

ABORIGINAL POLICING IN MANITOBA

A REPORT TO THE ABORIGINAL JUSTICE IMPLEMENTATION COMMISSION

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SECTION 1

A REVIEW OF CANADIAN POLICING TRENDS AND THEIR IMPLICATIONS FOR ABORIGINAL POLICING IN MANITOBA¹.

POLICE RESOURCES - TRENDS AND ISSUES

1. Increasing Policing Costs

During the 1960s and 1970s, a combination of economic prosperity and increasing crime led governments to dramatically increase the number of police officers in Canada, to raise their salaries, and to supply them with expensive police equipment and technology. This transformed public policing into a well-staffed and expensive public service. By the end of the 1980s, mounting government debt, tax-weary citizens and more fiscally conservative governments began to reverse government spending patterns by reducing or limiting budget increases for public policing. Nevertheless as salary and infrastructure costs increased, the cost of public policing continued to grow, even as overall government spending declined. The rising cost of public policing has made the issue of police funding and service rationalization a focus of increasing political and public debate.

Implications for Aboriginal Policing

- Most Aboriginal police services are more costly to operate than their comparable non-Aboriginal counterparts. This higher cost is primarily due to higher staffing levels (Statistics Canada, 1997). Research suggests that most Aboriginal police services

¹The analysis for this section of the report is based on a recently completed study of Canadian policing trends conducted for the Police Futures Group of the Canadian Association of Chiefs of Police (Murphy 2001). The application of these findings to Aboriginal policing is based on two recent research studies on Aboriginal police and policing in Canada co-authored with D. Clairmont for the Aboriginal Policing Directorate of the Solicitor General of Canada (Murphy and Clairmont, 1996, Clairmont and Murphy 2000).

- contend that they require even more resources and manpower than they currently receive (Clairmont and Murphy, 2000).
- The political will to support expensive and expansive models of Aboriginal police services may be declining. There are signs that the federal government has become more concerned about the rising cost of Aboriginal policing and may require more accountability and cost efficiency in any new federal-provincial arrangements. While the politics of joint federal- provincial Aboriginal police funding may change, the significantly higher costs associated with policing Aboriginal communities may potentially become a political issue.
 - While salary costs are relatively similar for all policing models, factors such as startup costs, infrastructure, training, and officer productivity favour already-established policing organizations such as the RCMP, or provincial or regional models as more cost effective, than a number of small stand-alone services.
 - The need for efficiency has to be considered in the context of the goals and objectives of First Nation's communities. Two fundamental objectives of the First Nations Policing Program are that there be significant First Nations control over policing in native communities and that the policing reflect First Nations realities.

2. Limited Policing Funding

While many of the costs associated with policing have grown, the last decade has also seen a significant decline in the growth of police budgets. This has affected some police services more than others, but most police managers feel they are operating with inadequate budgets and resources (Murphy 2001). However, the new era of budget surpluses may change these trends if the public can be persuaded to support higher levels of police funding. While there is strong and consistent support for public policing in general and deep appreciation for their services, it is questionable whether this will actually translate into a willingness to spend more on public policing. For example, recent Gallup polls suggest that health care, education and the environment are higher priorities for most Canadians than crime and policing. Thus it is reasonable to assume that the police will continue to face the need for fiscal restraint.

Implications for Aboriginal Policing

Many Aboriginal police services have not faced the same financial constraints as other police agencies. This is likely because startup funding needs to be higher and because of the shared federal – provincial funding. If federal cost-sharing formulas should change, either in the level of support or the targeted nature of the funding (separate policing grants), provincial and Aboriginal band governments could be left supporting an increasingly costly model of policing service.

3. Declining Police Numbers and Increasing Citizen/Police Ratios

At least 80% of the cost of public policing goes to salaries, so during a period of fiscal restraint, increases in salary and benefits costs usually mean employing fewer police officers. As a result, the numbers of police officers per capita in Canada began an unprecedented decline in the mid 1990s. The ratio of police to population declined from a high of 2.06 per 100 in 1975 to 1.81 in 1999. The current level is the same as it was in 1971, a period with significantly lower crime rates and lower overall demand for police. Despite a ten year period of declining police numbers there has been a continuing increase in public policing expenditures.

Implications for Aboriginal Policing

We have noted that Aboriginal policing requires significantly more police officers per population than do other communities. Economies of scale are not available to forces policing small Aboriginal communities. Also, transportation costs can be very high in isolated communities. Future funding and cost pressures may affect Aboriginal police services and may put pressures on these services to reduce costs. However, no matter which policing model is selected, many Aboriginal communities want and need a high level of personal police service (implying both availability and access) despite the distances involved in policing many isolated Aboriginal communities. Thus reducing or limiting costs by cutting personnel would be particularly difficult for Aboriginal policing because personnel resources are already stretched to the limit.

4. Human Resource Issues - Turnover; Recruitment, Promotion and Retention

Perhaps the most significant and immediate human resource challenge facing Canadian policing and police management is the impending retirement of large numbers of experienced police personnel in the next few years. While estimates vary for different police services they generally suggest that from 1/3 to 1/4 of the police officers in Canada will be retiring within 5 years. This presents some notable challenges for police services over the next decade:

- Managing the impact of losing a significant portion of the most experienced and knowledgeable police officers in the organization and replacing those lost skills, knowledge, and judgement.
- Attracting and recruiting suitable candidates in an increasingly competitive labor market.
- Training and supervising large numbers of new, inexperienced police officers for a job that is becoming increasingly complex.

Implications for Aboriginal Policing

- Retirement issues may not be as great in Aboriginal police services, due to the younger ages of most Aboriginal police officers.
- Increasingly competitive demands for qualified Aboriginal candidates will make

- police recruiting more challenging.
- Turnover has been a major problem for Aboriginal police services. This problem will become even more severe in the future as other police departments offer lateral entry positions to members of Aboriginal police services. This makes staffing a concern for small stand-alone services. Larger police forces have the advantage of greater job flexibility, more opportunities for promotion, etc.
- Training is a big issue in Aboriginal policing. Research suggest that many Aboriginal police felt they needed more training and more relevant Aboriginal training than is now provided (Murphy and Clairmont, 1996).

Any new Aboriginal policing model will have to seriously address these human resource issues, as recruitment, retention, training, promotion and career development will be critical factors in attracting and retaining good people. Small stand-alone police services will be at a great disadvantage because they may find it difficult to recruit and to retain good people and because they will not have their own training systems.

5. Increasing and Changing Demand for Police Services

Demand for police services has traditionally meant the volume and types of requests for crime and order services that come from the public, the community and the criminal justice system. An increase or decrease in official crime rates and recorded calls for service are the conventional measures of this demand. There is now statistical evidence that crime rates and calls for service are declining in many communities. However, crime rates are still high and police futurists predict growth in a variety of new crimes such as international organized crime, computer fraud and theft, domestic terrorism, and environmental crimes. These new crimes and more sophisticated criminals will inevitably require additional police time, effort and resources, and may compound existing problems of limited police resources². Thus despite some evidence of declining conventional demand for crime-related police services the overall demand for these services should at least remain at current levels and may well increase in the future.

The intensity and complexity of the justice system also affect efficient use of police resources. New procedural and court-related demands have added a considerable resource bill to conventional police charge and investigative practices. The broader and more proactive conception of police work associated with community policing has also recently expanded the range and scope of police activities. These preventative and/or community-based activities are not reflected by existing ways of measuring demand.

Implications for Aboriginal Policing

- Despite some declines in crime rates, service demands in most Aboriginal

²The current problem finding police resources to fight burgeoning organized crime groups is an example of this.

- communities remain high.
- Without significant socio-economic change there is no reason to predict a future decline in formal crimes and arrest rates in many Aboriginal communities.
 - Continuing high birth rates in Aboriginal communities mean that there will be an increase and not a decrease in youthful crime-prone or at-risk populations.
 - Without a new model of policing, the likely increased demand for policing services in Aboriginal communities could result in even higher levels of Aboriginal criminalization and incarceration.
 - Aboriginal communities seem to prefer community-based models of policing which require more resources.

POLICE GOVERNANCE - TRENDS AND ISSUES

1. Trends in Police Governance

There is a global trend to limiting the responsibility, size and cost of government services including policing. Market and private sector management and organizational strategies and values are being used to rationalize all public services. Smaller police services are increasingly being forced to amalgamate into regional forces as governments are trying to standardize police services across jurisdictions. This means that in many areas policing is moving away from community variation and from local community based police services as police services are less influenced by local conditions and community expectations and more by regional or provincial policy standards and priorities. It also means that the performance of police services is being increasingly measured, monitored and compared to others.

Cost-conscious and results-oriented governments increasingly want more effective police governance. In addition to reducing or limiting police budgets, many municipal and provincial governments have adopted private sector managerial policies by introducing more detailed and demanding business-oriented processes of managerial accountability and performance assessment. Governments now ask police executives to provide them with detailed performance data, expenditure details, business plans, cost benefit calculations, and general indicators of sound fiscal and operational management and strategic planning.

This trend toward more active police governance challenges traditional notions about the operational autonomy and independence of the public police. The traditional governance process rested on trust in the chief's professional honesty and managerial competence. This traditional, independent, management model is being challenged by new public service models that define the role and responsibility of the police chief as that of any public service manager who is part of the general bureaucracy of local government. Many municipalities now include the police chief as part of the annual local government planning and budgetary processes. This more interactive and managed governance relationship is re-defining the traditional role and power of the police chief and increasing the power of local and provincial governments.

Implications for Aboriginal Policing

- In the future, police services will likely be expected to become more formally managed and operationally accountable to government. Accountability of Aboriginal police services will be an issue, and governments will have to decide if Aboriginal police services will have to meet the same level of operational and managerial accountability as other police services.
- The trend toward the rationalization and integration of police and local government management may be particularly problematic in Aboriginal communities. Research and experience suggest that the governance relationships for some Aboriginal police services are complex and controversial (Murphy and Clairmont 1996). Aboriginal communities and governments will have to determine who will be responsible for ensuring the accountability of Aboriginal police services.
- Stand-alone police services are particularly vulnerable to political pressures and conflicting role demands.

2. The Regionalization and Amalgamation of Police Services

In order to limit public spending and to create a more politically responsive and manageable public service there has been a recent trend toward reducing the number of distinct local governments by amalgamating or regionalizing governments and their public services. Regionalization of public services is based on the view that fewer separate public services create an economy of scale that ultimately reduces overall operational and administrative costs. Regionalizing small police services is said to eliminate costly duplication, maximize limited resources, and generally deliver more professional and sophisticated police service. Larger amalgamated police organizations are said to create new operational efficiencies and to allow for more expensive or complex specialized policing services or technologies. In addition, provincial governments find it easier to relate to one regional police service board, one police chief and one police association. In other words, at least in theory, a regionalized policing environment offers provincial governments a more rational, better-managed and resource-efficient model of provincial police services³.

Implications for Aboriginal Policing.

Although the cost savings and improved efficiency assumptions of the regional policing model have yet to be clearly proved, its political logic remains persuasive. However, regionalization or amalgamation of small police services may run counter to the logic of community based policing which argues that: policing is more effective if it is done by the whole community; that local knowledge and background are more important to good policing than specialized professional

³This has recently taken place in several Ontario jurisdictions and in Nova Scotia and a major rationalization of police services has recently been proposed by the Quebec government.

services; and that community variation is strength not a weakness. There are many obstacles to providing Aboriginal policing in dispersed, small, rural communities that make regional policing fiscally attractive. These include factors such as training, lack of specialized services, and cost. However, at the same time the cultural diversity and the traditional nature of many small Aboriginal communities suggest that a community-based models is also appropriate. The tension between regionalized and community based policing models needs to be addressed in any new model of policing, as they are not necessarily compatible. It is possible that larger police forces can offer locally-based service, but to do so requires reorganization and a commitment to a management style that allows personnel in the field more responsibility for decision-making and resource allocation.

