills and social issues that will prepare young people for the challenges of the future;
2. The stimulation of dialogue that will form the basis for long term solutions to concerns with the justice system that impact on youth;
3. To provide all participants with the opportunity to experience the unique and diverse nature of Aboriginal culture and traditions.<sup>284</sup>

Twenty different workshops dealt with a broad variety of issues including, "Dealing With Family Violence, Employment Readiness, Financial Life Skills, Personal Development - Developing Self-Concept and Self-Esteem, Youth and the Criminal Justice System, and Policing in a Multicultural Society." There was a very strong emphasis on the importance of education. Health and nutrition was also encouraged at this conference as evidenced by the very large bowls of fruit and juices during "nutrition breaks". Meals also included a traditional fare of bannock, wild rice, and fish and

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<sup>284</sup> Ibid.

game. A Pow Wow and traditional dances were held on the last evening. Performers played to a packed auditorium. This display of cultural sensitivity and attention to detail, served to make many of the participants feel more at home in an unfamiliar environment. As well, this particular process facilitated an atmosphere of fun and friendliness in which participants could learn about different cultures. Although it is still too early to measure the impact of these conferences on either a community or national level with respect to crime statistics, they are undoubtedly a step in the right direction on the road to improving relations.<sup>285</sup>

In keeping with the philosophy and practice of community-based policing, there are several additional functions jointly held within the partnership between the police and a community. First, the role of the police must become fundamentally one of peace officers rather than merely as law enforcement officers involved with crime control.<sup>286</sup> In the words of Sir Robert Peel this would mean that the police apply the following principle:

To maintain at all times a relationship with the public

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<sup>285</sup> While attending this conference I spoke with several of the organizers, presenters, and participants.

<sup>286</sup> Normandeau, A., Leighton, B., A Vision of the Future of Policing in Canada: Police-Challenge 2000 (Ottawa: Minister of Supply and Services Canada, 1990) p. 43.

that gives reality to the historic tradition that the police are the public and the public are the police. The police being only members of the public that are paid to give full-time attention to duties which are incumbent on every citizen in the interests of community welfare and existence.<sup>287</sup>

Thus, because police officers serve and protect the public, a police organization is primarily a service to the public for crime and disorder problems rather than a force that is focused primarily on crime.<sup>288</sup> It has been illustrated that in the past this has not always occurred in the policing relationship between the R.C.M.P. and native peoples and that a rather narrow interpretation of policing was applied. The result was the assessment against the R.C.M.P. that native peoples were over-policed; a fact which has been borne out in crime statistics. This in turn, led to a deterioration in the relationship between native peoples and the R.C.M.P.

Secondly, in adhering to a policy of community-based policing, the R.C.M.P. should continue to increase community consultation. This process is of course a reciprocal one; native communities must also work to keep the lines of communication

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<sup>287</sup> See, The Police Function in Canada. Sir Robert Peel was at one time home secretary of the British Parliament in the early 1800's, and was instrumental in establishing the first police force in England.

<sup>288</sup> Normandeau, A., Leighton, B., Op Cit. p. 41.

open as well. It would seem appropriate though, for the R.C.M.P. to continue to be the instigators of such a consultation initiative, since they are better positioned institutionally, to implement effectively the desired mutual change or the conferring of public consent.

Beyond these recommendations, community-based policing concepts, in which the majority of input is focussed at the local level by community leaders speaking on behalf of their constituents, may be instrumental in addressing, for the purposes of policing, the pressures from the Aboriginal community calling for increased autonomy. This recommendation is central, in that, it is a step toward the ultimate goal of native self-government. Moreover, this measure would likely improve the somewhat tenuous state of relations which presently exists between many native communities which have somewhat of a different organizational policing form in contrast to the non-native policing approach.

In conjunction with the gradually increasing level of autonomy for native-controlled, community based policing programs, comes the corresponding increase in the level of responsibility. In short, not only will successes, financial and otherwise, within their programs be acknowledged by them accordingly, so too will their failures. This transitional period must develop at a pace that is suitable with the evolution of each individual community.

The third primary element is a strategy involving a proactive approach to policing. "Rather than passively waiting for calls or randomly patrolling for a presumed deterrent effect, the police anticipate future calls by identifying local crime and disorder problems."<sup>289</sup> This procedure involves a scanning and forecasting process to identify problems and includes input from the local community. Further, this strategy has in the past, and can be in the future, implemented according to the nature of the problem and can be adapted to a variety of communities.

Finally, in consideration of the historical social, political and economic circumstances which most natives communities have been subjected to, the R.C.M.P. have a responsibility to reduce future fears of victimization. It has been illustrated that the history of natives peoples is unique, in that collectively, they have been disadvantaged moreso than any other group within our society; indeed they have been victimized. Therefore, within the realm of prudence and practical discretion, native peoples in general, must be afforded extra consideration with respect to policing and being policed. It is only through the adoption of this philosophy that relations between native peoples and the R.C.M.P. will improve.

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<sup>289</sup> Ibid., p. 44.

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## ABSTRACT

This thesis is an examination of the relationship between Canada's Aboriginal peoples and the Royal Canadian Mounted Police, and how over time, this relationship has evolved. More and more, native peoples are calling for increased control over their own affairs, including native-controlled policing programs. Thus, in order to respond to these pressures there is a need for alternative approaches to the issue of federal, provincial, and local responsibilities for the delivery for policing services to native communities and reserves. Further, the recent political developments in relations between Aboriginal peoples and government have enhanced the position of Native peoples in society by emphasizing their unique rights, aspirations and cultural identities as individuals and communities. As the consolidation of special status becomes more firmly rooted in various services and programs, government has been, and will continue to be under pressure to deal with the policing needs of Native peoples in more direct terms. These developments are premised on the simple notions that Aboriginal communities are entitled to effective and culturally sensitive law enforcement services just as is any other community within Canada.

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