3. Standardizing Police Services

While provincial governments vary in the degree to which they are actively involved, most are becoming more aggressive in setting common provincial policing standards⁴. Provincial policing standards are developed to ensure a level and type of minimal police service for all citizens irrespective of their location. This provides some measure of service uniformity and equality throughout a policing area. Standards help to ensure that local police services have adequate training, equipment and services and that policing is at least minimally consistent and competent in all municipalities. Unless standards are carefully planned and unless small municipalities are given help meeting these standards they may jeopardize the future viability of small, independent police services. However, without standards policing services may not be adequate. Thus developing an appropriate balance between local and diverse community policing needs and more generic regional or provincial policing standards is an issue that must be addressed by the Implementation Commission.

Implications for Aboriginal Policing

In provinces other than Manitoba, the need to meet provincial policing standards means that small local police services are at a significant financial and organizational disadvantage. This is forcing them to amalgamate and to form service partnerships with other forces. The relevance and impact of provincial policing standards on Aboriginal policing will need to carefully assessed. If provincial policing standards do apply, then it may be especially difficult for small police services to meet them. If policing standards do not apply, this may produce an unequal and increasingly incompatible system of policing that may be seen as inferior in many ways. Effective networking may help to solve this problem where regionalization does not take place.

⁴Manitoba is a notable exception to this trend.

POLICE MANAGEMENT TRENDS AND ISSUES

CURRENT TRENDS

- Over the past decade the management of Canadian policing has gone from managing growth and organizational expansion to organizational reform and service rationalization. Faced with limited resources and increasing demand, public police executives have had to cut their activities or to find ways of doing more with fewer resources.
- Canadian police managers are relying less on the traditional para-military public service models and strategies of police management and more on corporate private sector values and models.
- The new management culture promotes non-traditional values and strategies such as efficiency, productivity, innovation, change, empowerment, risk and accountability.
- The new management culture in policing supports organizational change and reform which often conflicts with traditional police culture and front-line expectations and occupational interests.
- Canadian police managers are introducing a variety of significant organizational changes in order to rationalize and to reform the traditional organization and delivery of policing services.
- The adoption of various kinds of technology has become an important management strategy for increasing the efficiency, effectiveness and the management of police activities and services.

Managing public policing has always been a particularly difficult and demanding task. Public police managers must respond to a number of challenges including the broad and constantly changing policing mandate; unrealistic and often-changing public and political expectations; and the volatile and unpredictable nature of policing and police work. Despite these pressures, some Canadian police chiefs appear to have limited managerial powers and some lack solid managerial skills. In municipal policing, managerial powers have been limited by a well-established, conservative police occupational culture. This culture has been reinforced by powerful and protective unions and associations which are often fiercely resistant to any managerial initiatives and organizational changes that might affect traditional occupational privileges and working conditions. Formal management powers have also been eroded through contract negotiations that have restricted the chief's ability to manage the organization in the most efficient and effective way possible. The difficulties of these challenges are reflected in the recent resignations, dismissals, and early retirements of a number of well known "progressive" police chiefs and a growing reluctance of potential police executives to seek what they perceive to be an increasingly difficult and unrewarding job. Thus despite being in a critical period of policing change and transition, public policing in Canada may not be able to attract, retain and develop the management excellence and leadership it requires.

Implications for Aboriginal Policing

The critical role of police chiefs or managers in the development of Aboriginal policing cannot be overstated. While the current variability in the quality and stability of Aboriginal police services in Canada is linked to environmental and situational factors, it is also dependant on the varied quality of personal leadership and management (Clairmont and Murphy, 2000). In some cases the special challenges of establishing and managing a new police service, with inexperienced police officers, in communities with high and often unrealistic expectations have proven to be unmanageable. Attracting, developing, and supporting qualified Aboriginal police chiefs has been particularly difficult for some Aboriginal police services, as the pool of qualified and experienced candidates is limited and often there are additional language and culture requirements that reduce choice even further. This unique combination of pressures has led to high executive turnover rates and considerable organizational instability in some Aboriginal communities. These unique circumstances suggest that any future Aboriginal policing model for Manitoba must keep in mind the unique and challenging prospects of finding, developing, and training adequate experienced and suitable Aboriginal police managers.

POLICE SERVICE TRENDS AND STRATEGIES

CURRENT TRENDS

- The roles and responsibilities of the public police are being reformulated and rationalized in order to respond to manage increasingly limited resource and response capacities. The cost of police response and activity has become a significant determinant of police service decision making.
- The police are developing a variety of innovative service delivery strategies including eliminating or reducing some services, and sharing, selling and privatizing services.
- Canadian police executives are developing an increasingly limited view of the police service role and police response capacity and an increasingly broad view of the policing capacity and responsibility of the community and private sector.
- There is an increased sharing of policing service responsibilities with the community through community based policing.
- Partnerships are being encouraged with the private sector and the community to help finance and resource some public policing functions.
- Public access to in-person police response for non-core crime is increasingly limited and variable.
- Police are stretching their response capacity by using civilians, volunteers, cadets, auxiliary, part time / retired officers, and private security.
- Service delivery for revenue recovery or generation is becoming increasingly popular and profitable for many police services.

As these trends suggest, many police managers and police services are responding to resource limitations and demand pressures by rationalizing the delivery of police services through a variety of innovative service strategies. These strategies include redefining the scope and priorities of the police service role, limiting and transferring policing responsibilities, and rationing police services. The resulting new police service model is a realistic and rational response to resource - demand pressures but it also provides a reduced and limited form of public policing which may not meet the community's policing needs and expectations.

Implications for Aboriginal Policing

1. The Potential Aboriginal Police Service Crisis

Perhaps the most significant and striking service trend is the degree to which police services in Canada are gradually retreating from the resource rich "broad" full-service ideal toward an increasingly limited, redistributed and fiscally rationalized "core" police service. Without more police officers and resources, police services report they are being forced to reduce or eliminate many traditional police responses to an ever increasing array of order and crime problems (Murphy, 2000).

This trend towards eliminating, limiting, and redirecting police service and focusing on more serious core services is not compatible with the kind of police services required and desired in most Aboriginal communities. Research suggests that most Aboriginal communities want a high level of conventional police service and personalized, visible and readily accessible community services offered by the police. Also, police work in most Aboriginal communities is often less about serious crime or formal law enforcement and more related to social problems in public order maintenance and interpersonal conflict or dispute settlement. In other words Aboriginal policing in most communities is typically a high-demand, resource-intensive, informal kind of police work. This type of police work is time-consuming and statistically unproductive by conventional policing measures such as arrests. Thus Aboriginal policing as it is now practiced and projected, is a resource-rich policing style in high demand policing environments⁵. This means that Aboriginal policing cannot be done well under the constraints of service reductions and rationalization. A key question for future Aboriginal policing services is whether they will be able to obtain enough resources to meet policing demands effectively or whether they will have to change the current full-service policing model. Any new model for Aboriginal policing in Manitoba will have to take into account issues such as cost, productivity, efficiency, and innovation.

⁵In many cases, these demands are shared among police departments as few First Nations police services provide a full range of services and rely on the RCMP or equivalent service to handle matters such as major crimes.

2. Community Based Policing in Aboriginal Communities

It is widely believed that Aboriginal communities need and prefer a style of policing services that is sensitive to, influenced by, and located in the community and desire a model of police service in which the police work actively with the community to determine priorities and develop programs. This is a community based style of policing. Though there is debate about what constitutes community policing, this style of policing is believed to have the most potential for the development and integration of Aboriginal policing traditions and interests. Following are a series of observations regarding current development in community policing and their possible implications for Aboriginal policing in Manitoba:

- Despite over a decade of debate and development, community policing for most police services in Canada remains largely a policy commitment which has had a limited impact on the structure and operation of the organization. The most common forms of community policing in Canada are specialized community policing functions or programs. These typically take the form of crime prevention officers and programs, community liaison and public relations, foot and bike patrols, etc. These programs are typically grafted onto a conventionally organized and delivered core of reactive police services. This means that few models are available for Aboriginal police forces to follow.
- Because of limited resources, the current trend in community policing is to expand and empower the community to do more of its own policing either in partnership with the police or independently.
- Recent developments in community policing strategies such as restorative justice, family conferencing and problem oriented policing have real potential for adaptation to Aboriginal policing.

Research suggests that while community policing is strongly endorsed as a policing philosophy, in most Aboriginal police services there has been generally little “formal” development of community based policing programs, strategies and models (Murphy and Clairmont, 1996). Instead Aboriginal police report a set of largely “informal” practices and responses to community policing problems that include conversation, advice, mediation, diversion and cautioning that might be considered a form of traditional Aboriginal community policing.

While there are many good reasons for the police to adopt community policing, the actual record suggests that it has proven to be far more challenging to implement than expected. So while there is great potential in community based policing it requires considerable commitment and expertise in order to make it work. It is no accident that for many police services (both Aboriginal and non-Aboriginal) community policing remains a much-promised but seldom-delivered model of policing.

If community policing is to be useful for Aboriginal policing, its adoption and adaptation must be carefully considered. It must address real cultural and situational differences in both the police and the community. Factors such as police experience, organizational support and stability,

reward systems, and different community cultural traditions, and the structure and capacities of Aboriginal police services and their communities need to be factored into any community policing programs. The wholesale importation of largely American urban policing models and programs that require management planning, training, and experience and assume organizational resources, collaborative community involvement, and inter-agency support, may be both inappropriate and possibly harmful in an Aboriginal policing context.

Another difficulty is that there is little research material or relevant training available to police and virtually none for Aboriginal police. While community policing has considerable potential for the future development of Aboriginal policing, it will not happen easily or naturally without more external government support and development. Understandably governments and Aboriginal police forces themselves have been reluctant to take reallocate resources to provide this support. However, if Aboriginal policing is to develop as a unique version of community based policing it will require the same kind of research and development support that continue to drive its evolution in non-Aboriginal policing.

3. Conventional Police Services

While community policing is probably the preferred model of policing in Aboriginal communities, it is important to note that there is also considerable Aboriginal community and police support for conventional police services. Communities with high crime rates tend to want their Aboriginal police officers first to be effective law enforcers and crime investigators and where appropriate to also be community based Aboriginal peacekeepers. Aboriginal police officers surveyed by Murphy and Clairmont (1996) tended to rate conventional policing skill as very important and expressed great concern about the need for more training and development in conventional and specialized policing skills. The dual policing roles often demanded of Aboriginal policing increases the need for training and support. The need for adequate both conventional and specialized Aboriginal police training will have to be addressed by any future model of Aboriginal policing in Manitoba.

SECTION 2

THE ABORIGINAL JUSTICE INQUIRY AND POLICING

Policing was a central concern of the Aboriginal Justice Inquiry. The Inquiry's recommendations concerning policing were based upon seven core principles:

- The adoption of Aboriginal community-based policing as the favoured strategy for policing in all Aboriginal areas.
- The development of professional, fully trained, regional Aboriginal police forces, reporting to and serving Aboriginal communities, with a broad mandate for law enforcement and crime prevention.
- A significant strengthening of employment equity programs, particularly in the case of the Winnipeg and Brandon police forces, including targets and remedies.
- A significant expansion of the availability and quality of cross-cultural training and field experience, including processes for the orientation of new staff to the Aboriginal communities to which they were assigned.
- Major improvements to the *Provincial Police Act* and Regulations, and in the role and function of the Manitoba Police Commission, to properly support the development of standards and procedures to guide all aspects of policing in Manitoba.
- The development of Aboriginal police commissions to support the rapid recruitment, training and effective support of Aboriginal police forces.
- The development of an effective public complaints body to hear all complaints concerning police.

From these principles, the Inquiry made two distinct sets of recommendations concerning policing in Manitoba. The first set of recommendations was intended to improve the relationship between the police and Aboriginal people. These recommendations included:

- Police forces institute employment programs to ensure that Aboriginal representation on police forces is equivalent to their proportion of the Manitoba population. Recommended measures include setting increased targets for Aboriginal hiring, dropping the requirement of Grade 12 for new recruits, and hiring experienced Aboriginal members from other forces.
- Police officers receive cross-cultural education and training.
- Police recruits be screened for racist attitudes.
- Improving the way in which the police take statements from accused persons by audio- or video-taping all statements and by adopting Australia's Anunga rules.
- That all Manitoba police departments develop strategies to strengthen their capacity to provide culturally appropriate police services.
- Liquor regulations be changed to help Aboriginal communities control alcohol use.
- Public complaints processes be improved.

The second set of recommendations dealt with the structure of policing in an Aboriginal justice system. These recommendations included:

- Establishing Aboriginal police forces in all Manitoba communities.
- Providing the Dakota Ojibway Tribal Council Police Force with sufficient resources to improve training and to assume full responsibility for police duties within its jurisdiction.
- Aboriginal communities in Manitoba be encouraged to form regional police forces and regional police commissions under Aboriginal control and management.
- Metis and non-status communities consider the development of a regional police force, with a police commission.
- Amendments should be made to the Provincial Police Act and to provincial regulations to facilitate the formation of Aboriginal police forces and commissions.
- A provincial Aboriginal Police Commission be established.

Status of the Seven Central Principles

1. *The adoption of Aboriginal community-based policing as the favoured strategy for policing in all Aboriginal areas.*

Some progress has been made in the adoption of community-based policing in Manitoba, but this progress has been slow. Like many other Canadian departments, the RCMP has expressed its support for community policing across Canada and has taken steps to implement several aspects of community policing. The RCMP community policing program includes forming Community Consultative Groups, supporting restorative justice initiatives, and forming advisory groups with representatives from the Aboriginal community in Manitoba. There are 97 advisory groups in 44 Aboriginal communities.

The Winnipeg Police Service has also introduced community policing and the program is active in several parts of the city that have large Aboriginal populations. An Aboriginal Liaison Officer has been appointed to work with the Aboriginal community and the Chief of Police has an Aboriginal Advisory Board with fourteen members. Members of the department are also active with a number of community groups including the Aboriginal Coalition of Winnipeg, the Manitoba Aboriginal Youth Career Awareness Committee, Winnipeg Native Alliance, and Aboriginal Ganootamaage of Winnipeg.

Both the RCMP and the Winnipeg Police Service have taken positive steps toward the implementation of community policing, but they still fall short of the restructuring recommended by the RCMP.

2. The development of professional, fully trained, regional Aboriginal police forces, reporting to and serving Aboriginal communities, with a broad mandate for law enforcement and crime prevention.

This strategy has not been implemented⁶ as only 6 percent of Manitoba's Aboriginal communities are policed by an Aboriginal police service. The DOPS remains the only Aboriginal police service in Manitoba. The DOPS polices six of the original eight communities. The DOPS now has 26 members and is a totally autonomous force that answers to the DOTC Police Commission. The MKO has recently completed a framework agreement that will lead to the establishment of a Police Consulting Group. This Group will work with each of the 25 member communities to develop the type of policing service these communities want. In the long term, this may lead to a regional Aboriginal police service for northern Manitoba. Chemawawin First Nations, Swan Lake First Nations, and Waywayseecappo First Nations operate under the terms of the tripartite RCMP - FNCPS agreement and are policed by members of the RCMP.

3. A significant strengthening of employment equity programs, particularly in the case of the Winnipeg and Brandon police forces, including targets and remedies.

There has been significant progress in hiring Aboriginal staff, particularly by the RCMP and the Winnipeg Police Service. The RCMP have added an Aboriginal sergeant as a Career Manager in the Staffing Branch to help with Aboriginal recruiting and personnel management. The RCMP has 108 Aboriginal members in the province (about 11% of the total number of officers and nearly 20% of those assigned to contract policing), 11 of whom hold supervisory ranks. Twenty-one of the province's 97 detachment clerks are Aboriginal. The RCMP tries to ensure that Aboriginal communities have Aboriginal police officers, but must also ensure that Aboriginal members have the same transfer and professional opportunities as other members. Since 1993, the RCMP has run an Aboriginal Summer Youth Employment Plan in cooperation with Aboriginal organizations, provincial agencies, and municipal groups. About half the students in this program have applied to join the RCMP.

Immediately following the AJI report, the Winnipeg Police Service instituted several initiatives

⁶As a general point, the government has not accepted the establishment of separate Aboriginal justice systems.

to increase Aboriginal hiring. While the minimum standard of Grade 12 or G.E.D. equivalency was maintained, the Winnipeg Police Service established three Constable Development Programs to give upgrading training to Aboriginal and visible minority candidates. These programs resulted in the hiring of a significant number of Aboriginal recruits. One entire recruit class was made up of Aboriginal officers. As a result of these programs and other recruiting initiatives, the Winnipeg Police Service now has 100 Aboriginal officers compared with 18 in 1990. This is 8.5% of the total complement of 1,174 members. The department developed an Employment Equity Policy in 1996. The policy was reviewed in 1998. The WPS has been less successful in hiring Aboriginal civilian staff and only 2.3% of civilian staff are Aboriginal. Future employment equity programs will target civilian staff.

Brandon Police Service has an employment equity program and has 4 Aboriginal officers (5% of their total complement).

The employment equity record of Manitoba's police departments has been impressive. Very few other organizations have been as successful in increasing their numbers of Aboriginal employees and in ensuring they play meaningful roles within the organization.

4. A significant expansion of the availability and quality of cross-cultural training and field experience, including processes for the orientation of new staff to the Aboriginal communities to which they were assigned.

The RCMP, Brandon Police Service, and Winnipeg Police Service all have ongoing multicultural training programs. The RCMP provide cross-cultural training to recruit classes and at the divisional level. The Winnipeg Police Service have a four-day module on Aboriginal Awareness that includes a one-day Sweat Lodge and training that is offered by Aboriginal elders. Brandon Police Service provides cross-cultural training and several years ago introduced an innovative training session that allowed their officers to work in an Aboriginal community. Harassment policies have been adopted and harassment and ethics training is provided. The courses offered by these forces have been extensively evaluated and revised and seem to meet the objectives of the AJI very well.

5. Major improvements to the Provincial Police Act and Regulations, and in the role and function of the Manitoba Police Commission, to properly support the development of standards and procedures to guide all aspects of policing in Manitoba.

There have been no improvements in the regulation of standards and procedures concerning policing in Manitoba. The Manitoba Police Commission was abolished and there is still no legislation dealing with police standards in the province. The lack of legislation means that the province can't enforce standards for any of the province's police departments including the DOPS and any new Aboriginal forces that might be established. This may lead to serious problems if Aboriginal communities replace the RCMP with local or regional forces.

6. The development of Aboriginal police commissions to support the rapid recruitment, training and effective support of Aboriginal police forces.

There is no Aboriginal police commission in Manitoba, though there is a Dakota Ojibway Tribal Council Police Commission that is responsible for the DOPS. Manitoba Justice has appointed a Director of Aboriginal Policing to provide support for Aboriginal police initiatives. The lack of an independent police board or commission is another major weakness of the government's policing policy.

7. The development of an effective public complaints body to hear all complaints concerning police.

Since the AJI report, small changes have been made in the operation of the Law Enforcement Review Agency. For example, a Provincial Court Judge now hears cases that were previously referred to the Law Enforcement Review Board which has been eliminated. Complaints against members of the RCMP must be heard by the RCMP Public Complaints Commission which falls under federal legislation.

Issues for the Implementation Commission

The shooting of J.J. Harper and the resulting Aboriginal Justice Inquiry have been a catalyst for change in policing in Manitoba. Aboriginal issues have become a very real priority for Manitoba's police departments. The face of policing has changed as there are many more Aboriginal police officers and civilian staff than there were a decade ago. Police officers are better-trained and have had much more exposure to Aboriginal cultures. Most police departments have taken significant steps toward community policing and are more willing to listen to the community's views. They have worked hard to develop linkages with Aboriginal communities. However, some important recommendations have not yet been addressed. Given the progress that has been made since the AJI report and the policing needs of Manitoba's Aboriginal people, we feel that the most important issues for the consideration of the AJI Implementation Commission are:

- The structure of policing for Aboriginal communities.
- Oversight and accountability of police agencies including standards and review of police misconduct.

Later in this report we will discuss each of these two areas and present some options to be considered by the Implementation Commission. In order to put these options in their proper context, in the next section we will review the current status of First Nations policing in Canada.

SECTION 3⁷

THE CURRENT STATUS OF FIRST NATIONS POLICING

In 1971, DIAND introduced its "Circular 55" policy which allowed for the establishment of band constable systems in First Nations communities. These band constable police services were to deal with the enforcement of band bylaws and to supplement, not to replace, the senior police services operating in the First Nations territory. The band constables were not deemed to be members of the senior police services, received very modest training, and were not considered full-fledged provincial peace officers but rather special constables on appointment. Band constables carried no weapons and had arrest powers essentially similar to any citizen. They conveyed information to residents, focused their attention on issues of community social order, and generally constituted a linkage with the provincial police. The "Circular 55" policy was a federal government response to pressures from native communities for enhanced services and local input, and also to pressures from the RCMP for additional resource support in policing First Nations communities (Stenning, 1992). In 1973 a DIAND task force on First Nations policing issues recommended a three-choice option for First Nations bands - they could opt for the status quo, for a band constable system, or they could become part of an existing senior police service, whether RCMP, OPP or SQ. This latter option was known as the 3B option. The possible option of forming a separate police service was not deemed feasible at the time. Provincial authorities' approval of the band's option was deemed important. By the end of the 1970's many bands had indicated support for the 3B option and all three provincial-level police services had put such programs in place. These were the RCMP's 3B, the OPP's Ontario Indian Special Constable Program, and the Amerindian Police Program in Quebec. Under this arrangement, First Nations officers received more training than band constables, engaged in a wide range of police activities but were not considered full-fledged members nor provincial peace officers.

In 1974, the Dakota Ojibway Tribal Council presented a proposal for an Aboriginal police service. The Council felt that law enforcement services were inadequate. They felt that Band Police services were inefficient and ineffective because there was no proper dialogue between the bands and DIAND (Dakota Ojibway Tribal Council, 1974). The Council also wanted to establish a police service that would place a major emphasis on crime prevention rather than

⁷Material in this section is based on Clairmont and Murphy (2000), Clairmont (2000) and Clairmont (forthcoming).

attending only to enforcement. After three years of negotiation, the Dakota Ojibway Tribal Council Police Department began operations in November, 1977 and a staff of 27 conducted policing duties in 8 First Nations communities.

In 1978 the James Bay Agreement authorized the development of autonomous police services for the James Bay Cree and the Naskapis in Quebec. By 1983 there were over 500 native persons employed in a policing role in First Nations communities. About one-quarter were band constables and virtually all others were "3B category" (i.e., RCMP 3B, OICP, APP). By this time, too, the first tripartite agreement had been reached in Ontario and the Ontario Indian Police Commission had been established. Prior to 1991 several First Nations were exercising more control over policing in their community and making it clear that a relatively autonomous, self-administered service was their preference (these included Kahnawake, James Bay Cree, and DOTC), but the first fully self-administered police service began in 1987 among the Louis Bull First Nations in Alberta. The Louis Bull Police Service exercised policing powers equivalent to a municipal police department.

In the late 1980's and the early 1990's there were a number of reports, inquiries, and commissions concerning First Nations policing in Canada. There were provincial inquiries and status reports in Ontario (Department of the Attorney General, 1986; Osnaburgh-Windigo, 1991), Nova Scotia (Marshall, 1989), Alberta (Rolf, 1991; Alberta Task Force, 1991; Department of the Attorney General, 1991); Saskatchewan (Linn, 1991; 1992), and Manitoba (Hamilton and Sinclair, 1991). In addition there was a significant review of RCMP policing in First Nations communities (Head, 1989) and a major statement on Aboriginal Peoples and Criminal Justice issued by the Law Reform Commission of Canada (1991). All these inquiries and reports or studies were quite critical of the existing form of policing in First Nations communities and decried its effectiveness in terms of sensitivity to cultural considerations, lack of community input, biased investigations, minimal crime prevention, and fostering alienation from the justice system by native people. A number of these inquiries and reports (e.g., Marshall, 1989; Head, 1989; Alberta Task Force, 1991; Rolf, 1991; Linn, 1992) held that reforms could be made within the contemporary policing arrangements and mandates which could overcome these problems and lead to an effective police service for the First Nations communities in question. Other inquiries and reports considered that the problems could probably best be dealt with through a separate, distinct, First Nations-controlled and administered system (e.g., Hamilton and Sinclair, 1991; Law Reform Commission, 1991).

By the early 1990's First Nations policing was undergoing significant organizational change. The inquiries and reports virtually all agreed on the need for a more innovative and culturally appropriate style and greater Aboriginal involvement in the control and direction of First Nations policing, though they were divided on whether a self-administered, separate police service was essential. By 1990 two First Nations self-administered police services had been created, with officers having full provincial status comparable to municipal police officers. These were the Louis Bull Police Service in Alberta in 1987 and the Six Nations Police Service in Ontario in 1989. Following the report of the Head Inquiry which highlighted the shortcomings and limited

effectiveness of the 3B system, the RCMP announced in 1990 that it was terminating the 3B program and upgrading the native special constables to the status of full members and, for the most part, locating them in First Nations communities. At that time the RCMP employed 189 3B native officers and 66 contract native officers (RCMP Action Plan, 1990). Concurrently, major shifts were taking place in governmental policy and in the tone and thrust of academic research on First Nations policing. In both cases, the shifts were in the direction of supporting greater responsiveness to distinctive First Nations traditions and realities, greater native presence in the police service, and increased administrative control by First Nations communities.

In 1991, following DIAND's Task Force On Policing (1990), the federal cabinet approved the First Nations Policing Policy (FNPP). It transferred the policing budget and fiduciary responsibility from DIAND to the Solicitor General, and established the objective of negotiating tripartite policing agreements (federal, provincial and band governments) with all willing First Nations bands, where the costs of on-reserve policing would be shared by the senior levels of governments but bands could top up the budget for special policing activities or enhanced services they desired. There were ten principles articulated in the FNPP but essentially it defined effective or good First Nations policing as comparable to that received by non-native communities under similar conditions, subject to significant First Nations control and direction, and responsive to the distinctive traditions and social circumstances of First Nations communities. In the background to the FNPP it was stated that the on-reserve police service must meet the standards of the province or territory in which it exists.

In the years that followed, the FNPP has been thoroughly implemented. The Aboriginal Policing Directorate was established in the Department of the Solicitor General in 1992. The Directorate has assisted the formation of, provides funds to, and fully collaborates with, the First Nations Chiefs of Police Association and the First Nations Police Governance Association (i.e., police or public safety boards) established in 1992 and 1993 respectively. By 1998 more than 112 tripartite agreements had been signed and about two-thirds of all eligible First Nations people were being policed under these agreements, and almost 900 fully credentialized native peace officers were policing in First Nations communities, compared to less than fifty in 1990. There were some fifty self-administered First Nations police services, about half of which approximated a full-service policing system.

During this period the Aboriginal Policing Directorate funded several nation-wide evaluations/assessments of First Nations policing. A 1995 report (Jamieson et al, 1995) concluded that the FNPP had been successfully implemented in terms of its ten basic principles or objectives, that its costs were in line, that more community participation had been accomplished and that on the whole, First Nations communities were more satisfied with the new arrangements than with the previous ones. The report did indicate that a basic issue bearing on the assessment of the effectiveness of First Nations policing concerned the style of policing that was put in place and the preferences in that regard by First Nations leaders and community residents. Two other nation-wide studies were undertaken for the Aboriginal Policing Directorate by Clairmont and Murphy. These studies concluded that the FNPP had been successfully

implemented in terms of structural factors such as native officers, self-administered services, and the number of tripartite agreements. Clairmont and Murphy also concluded that the policing practices put in place were conventional in style and limited in effectiveness by resources, the size of the police services, crime levels and high public expectations for policing. They also found that issues of policing effectiveness were especially complicated in the First Nations context due to diverse conceptualizations of "good policing" and to ambiguity with respect to the policing significance of cultural traditions and the appropriateness of provincial statutes and policing guidelines.

Other operational audits and performance reviews of First Nations police services throughout the 1990's established a fairly common portrait and reached similar conclusions regarding effectiveness. A review of the Ontario First Nations Policing Agreement released in 1997 was sharply critical of FNPP as implemented in the Ontario context. While acknowledging that First Nations residents did increasingly have the view that the policing service is "ours" (i.e., ownership and control), the First Nations leaders in particular gave low grades to First Nations policing for efficiency, effectiveness and cultural responsiveness. A common view among First Nations police officials and First Nations band leaders was that First Nations policing was under-resourced and hence failed to provide the kind of policing that the residents wanted and that was congruent with traditions and current social conditions (Smith, 1997). Audits and reviews of the Una'maki Tribal Police (Clairmont, 1999), the Dakota-Ojibway Tribal Police (KPMG, 1996), Anishnabek (Langner, 1995), NAN (Smith, 1996), the Blood (Otway, 1996), Six Nations (Smith, 1995), the Huron Wendake (Vezina, 1992), the Amerindian police service (Consulting and Audit Canada, 1994), the Siksika (Kopp, 1995), concluded that there was a greater sense of ownership of policing in the First Nations communities with self-administered police services, but that the policing style and practice was fairly conventional and had not moved significantly toward community policing. The audits and performance evaluations were quite mixed concerning the degree to which First Nations police services were assessed as well-managed organizations. Some assessments were very critical (e.g., Blood Police Evaluation Team, 1997; Cardinal, 1998, Nova Scotia Policing Services, 1999) while others accorded the evaluated First Nations police service 'high grades' and remarked on the growth potential (e.g., Vezina, 1992; Langner, 1995; KPMG, 1996; McConnell, 1989).

Current discussions of the effectiveness of First Nations policing are heavily centered around the question of what "good policing" or appropriate policing means in the First Nations context. That is, what visions of First Nations policing are to be taken as the reference points for discussing and measuring effectiveness? The Royal Commission on Aboriginal Peoples (RCAP, 1996) has added to the agenda set forth in the FNPP. The latter articulated ten principles and the three major themes of comparability, control and distinctiveness. RCAP advanced the proposition that First Nations control and separateness should be related to the distinction between "core" and "peripheral" areas where Aboriginal ways and identity are at stake. It advanced the concept of pluralism (authorized different styles or systems of policing principles and objectives) in policing and justice based on response to "core" concerns, but it did not spell out the principles of good policing (or justice generally) in relation to the "core" areas, partly

because of the diversity among and within First Nations communities on what the "core" areas in fact are. There was, nonetheless, a strong presumption in RCAP that "good policing" is more peacekeeping than law enforcement. RCAP's propositions are congruent with a pluralist conception of "good policing" and are open to the possibility of different principles guiding policing in Aboriginal communities. The views of some Nunavut residents that policing should be more family-based and less centered on procedure and individual rights (Qitsualik, 1995) could be an example of policing response to "core" areas of Aboriginal culture and identity. On a more practical, organizational level, the RCAP positions acknowledged the problems of achieving effective policing when carrying out broad mandates in the many small First Nations communities. The RCAP commissioners emphasized the need to institutionalize justice institutions on a "First Nation" rather than a "band" basis. At the very minimum, the RCAP position underlined the FNPP position that in First Nations communities the approach to policing has to be developed with reference to the communities' needs and way of life (see Aboriginal Policing Directorate, n.d.).

It is clear that there has been a major change in First Nations policing since the announcement of the First Nations Policing Policy in 1991. By the end of 1996 approximately half of the eligible First Nations population was policed under the FNPP. Almost 170 First Nations now have self-administered First Nations services. More than 60% of these were in Ontario and 20% were in Quebec. Approximately another 80 First Nations were policed under the FNPP through tripartite agreements or, in the case of Saskatchewan, a province-wide agreement. Aside from two First Nations policed under municipal contracts, the remaining 280 First Nations were yet to be incorporated under the FNPP but continued to be policed by regular RCMP members in conjunction with either band constables or RCMP special constables. It is in these provinces - British Columbia, Manitoba, Alberta and New Brunswick - where more First Nations self-administered police services may be expected to emerge, in regional or single band format, in the near future⁸.

Extensive indigenization has occurred, police services have increasingly become formally self-administered in the First Nations communities, and policing services (whether self-administered or otherwise) have become much more responsive and accountable to their First Nations communities. While these changes have not been formally evaluated, we can make some

⁸By the fall of 1998, 61% of the eligible (on-reserve) First Nations population - 311 bands with a population of 219,000 - was covered under the FNPP. The Aboriginal Policing Directorate considered that 194 or 69% of these 311 bands were self-administered.

observations about the degree to which these changes have had positive consequences in areas such as: efficiency, effectiveness, equity, and the development of a culturally relevant style of policing. The lack of available research means that this report cannot provide an adequate answer to these evaluative questions but a few observations can be made.

Efficiency

First Nations policing is clearly more costly than policing in other parts of Canada including in comparable small towns and rural areas. With a relatively high per capita cost, low population per officer ratio, and modest level of criminal code incidents per officer, the 'average' First Nations police service would appear less efficient (see, for example, *Crime and Police Resources in Canadian Municipalities*, 1998). However, First Nations police managers have pointed out that efficiency measures should be sensitive to the higher levels of offences against the person in First Nations communities, to the legacy of colonialism reflected in community disputes and in an extensive dependence on the police for social order (see, for example, the relatively high levels of public mischief and related social order problems in First Nations communities), and to the inevitable start-up problems in newly established police services staffed by young inexperienced officers, where there is great pressure to hire locally if possible. It should also be noted that there is significant diversity among the First Nations police services even on conventional efficiency measures. For example, the more established Six Nations Police Service compares well on all such measures with police services in other small urban and rural areas, which may be a positive signal for those First Nations that wish to establish their own police services.

Effectiveness

Measures of police effectiveness usually include factors such as response time and clearance rates. Little information is available on actual response times in Aboriginal communities. In a few specific cases known to the researchers, there has been considerable community criticism of response time, but the criticism seems to have been based more on expectations that First Nations community residents have established about the First Nations service, than on comparison with the response times provided by the previous policing service. Reports from the Centre for Justice Statistics indicate that clearance rates vary substantially among First Nations police services and that the well-recognized services such as Six Nations, Akwesasne and Kitigan Zibi have comparably high clearance rates. However, these measures of effectiveness may be too limited to actually assess the success of First Nations police forces as community expectations usually are much broader than these limited variables can measure.

Equity

Little research has been done in this area. There has been infrequent reference to public complaints and few reports have examined bias or perceptions of bias by community members. It is known that some officers find it stressful to police in communities where they are deeply embedded in the kinship system and where these ties continue to generate deep personal

commitment (e.g., Policing Services, Nova Scotia, 1999). The widespread view that there is more concentration of power at band council and chief levels than in comparable jurisdictions in non-native communities, would suggest that equity might well be problematic in some areas (see Cardinal, 1998). Turnover of staff could of course be an indication of stress and equity concerns and that has been a finding in many evaluations (Aboriginal Policing Directorate, Governance Workshop, 1996; Bomberry Corp, 1999) and a major complaint of many First Nations chiefs of police (Clairmont and Murphy, 2000). Another aspect of equity is service delivery from a gender perspective. First Nations police services have a male/female member ratio, which is comparable to that in mainstream policing (Murphy and Clairmont, 1996). There does, however, appear to be a significant amount of under-reporting of family violence, and sexual assault according to some community surveys (Clairmont, 1999), a pattern that might well be related to male dominance among local political leaders and perhaps to a virilocal pattern of residence upon marriage (i.e., females are more likely to move to the male's home community than vice versa). Undoubtedly, as in other findings, there would be much variation among the First Nations services in terms of these equity considerations. However, too little systematic assessment has been done in this area to be able to make informed conclusions.

One might expect that as the First Nation exercises more and more autonomy, community 'civic' culture would be rejuvenated and 'familism' discounted. Increasing professionalism among officers and public education about policing provided by the local police boards, could also effect greater equity, both in actuality and in the eyes of community members.

The Development of a Culturally Relevant Policing Style

Some criticisms of First Nations policing have been raised in various First Nations communities concerning effectiveness in conventional policing tasks (enforcement, investigation), and the possibility of family biases in carrying out police tasks. Still, community members largely appear to appreciate that the service has become more responsive to the community, and that it is their own, blemishes and all. The major complaint from First Nations community leaders and residents, as seen in audits and other materials, has been that it has fallen short in providing community-based, problem-solving policing which is culturally sensitive. Indeed, a case can be made that even conventional crime prevention programming (e.g., Neighbourhood Watch, school liaison, youth bike rodeos) is often not provided by First Nations policing services

Certainly there is little evidence of any distinctive First Nations policing style, though there are hints of an emerging style featuring highly informal, interactionally-intense, community-oriented policing (i.e., less formal than the Japanese koban system of policing but more involved in everyday community interaction than the typical Canadian policing). Again, though, there are exceptions. A few First Nations police services (e.g., Six Nations) have designated crime prevention officers and regular school liaison programs while some other police services have engaged in such activities when at full complement (e.g., Siksika).

Many First Nations police services do acknowledge elders and, less commonly, medicine men, in sporadic functions (as also do some RCMP detachments), are receptive to alternative justice circles, and have officers attend cultural events such as pow-wows (KPMG, 1996; Clairmont and Murphy, 2000) but it appears that in all but a few instances (e.g, Six Nations, Akwesasne), these 'cultural' linkages are neither sustained nor regular (see for example, Hyde, 1992; Consulting and Audit Canada, 1994; Kopp, 1995; Clairmont, 1999). Like their counterparts in the United States (Barker, 1998), many officers have not linked their behaviour as police officers to cultural traditions or specific social circumstances, rhetorically asking "what have those traditions or differences to do with policing". Given the destruction of native culture by colonialism, the lack of consensus about how to integrate what traditions and realities, and the different priorities in conventional police training, that situation is not surprising. Certainly, the lack of such linkages, and, by implication, the focus on conventional professional policing styles, has been criticized by both First Nations political leaders (First Nations Committee on Training, 1992; Smith, 1997) and academics (Sadik, 1995). It has been a challenge raised, from the point of view of training and resources, by the First Nations Chiefs of Police Association (FN Coordinating Committee, 1996, 1997; Vision Quest Consulting, 1999). Recently this association has collaborated in a study of training and resources where a major question it posed was "whether training is preparing police for a role as peace keeper as opposed to a law enforcer".

To a significant extent, the First Nations chiefs of police appear to acknowledge these shortcomings, especially the general claim that a policing style has yet to be effected which reflects the cultural diversity of First Nations communities and attends well to their particular social needs (Clairmont and Murphy, 2000). The police managers have contended that under present policing arrangements, personnel and other resources are simply inadequate for this objective. This complaint about inadequate resources for policing has also been made by First Nations political leaders and community residents. Connected to this broad theme is the issue of autonomy and direction. While there is little question that First Nations communities are exercising greater control over the policing function, there is significant pressure on the First Nations self-administered police services to be more autonomous and to provide the full range of conventional policing tasks, as well as exhibiting a distinctive style. Neither autonomy nor distinctiveness has been clearly operationalized and both are quite problematic in terms of implementation. The trend in Canada and elsewhere is for increasingly stringent governmental guidelines defining what an autonomous police service must be capable of, guidelines which in effect are making smaller police services unacceptable and obsolete. Moreover, the evidence is strong that conventional professional police training, in combination with routine collaboration among police services, sharply limits the possibility of pluralism in policing style (Barker, 1998).

THE STRUCTURE OF FIRST NATIONS 'SELF-ADMINISTERED' POLICE SERVICES

There are over 600 bands dispersed quite thinly and widely across Canada today and the average band size is roughly 800 members⁹. Clearly these numbers create great challenges for the development of autonomous and culturally-sensitive police services that can be simultaneously efficient, effective, and equitable. Collaboration with other bands or First Nations and/or with surrounding provincial and municipal police services would appear to be absolutely essential. Elsewhere in Canada there has been and continues to be a powerful movement of amalgamation and regionalization such that many police services, even those of significant size, correctly fear for their continued autonomy. Non-Aboriginal police services of less than 50 officers would appear headed the way of the dinosaurs in provinces such as Ontario, New Brunswick and Nova Scotia unless they can forge significant collaborative networks with other police services in order to meet increasingly stringent provincial standards. There are currently only two First Nations self-administered policing services in Canada that have more than fifty members (the Nishnawabe-Aski Police Service and the Anishinabek Police Service in Ontario) and two others that have more than twenty-five officers. As will be seen below, almost all of the First Nations self-administered police services do have protocols with their counterpart provincial police organizations whereby they access back-up and special policing services and resources. These protocol-based relationships are sometimes neither well delineated and implemented nor without some edge and tension even though the operational and administrative support services provided are those typically extended to smaller police services (e.g., major crime, identification, information services, and specialized services).

Regionalization as an organizing principle in Aboriginal policing has been developing slowly but steadily since the new Indian Policing Policy was announced in 1991. In Atlantic Canada the four Mi'kmaq First Nations or bands that have a fairly autonomous, self-administered policing services, are affiliated in the Unama'ki Tribal Police Service. Some bands in Nova Scotia and Prince Edward Island have contracted with the RCMP through tripartite agreements while other bands there, and virtually all the New Brunswick bands, are covered by what are known as federal-provincial framework agreements. Unlike Nova Scotia, New Brunswick still has an

⁹ There are some minor inconsistencies between official government data and reports of police managers concerning the number of bands and the complement of officers in certain jurisdictions. Here the authors have cited the official Aboriginal Policing Directorate records.

extensive band constable system, though the band constables have very limited policing authority, training and resources. In First Nations communities throughout Atlantic Canada, the RCMP, acting as the provincial police force, provides at minimum the more sophisticated policing services (e.g., swat team, identification) and investigates the most serious major crimes.

There are fourteen Inuit and forty-two First Nations communities (thirty-nine officially recognized bands) in Quebec. Some regionalization by cultural grouping has taken place in the North among the James Bay Cree (nine communities) and the Inuit (fourteen communities) but clearly the process has a long way to go before there are any reasonably autonomous regional police services. For example, the Kativik Police Service which serves the Inuit communities is largely a co-ordinating structure which depends heavily on the provincial police for law enforcement. It could scarcely be said to be an Inuit-directed service and the local officers are more comparable to band constables at this point in time. The Chief of the Kativik Police Service noted that "our officers are not armed". Still, the trend is unmistakable and, at a 1998 national conference on Aboriginal justice, a leading judge in the Nunavik region observed that "the S.Q. are pulling back from policing in the Inuit communities and more and more Inuit officers prepare the crown sheets and appear in criminal court". Self-administered policing services in the three Mohawk First Nations in Southwestern Quebec, namely Akwesasne, Kanasatake, and Kahnawake, have reportedly been discussing common concerns such as forming a collective 'swat teams' and how to incorporate Mohawk traditions into policing practice. However, each modest-sized (twenty-plus members) service is quite independent of the others. After a long period of contested status, the peacekeepers of Kahnawake and Kanasatake have been fully acknowledged as police services in tripartite agreements. In Northwestern Quebec, the nine Algonquin First Nations communities have their separate police services (all with less than ten members each) but linkages have been established among them. For example, one Algonquin First Nations chief of police currently also serves as advisory supervisor for a nearby Algonquin police service. Elsewhere in Quebec, the Amerindian Police Service provides policing to more than a dozen First Nations officially designated by the Aboriginal Policing Directorate as having self-administered policing. Most of these bands are Montagnais but there are other cultural groupings involved such as Micmac, Abenaki and Attikaniéks. In addition to these police services, there are also in Quebec a handful of 'micro' (less than six or seven members) police organizations officially designated as 'self-administered', though in practice they exercise only a modest degree of policing autonomy.

With 126 bands, Ontario is the province with the largest number of First Nations communities. Some Ontario First Nations are currently organized into fairly autonomous regional police services such as the Nishnawabe-Aski and the Anishinabek. The former currently has 90 officers serving 44 communities and in the future it is projected to have well over one hundred officers serving 49 Cree and Ojibwa bands with a total population of 30,000 people spread over an area as large as France. The Anishinabek Police Service has recently expanded to a complement of 58 officers serving eighteen First Nations with approximately fifty-eight officers. The UCCM agreement provides a regional service for twelve First Nations in southwest central Ontario. There are also micro (e.g., Lac Seul, Wikwemikong) and modest-sized (e.g., Six Nations) self-

administered services as well as a large number of First Nations receiving 'enhanced' policing under the direction of the Ontario Provincial Police. Typically the enhancement is provided by the addition of a band-selected local officer. Ontario has several of the best-managed Aboriginally-led, First Nations police services in Canada including Six Nations, Akwesasne and Anishinabek. In Ontario there is also a province-wide First Nations Police Commission.

In Western Canada there are three small, regional, self-administered First Nations police services - the Stl'atl'imx in British Columbia (covering ten First Nations or bands, with less than ten officers apart from the chief of police), Manitoba's Dakota-Ojibwa Tribal Council Police Service, and Lesser Slave Lake Regional Police Service in Alberta which provides policing for eight First Nations with less than ten officers. In addition to these three forces, the other designated self-administered First Nations police services serve single bands, the largest of which is the Blood Police Service with about twenty members serving the geographically largest reserve in Canada. Four bands in the Hobbema area of Alberta formerly constituted a single band, so it is not surprising that occasionally there is talk about a regional service in this area. Currently there are three police services in the area, namely the RCMP, Louis Bull and Hobbema. There has also been some informal discussion of regionalization among the southern Alberta First Nations police services, namely the Blood, Siksika and Tsuu T'ina. Clearly though, in Western Canada there appears to be less movement towards regionalization among police services serving individual First Nations, and, where regionalization exists, the police service is still of quite modest size. The RCMP, either through province-wide agreements or tripartite agreements, provides policing services to all First Nations in Saskatchewan and most First Nations in British Columbia and Manitoba. In British Columbia there are a few micro, self-administered First Nations policing services operating under a public safety mandate.

Given the small population size of most First Nations and their dispersal over a wide area, regionalization cannot be a panacea for efficient, effective policing. For example, the Stl'atl'imx Police Service polices ten bands in sixteen locations spread out over a mountainous area which takes several hours to travel by car. Policing the less than 4000 residents with less than ten officers is a challenge, especially when the police service is formally committed to community-based policing. Community leaders are strong proponents of high police visibility and the story is often told how a security program set up by the Lillooet First Nations in 1986, focussing on crime prevention patrol in that area (and reporting actual or possible criminal activities to the RCMP), after one year achieved a whopping 95% reduction in crime-related activity. Most regional police services (e.g., Unama'ki, NAPS, Kativik, James Bay Cree, DOTC) are similar to the Stl'atl'imx in having to serve many small, widely-scattered communities where the community expectations for police visibility are very high. Under these circumstances personnel are bound to be scarce, committed to responding to calls for a wide range of services, and on virtually constant patrol. It is a considerable challenge then to mount quality reactive or proactive policing for many regional police services.

There is very little organization of First Nations police services at the provincial level. The most active provincial First Nations police body is the Ontario First Nations Police Commission.

There has been some desire among the chiefs of police in some provinces to have such organization in order to facilitate hiring through a personnel registry and to lobby for improvements in provincial training programs for First Nations police recruits. Certainly there are many issues for self-administered First Nations policing that have provincial implications, such as whether First Nations constables have the status of provincial officers (they do in Nova Scotia but they do not in Ontario), who formally appoints First Nations officers (the First Nations via chief and council, a police board or the provincial authorities?), and what provincial statutes First Nations authorities encourage their police service to enforce or not to enforce. Many aspects of the provincial government - First Nations government relationship remain problematic since the Canadian constitution locates policing as a provincial responsibility while many First Nations leaders perceive First Nations as having a 'nation to nation' relationship with the federal government. These different perspectives provide a problematic context for some aspects of First Nations self-administrative policing, and the problematic context has only been partly resolved through the tripartite agreements that have been the hallmark of federal policy in Canada since 1991.

Since 1992 there has been a Canada-wide association of First Nations chiefs of police. The First Nations Chiefs of Police Association (FNCPA) grew rather rapidly from a handful of members to over twenty by 1996 when its first general annual meeting was held in Ottawa. Its core membership has police chiefs from Ontario and Alberta but it has representation from Atlantic Canada, Quebec, Manitoba and British Columbia, and also associate members representing other First Nations policing authorities. It has formal recognition and some funding from the Aboriginal Policing Directorate, and representatives from FNCPA and Aboriginal Policing Directorate form a co-ordinating committee which has met regularly in recent years to discuss and plan for improvements in First Nations policing.

SECTION 4

RECOMMENDATIONS FOR ABORIGINAL POLICING IN MANITOBA

The Aboriginal Justice Inquiry recommended that Aboriginal community-based policing become the favoured strategy for policing in all Aboriginal areas in Manitoba. They recommended that police services be delivered by professional, fully trained, regional Aboriginal police forces, reporting to and serving Aboriginal communities. These recommendations were based on their finding that Aboriginal people view the police as representatives of a culture which is vastly different from their own:

“We heard a litany of complaints and examples indicating that many, if not most, Aboriginal people are afraid of the police. They consider the police to be a foreign presence and do not feel understood by it. They certainly do not feel that the police are in any sense ‘their force’, that police operate on their behalf, or that the police are in any significant manner subject to a corresponding Aboriginal influence in their communities.” (Hamilton and Sinclair, 1991: 597)

While the Implementation Commission may choose to recommend different policing alternatives than the AJI, it is important that any recommendations address these concerns. Any Aboriginal policing policy should ensure that the police do respond to the influence of their communities and that Aboriginal people feel that the police are “their police”.

Community Policing

The AJI Commissioners recognized that none of their proposed police reforms would have much impact unless there were major changes in the manner in which the police related to their communities. For example, if Aboriginal police officers were trained and supervised in a traditional manner they would act in the same way as white police officers and the community would have gained little.

The Commissioners believed that the adoption of community policing would be necessary to ensure that policing reforms would actually make a difference. In the decade since the AJI report, progress has been made in community policing in Canada, but this progress has been very slow and has not resulted in major changes to the way the police do their business and relate to their communities.

A major reason for this is that the term ‘community policing’ is so broad and ill-defined that it has become analogous to a Rorschach test in which everyone defines the term as they wish. In some areas community policing has involved a complete reorganization of the police department while in others community policing has merely meant setting up a consultative committee or assigning one officer to bicycle patrol. Because of this lack of precision, it is meaningless to ask departments to adopt community policing without specifying how the term is defined.

How should the term ‘community policing’ be defined? We suggest that 3 elements should be part of any community policing program:

- **Community involvement in decisions about policing.** The community members who receive police services should help set policing priorities and influence the policies of police departments. The police should not just have a one-way relationship with their communities. They must develop institutionalized ways of consulting with their communities and they should actually *listen* to what the communities say. A common failing of community policing has been a reluctance of the police to give the public meaningful input into police priorities.
- **Decentralized management.** Communities and neighbourhoods vary widely and policies that are appropriate in one area may not work in another. In recognition of this diversity, a community policing program should assign responsibility and authority to the police at the local level. This means that officers must be trained to handle this responsibility and authority and must be held accountable for their work.
- **Problem orientation.** Problem-oriented policing means that police are encouraged to work with the community to solve local problems rather than just focussing on enforcement. In addition to their traditional task of reacting to calls for service, the police work with the community to identify and to resolve the community problems that underlie the service calls. This proactive, preventive approach has great potential in some Aboriginal communities where social and economic problems lead to high levels of calls for service.

We have noted earlier that while the police have been trying to implement community policing for nearly two decades, very few police forces have changed their operations to incorporate these three elements in a meaningful way. Even police agencies that have publicly committed themselves to community policing typically give the community only token involvement in determining policies and programs, retain high levels of centralized control over operations, and pay little attention to solving the problems that underlie crime and disorder in the community. This is particularly true in deployed forces such as the RCMP where significant policy decisions are made at Divisional Headquarters or in Ottawa. It is apparent that there is a need for ‘community conversations’ to determine community priorities and to help determine what can realistically be expected from a police service.

There are sound reasons for increasing the extent of community policing in Aboriginal communities:

- Community policing fits well with restorative justice initiatives that are being implemented in a number of Aboriginal communities¹⁰. These initiatives “share a

¹⁰This is illustrated by the fact that one of the major community policing initiatives

common commitment to: increasing community participation in sanctioning criminal activity, thereby taking ownership of the problem; building consensus among the participants, to renew their sense of community; and healing the breaches between community members which often result from the ‘destructive behaviour’ of the offender” (Andersen, 1999:306). Restorative justice programs are concerned with changing individuals and their communities not just processing them through the criminal justice system.

- The need for community policing is also supported by Aboriginal self-government initiatives. As bands move toward self-government they will want to increase their control over policing in their communities. Depew has also pointed out that “Aboriginal self government promises a coherent and comprehensive foundation for community governmental structure, decision-making and law-making authority, all of which are prerequisites for the development, implementation and operation of truly autonomous, comprehensive Aboriginal police forces” (1993:53).
- Community policing is also suited to the diversity of Aboriginal communities which vary in their location, culture, values, economic situation, and in their capacity to deal with problems through other means. Each of these factors must be considered when deciding on the appropriate style and extent of policing. Adapting policing structures and styles to the community will help to establish the legitimacy of the police in the eyes of Aboriginal communities.
- Ideally, community policing can be a way of reducing the race and class divisions that have had such a negative effect on relationships between the police and Aboriginal communities.

While it may result in positive changes, community policing is no panacea. In fact, despite the rhetoric it is rare that community policing has ever empowered communities. Police departments are rarely open to serious community input and the impact of community policing is often more symbolic than real (Reed, 1999). There are also risks involved with community policing. Asking the police to become more responsive to the interests and needs of their communities

developed by the RCMP is a restorative justice program that involves establishing community justice forums.

carries with it the possibility that some segments of the community will have more influence with the police than others. For example, like other forms of community justice community-based policing entails giving the police the discretion needed to handle some offences informally. If this discretion is not administered in an even-handed fashion, it can discriminate against some members of the community.

The establishment of community policing programs will benefit Aboriginal communities if it is done carefully. Unfortunately, there are no good models that Aboriginal communities can follow so the process may be difficult.

In the rest of this section we will outline a process for improving the structure of Aboriginal policing in Manitoba. There are no templates that can be followed to guarantee success, so the best that can be done is to outline a process and to describe some of the options that might be available to communities.

A Process for Determining Policing Structures in Aboriginal Communities

The AJI recommended that all Aboriginal areas in Manitoba be policed by full-service regional Aboriginal police forces. While we agree that Aboriginal community-based policing should be the favoured policing strategy for policing in Aboriginal areas, we do not feel that regional Aboriginal police forces should be mandated as the only form of policing for Aboriginal areas. It is our view that the Implementation Commission should take a more flexible approach to the structure of policing. It may not be advisable to impose a particular framework on all communities. Aboriginal people have markedly different cultures, and even where different communities share a common background their needs may vary because of local circumstances. The Royal Commission on Aboriginal Peoples has stated that communities “themselves know best what justice issues they wish to address and how they wish to address them” (1996: 168).

As noted in this report, not all communities want regional Aboriginal police forces and there have been difficulties in some of the areas that have adopted this form of policing. One serious issue is the difficulty of providing an appropriate range of services in small, isolated communities. Local and regional Aboriginal forces (and small non-Aboriginal forces) are often weak in areas such as support services, expertise, and training of specialists. From the provincial perspective, the RCMP need a critical mass of members in order to provide these services and this may be threatened if they lose all responsibility for Aboriginal policing and lose a substantial number of their Manitoba complement.

Thus rather than imposing a particular template on Aboriginal communities, we suggest a different approach. This approach would start with determining the goals of any Aboriginal policing policy. Before deciding on how communities should do policing, one should know what the police are supposed to do. Robert Depew (1993: 32) asks:

“How is social order and control to be defined in Aboriginal communities? What areas of

community life are in need of policing and why? What should be the objectives of policing? How should the police mandate be defined? Who should assume responsibility and accountability for policing and why? How should these processes be organized? These types of questions should be informed by the range of environmental factors that impinge upon and partly shape social relations and interaction in Aboriginal communities”.

Aboriginal people might want a variety of different goals or outcomes from their police. These might include:

- Better cultural sensitivity
- Reduced involvement of Aboriginal people in the criminal justice system
- Increased employment opportunities for Aboriginal people
- More effective approach to dealing with crime
- Community healing or community building
- To provide a broader range of policing services including by-law enforcement
- Safer communities
- Greater Aboriginal control over police governance
- The availability of technical expertise and extensive support services
- Greater fairness to accused persons
- Helping with cultural change
- Better services for victims

As with other areas of Canadian policing, there has been little research to guide decisions about Aboriginal policing. One of the few studies that has been done sheds some light on the nature of services that might be desired by Aboriginal communities. Brodeur (1991) and LaPrairie (1991) studied policing in 9 Cree communities in northern Quebec. They found that people relied on the police to provide a very broad array of services. These range from criminal and quasi-criminal matters to assistance to services such as taxi and babysitting that are not normally considered part of the police mandate. Work in other Aboriginal communities has reached similar conclusions (Depew, 1993). This broad demand for services is likely a function of two things: a lack of other social services such as daycare and transportation in many Aboriginal communities; and a broader notion of the role of policing than in non-Aboriginal communities.

The Implementation Commission might encourage the province to adopt a process through which Aboriginal communities could choose the most appropriate type of police structure. This process should involve the following stages:

- **Needs Assessment.** Each community should make an inventory of its needs and resources. As we have noted above, communities may have a variety of different goals they wish their policing service to achieve. Each community also has different problems, geography, culture, values, economic situation, and each has a different capacity to deal with problems through other means. Analysis of these goals will help to define the type of police service that is best suited to the community.

- **Assessing Options.** Communities should have information about the different options that are available. As many community members as possible should be involved in choosing which of the options would be best for their community. We recommend that communities have the flexibility to choose from a range of structural options including: regional Aboriginal forces, local Aboriginal forces, continuing with the current style of policing with the RCMP, and working with the RCMP to develop a more satisfactory form of policing. While many bands in other provinces have opted for self-administered policing, it may be possible to achieve more First Nations direction over policing, and a policing service more attuned to First Nations realities and wishes without profound change in existing arrangements. Indeed, there is some evidence that through community tripartite agreements the RCMP are developing a viable alternative by involving advisory groups, and elders, and by introducing restorative justice practices.

Can self-administered police services, which are the preference of many First Nations, meet that challenge? Certainly, more appropriate training for constables and for police managers serving First Nations communities, especially at the post-recruit level, may be one way to deal with the perceived shortfalls. Officers have had little training in anything other than conventional policing approaches. Police managers could improve their involvement of community through the use of volunteers and the establishment of advisory groups (both of which seem uncommon in First Nations communities). Clearly, too, there is significant variation across Canada in the resources, training and community and cultural programming available to First Nations self-administered police services, an indication of the possibilities of change. Regionalization has often been advanced as a strategy for effecting a more autonomous, self-administered First Nations policing service. There are considerable problems of generating effective regionalized policing services under current political conditions where bands have First Nations status (see Royal Commission on Aboriginal Peoples, 1996). Interestingly, few First Nations police managers considered regionalization to be a solution to their current problems (Clairmont and Murphy, 2000). Other strategies include networking and collaboration with other police services, and changing the expectations of community residents. It does appear, however, that there is a fundamental dilemma of vision and resources that requires a reconsideration of the kind of policing that First Nations stand-alone services should be striving to provide their communities.

- **Monitoring and Evaluation.** Once a community or a group of communities has decided on the most appropriate form of policing, the implementation process must be monitored and evaluated. Monitoring ensures that the change in police structure is implemented as planned and evaluation assesses the degree to which the desired outcomes are achieved.

Using a systematic planning process to facilitate each community's decision about policing structures should be considered a long-term goal. At the present time, there is probably not enough information available to allow communities to make an informed decision about policing

options. Therefore, we propose some short-term steps that would help Aboriginal communities move toward this longer-term decision.

Immediate Recommendations

As short-term goals, we would suggest two steps:

- **Explore the potential of a regional Aboriginal police service.**

The DOPS is Manitoba's only example of a regional Aboriginal police service and it has met with mixed success. It began serving 8 communities, but by 2000 only 4 communities used its services and the number of members declined to 15. It now serves 6 communities has 26 members. While the DOPS is now a fully autonomous police service, in many respects it operates in the same fashion as most non-Aboriginal forces. It would be a useful step for the province to work with the DOPS to help them develop a truly community-based police service. If successful, this could be a model that other tribal councils might wish to adapt to their own communities. Another important factor in developing regional forces would be developing formal protocols exist with the RCMP to cover services that could not be offered by regional forces.

- **Work with the RCMP to develop better ways of policing Aboriginal communities¹¹.**

While the RCMP has taken steps to improve the way it polices Aboriginal communities, some feel it is not sufficiently responsive to community needs and concerns. To some degree this is inevitable since the RCMP is governed by federal legislation which limits the authority of municipal and provincial officials. Despite these problems, it would be possible for the RCMP to let communities play a greater role in policing. Working with the RCMP would enable Aboriginal communities to retain the advantages of the RCMP - their recruitment, training, and administrative structures; their professional standards; and their support services and ability to deal with the full range of offences. However, in order for this to work the RCMP must be willing to give up some of their centralized control as decisions made in Ottawa may not reflect the conditions on the ground in an isolated Aboriginal community. If the RCMP is not able to meet the needs of communities, then other models should be considered.

Some flexibility in negotiations for FNCPS policing might also be helpful. For

¹¹It is interesting to note that in research one of the authors has done in Aboriginal communities, community members express a clear preference for policing by the RCMP while community leaders tend to be advocates of self-administered police services.

example, some communities that have expressed a preference for the FNCPS model will not adopt it because they would lose their band constables. Band constables could be retained for a relatively small cost and would be able to provide many of the services required by communities and would also continue to provide a recruitment base for the RCMP and other police forces.

A Longer-Term Vision of Policing

It will be helpful to develop a longer-term vision of policing in order to help implement these two recommendations and to set the stage for the future of Aboriginal policing in Manitoba. The changes that have been made in the last decade mean that Aboriginal police and their communities have an unprecedented opportunity to create a model of policing to fit their special policing needs and traditions. Though there is a clear and convincing rationale for a new Aboriginal policing model, it has proven difficult to develop for a variety of reasons including the need to develop core policing competence in conventional policing, lack of resources, limited training, and a heavy reactive demand for conventional police services. However a significant part of the problem lies in the philosophical and operational dominance of the conventional law enforcement model which guides the current development of Aboriginal policing, and which undermines the commitment to the development of Aboriginal policing alternatives. The development of a distinctive model of Aboriginal policing requires a shift in the way Aboriginal policing is now conceptualized, articulated, and justified.

Rationale for a New Model of Aboriginal Policing

There are a variety of reasons why a distinct Aboriginal policing model is both desirable and necessary. As noted above, these formed the basis of the Aboriginal Justice Inquiry's recommendations.

- **Self Government.** The essential service of policing must be considered within the context and politics of self government. This political mandate may make the relationship between Aboriginal police and local Aboriginal political authority different and distinctive from non-Aboriginal police. This relationship may require closer local community and political affiliations and greater adherence to community demands and standards. This relationship opens up for negotiation and interpretation the appropriate balance between obligations to broader political and legal authority and local community and government norms. Though there is no clear consensus on these issues and distinctive mandate of Aboriginal policing may allow it a degree of legitimate separation from the typical political governance process that limits non-Aboriginal policing in Canada.
- **The Unique Problems of Aboriginal Communities.** Many Aboriginal communities have a variety of social and policing problems that are distinctive or more serious than those in typical non-Aboriginal communities. The rural, isolated nature of most Aboriginal communities and the disproportionate presence of poverty and associated

social problems create a distinctive geographic and community context for Aboriginal police services. Therefore the particular community context of most Aboriginal policing problems supports the need for the development of alternative community responses, not just law-based policing responses, to what in most cases are social not legal problems. In many Aboriginal communities, the conventional criminal justice oriented and crime control model of non-Aboriginal policing has resulted in unacceptable levels of criminalization and incarceration. This criminalization has failed to adequately resolve the crime and policing problems of many Aboriginal communities. An Aboriginal policing model that would offer additional, non-legal or criminal justice police responses to many of these “social conflict” order problems would hopefully result in a more effective and culturally compatible police response.

- **The Need for a New Style of Policing.** Aboriginal communities have consistently articulated a desire for a different style of policing. Many Aboriginal communities have expressed the need for an alternative model of community justice that is different from the conventional model offered by the Canadian criminal justice system. The values articulated can generally be described as restorative and integrative rather than retributive and exclusionary and community based rather than just criminal justice based. Aboriginal community justice with a restorative community based focus requires the police to play a broad policing role and use alternative policing techniques and responses.

A Distinct Mandate for Aboriginal Police

The traditional mandate of conventional policing places a primary concern on crime control achieved through the aggressive enforcement of criminal law. This conventional policing model suggests that police have an important but limited role that is limited by its legal mandate. We believe that the mandate of Aboriginal police services should be broadened to include the task of community peace and security. The designation of community peace and security as a core Aboriginal policing value suggests a broad conception of the police role that goes beyond that of the conventional law and order mandate. It suggests that, where possible, Aboriginal police should resolve and mediate individual and community disputes in a non-violent, informal manner, that fits their peacekeeper role. The concern with community justice suggests that Aboriginal police are part of a broad community process of ensuring that disputes and offense are dealt with in manner consistent with the values and the best interests of the community. In our view, Aboriginal policing should have a broad social role as well as conventional legal roles and responsibilities. We would argue that while Aboriginal police must have all the legal powers and response abilities of conventional policing, they should also have a broader community policing mandate which requires them to also use peacekeeping or restorative community based policing philosophies and strategies.

The term ‘policing’ describes a range of action and strategies employed by the police to meet their mandate. Police activities and services can be categorized in terms of their major activity and goals. The Aboriginal policing model we are advocating could be conceptualized as either a

continuum of police responses or services or as a “two path” model made up of the conventional criminal law path (similar to the police role in non Aboriginal communities), and the community justice path based on traditional social control practices.

This “two path” model broadens the conventional police response range and allows police officers to legitimately chose from a broad, well developed and equally legitimate set of police responses options, and strategies. Depending on the nature of the problem the Aboriginal police officer should be able to adopt a response that is either criminal law or community justice based. This means that either the individual officer or other personnel within the service should be trained to do both¹². Our research suggests that most police officers are limited by their training and their conventional police orientation to a criminal justice response to most policing problems. The absence of legitimate alternative police responses and a lack of training has left Aboriginal police with conventional and largely legalistic police responses to most situations.

In all societies, the police are a powerful agency, capable of influencing and controlling various aspects of social and community life. Because of the potential problems this unique police power creates, their role in the community has been typically restrained and limited by law. Until recently, the conventional policing model has tried to restrict the scope and influence of public policing by limiting the police role to matters of law and criminal justice, and by creating an operationally distinct and politically autonomous model of professional, bureaucratic policing.

However, arguments that Aboriginal police forces should also be independent, autonomous and adopt a limited legalistic role in the community, are not consistent with the traditions, expectations, or policing needs of Aboriginal communities. Aboriginal police can potentially become an especially important agency of the community and community government. The power and resources of police are especially important in Aboriginal communities that lack effective community organizations, resources and leadership. In such communities the police may be the best institutional resource or community agency available, and they often have members who possess unusual skills, expertise and community influence. The institutional authority of the police also gives them unusual advantages and opportunities to be potential catalysts for positive social change in poor, rural isolated communities. Indeed, it is possible that police in Aboriginal communities should be as responsible for promoting social justice as they

¹²Developing a broad range of skills may be an unrealistic expectation for members of small forces. An alternate model might be for an Aboriginal force to perform first response and peacekeeping duties, with an outside force such as the RCMP retaining responsibility for major crimes, emergency response, and technical services.

are for the provision of criminal justice. Thus where requested, the power and influence of Aboriginal police in the community should be translated into an active and broad involvement in various problematic aspects of community life, not just legal or criminal problems and issues.

While suggesting that Aboriginal policing should go beyond the conventional police role and adopt a broad socially defined policing mandate and role in community problem solving, we should recognize the danger of creating and maintaining dependency relationships between police and the community and limiting rather than empowering community based competence and response ability. Traditionally, community security and harmony was achieved through the active participation of number of formal and informal institutions and individuals such as families, elders, band leaders, social agencies as well as the police. This means that the community should ideally have an active role and influence in the production of social harmony and public security. Therefore it is important that not just police, but each of these groups, agencies, etc. also be encouraged and supported to play an active role in the production of community peace and security. The degree to which these agencies and groups actually do operate as effective agencies of community order and justice vary from community to community and will greatly influence the role of the police in a community. This suggests that automatically investing full responsibility and all resources in the police as the sole basis of community order may in fact increase or maintain community dependency and decrease the capacity and abilities of alternative sources of community authority and order.

In a community based Aboriginal policing model, the mandate and resources of the Aboriginal police would be developed in cooperation with other sources of community order and security in the community. A strong community with active and effective institutions and norms would deploy police in a more collaborative and partnership role than would be the case in communities where the community is a weak source of order and security. In these latter communities, the police would need more resources, adopt a broader policing mandate, and work towards the development of community order and security. Communities without strong leadership and effective social institutions may require the police to provide leadership and social stability. Ultimately they would hope to develop community leadership and decrease community dependency on police services. In short, the particular role and model of policing development adopted by an Aboriginal police service would depend heavily on the particular community context within which Aboriginal police operate. Therefore community-specific policing models need to be developed, rather than adopting universal, standard police models that ignore community context and assume fixed and limited police role models.

Finally, while Aboriginal police and their communities will agree that they must have an active and broad relationship with the community, there is less agreement on how this relationship can be best maintained, monitored, and made accountable. The proposed, broadly defined, community involved police role means that inevitably the police will be more involved in the every day social and political life of the community and that they also have special legal powers and responsibilities that need to be protected from private or unrepresentative political interests. This community based and politically conceived policing mandate will put significant pressures

on Aboriginal police, police boards, and band government to establish clear rules of operation, authority and autonomy. A new Aboriginal policing model may require the development of a new formal relationship with the community and local government that provides protection for police, but also ensures that they are accountable and responsive to local community needs. Our research suggests that there appears to be a need to develop a new governance model that will meet the evolving and complex relationship between Aboriginal police and their communities.

SECTION 5

ACCOUNTABILITY AND OVERSIGHT

The second major issue we feel the Implementation Commission should deal with is accountability and oversight. Very few of the recommendations of the AJI in this area have been implemented and changes are required to ensure that Aboriginal people (as well as other Manitobans) receive high quality policing services.

The Need for a Provincial Police Commission

For decades, police in Manitoba has provided less regulation, control, and guidance than almost any other province. Manitoba has no minimum standards for selection, discipline or equipment. There are no provisions for auditing the operations of municipal or regional police departments or for standardizing operational procedures. It is possible for a person unsuited for police work to be hired by a municipality and to work in a department that has no adequate policy and procedures manual to guide the officer's conduct¹³.

Under the Provincial Police Act the former Manitoba Police Commission had a very broad range of responsibilities including: crime prevention; providing information, advice, and research to assist municipal police; maintenance of standards for lock-up facilities; assessing the quality of municipal police forces; recommending selection, training, and promotion standards; recommending province-wide training programs including recruit and advanced training; developing post-secondary educational programs for police; establishing community relations programs; regulating equipment for police forces; and quasi-judicial functions including those established by the Law Enforcement Review Act. However, because of a lack of legislation and a lack of funding, the Commission actually did very little except fulfill its quasi-judicial function (Linden, 1986). The Commission was abolished and very few of these functions are being carried out by the Law Enforcement Services Branch.

¹³The recent inquiry into tainted water in Walkerton, Ontario demonstrates the importance of regulating and monitoring public services that can have an impact on public health and safety.

While it is difficult to understand why Manitoba stands alone in its lack of regulation of police and policing, the present system will be completely untenable if Aboriginal communities decide to replace the RCMP with local or regional forces. The only reason the system works now is because the majority of police work in the province is done by the RCMP and the Winnipeg Police Service who establish and maintain their own standards and who provide assistance to other smaller departments. It seems essential to develop either a Provincial Police Commission with Aboriginal members or an Aboriginal Police Commission to deal specifically with Aboriginal policing issues. The latter option was recommended by the AJI, but it would probably not be the most efficient way to proceed so it might be better to incorporate this role within a more inclusive provincial structure. The broad role of a Commission would be to deal with policy matters, with Law Enforcement Services taking responsibility for directing the implementation of that policy. Even under the status quo, this regulatory body is needed, but the need will become even more critical if the province's current policing arrangements are changed.

The Need for Oversight of Community Policing

The presence of police boards or commissions may be very important during the time when Aboriginal policing services are being developed. It is not just the presence of a board or commission that is important, but it is also essential to ensure that governance is effective. As we have noted, First Nations police face a number of challenges. Depending on circumstances, these might include unrealistically high community expectations, inappropriate expectations placed on officers, perceptions of bias related to family relationships, and political interference. Confirming the service's identity in the community through various means would be quite important, though the evidence to date appears to suggest that boards relate more to chief and council than to the community at large via public meetings or other consultative mechanisms (Six Nations Geo Systems, 1999; Clairmont, 1999). Also, assuming responsibilities with reference to direction and policy development would be valuable where controversy and uncertainly complicate determination of the preferred character (style and philosophy) of the police service.

The proceedings of the annual workshops of First Nations governing authorities (Aboriginal Policing Directorate, 1994, 1996, 1997, 1998) indicate a strong emphasis on training board members to appreciate the role's challenges, opportunities and responsibilities and on a professional, 'non-political' behaviour which would respect the distinction between policy and operations. These emphases have been reinforced by how-to manuals (Saunders, 1995) and videos made available by the Aboriginal Policing Directorate. Some boards seem to have become quite sophisticated by these standards (e.g. Blood, Akwesasne, Six Nations). Still, there has apparently been some difficulty getting residents to serve and stay on governance committees (Jamieson et al, 1995; Smith, 1997; Bomberly Corp, 1999) and clearly board members are themselves usually inexperienced with reference to either policing or administrative responsibility. It is unclear how effective the boards have been in the task of police governance, and in developing a context in which locally-raised officers and modest-sized police services can

cope well. There have not been any assessments of alternative board /commissions structures which might be better attuned to First Nation realities (e.g., a two-tiered system of steering committees consisting of chiefs and political leaders and working committees consisting of volunteer residents). It is also not clear what role, if any, the boards have played in articulating a vision of First Nations policing or even in discussions of possible band bylaws but Stenning contends that in Ontario the boards have essentially adopted the mainstream approach.

Oversight issues become particularly important as communities move toward community-based policing. The AJI report observed that early North American police departments were firmly rooted in their communities and were very responsive to local concerns. However, in many cities, the police became too closely allied with certain segments of the community and got involved in political and economic corruption. Often the police also became too responsive to the concerns of powerful groups and failed to represent the interests of the rest of the community.

In many areas this also led to corruption and over 75 years ago this problem led reform politicians in the United States to literally and figuratively move the police out of the community¹⁴. What followed was the era of ‘professional’ policing in which the police kept to their cars and concentrated on enforcing the law rather than on providing broader services to the community. A return to the older style of policing carries with it the potential for the kinds of abuses that led to its demise. While corruption is not likely in Manitoba, there is the potential for other types of problems such as favouritism or ignoring those without power and influence in the community.

If police departments actually adopt community policing rather than merely making token moves and then claiming they have adopted it, some authority must train the police how to use their discretion and to ensure that appropriate standards are followed. For example, the police must have guidance on what to do when community opinion is divided about how the police should handle a problem. The easiest thing for the police to do in such circumstances is either to align themselves with one community faction on an ongoing basis or to fall back on a legalistic response to community problems. To prevent the police from using their power improperly the police must be effectively trained and must clearly be responsible (and be seen to be responsible) to some oversight body. There must be mechanisms in place to ensure that the system treats marginalised and powerless community members as fairly as it does those who control the community’s political processes. In Aboriginal communities, the role that tribal and band councils play in determining police policy must also be negotiated and monitored.

In addition to exercising control over the police to ensure they do not abuse their powers there must also be mechanisms to ensure that the police actually do become responsive to the needs of communities. As noted earlier, few police departments have fully implemented community policing even though many have promised to do so. A major reason for this is that departments are rarely held accountable for making specific changes. For example, the progress of

¹⁴It should be noted that while Canada quickly adopted the reform policing model, we did not have the corruption that was so prevalent in the United States.

community policing is often measured by the number of citizen boards or other community contacts made by the police. However, the fact that a community board exists does not provide a measure of whether or not the police listen. Thus the presence of boards or committees does not necessarily mean that the police have changed the manner in which they relate to their communities. Again, the only body that could exercise this type of oversight is a Provincial Police Commission or an Aboriginal Police Commission.

Finally, if the Implementation Commission does support the AJI recommendation concerning the adoption of community policing in Manitoba it must also recommend a means of facilitating its adoption. The Province has limited jurisdiction over the operational policies and practices of police departments so it cannot force departments to adopt effective community policing programs. However, the impact of the AJI on policing shows that reforms do not necessarily have to be forced by legislation. Thus the Province will have to find ways of influencing the direction of policing. The most effective means of doing this would be through a Provincial Police Commission.

The Police Commission (or the Minister of Justice if a Police Commission is not re-established) could state the government's commitment to community policing, especially in Aboriginal communities. Such a statement might specifically define what is meant by community policing to provide direct guidance to police departments. Meetings with police and community members could also be used to promote community policing. Funding might also be used to encourage police departments to change. If a decision is made to move in the direction of community-based policing, more resources will almost certainly be needed. The development of community-based policing in urban areas has been significantly delayed by a lack of funding to enable a transition from reactive policing to community-based policing. This transition will be even more difficult in small, isolated Aboriginal communities many of which face the problems of high crime, poverty, and a lack of physical and social resources. Ultimately, the strategy may pay off in reduced policing costs in the future, but a policy that did not provide sufficient resources would almost certainly mean that any new approach to policing would fail.

The Need for Improvements in Oversight of Police Misconduct

Our society gives the police extraordinary powers to intervene in the lives of citizens, including the right to use deadly force when necessary. The police cannot operate without the consent of those policed and part of the moral contract between the police and society is that these extraordinary powers will not be abused. Manitoba's police forces have a well-deserved reputation for honesty and integrity but the AJI pointed out the need to strengthen civilian oversight. This recommendation was motivated by cases such as the J.J. Harper shooting where the fact that the Winnipeg Police Service investigated a fatal shooting by one of its own members meant that justice was not seen to be done by many members of the public. With the exception of minor changes to the operation of the Law Enforcement Review Agency, little has changed since that time.

To protect both the public and Manitoba's police services, we suggest that the Implementation Commission recommend stronger mechanisms for dealing with possible serious misconduct by the police¹⁵. This can be a controversial issue for the police who have aggressively defended their right to investigate their own members. Therefore we would suggest that the form of any new regulations be negotiated between the government and representatives of Manitoba's police forces. At minimum we suggest that when there are allegations of serious police misconduct the Province should ensure that the investigation is carried out by another police force.

Concluding Note: Changing Policing Will not be a Panacea

While we have taken the view that the Implementation Commission should promote the use of community policing in Aboriginal communities and should recommend improving the oversight of policing, we do not think that making changes in the policing of Aboriginal communities will be easy. Members of the community may be divided about law and justice issues and it may be impossible to generate a consensus; attempts to change may run into the opposition of the power structure of the community; Aboriginal officers may have family and friendship ties in the communities; and high-crime communities may have other major social and family problems that cannot be dealt with by the justice system. Also, while many people feel that informal community justice programs have great potential, there has been little research to document their viability as intervention strategies. The role of the justice system in changing community is probably over-estimated and there is little evidence that changes that have occurred in policing Aboriginal people have had any impact on Aboriginal involvement in the justice system. This is because the positive step of modifying policing does not address the fundamental economic and social changes that are required before crime and disorder rates will begin to decline. At best, it can help to facilitate this process. According to Depew "existing police programs have not, as they were initially expected to do, significantly reduced Aboriginal involvement in the criminal justice system, reasonably improved the quality of life in Aboriginal communities nor noticeably enhanced the quality of police/community relationships. This introduces scope for possibly new approaches to Aboriginal policing that respect the community circumstances, problems, needs and realities of Aboriginal Peoples"(1993:69).

¹⁵Excluding the RCMP which is under federal regulation.

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