

# 12.0 Review of the Blood Tribe Inquiry Report

## Term of Reference

### Research 1(b)

*to review recent reports respecting Indian and Metis people and the criminal justice system to determine to what extent the findings and recommendations of other reports apply to the Alberta situation including but not limited to*

- (i) *"Justice Behind the Walls" (report of the Canadian Bar Association)*
- (ii) *"Locking Up Natives in Canada" (report of the Canadian Bar Association)*
- (iii) *"Aboriginal People in Federal Corrections" (report of the Solicitor General of Canada)*
- (iv) *"R.C.M.P. Review into Native Policing in Alberta and Across Canada"*
- (v) *"Human Rights Commission Report" (Canada, 1989)*

With the exception of the "Report of the Public Inquiry into Policing in Relation to the Blood Tribe," the Task Force has reviewed the above reports and included

references and comments from those reports in the appropriate sections of our Report. Additionally, Volume III (Working Papers and Bibliography) of the Task Force's Report contains a review of the detailed recommendations of twenty-two major reports published since 1967 on Aboriginal people and the criminal justice system.

The Task Force was provided with an advance copy of the "Report of the Public Inquiry into Policing in Relation to the Blood Tribe," and has had the opportunity to review the text and recommendations of the report and to offer observations.

The Task Force necessarily recognizes considerable differences between its own structure, process and mandate, and those of the Public Inquiry, and how such differences could affect the content of the final reports. The Public Inquiry was guided by narrow terms of reference that were developed in response to specific problems identified by the Blood Tribe. The Task Force's terms of reference are much wider and cover the entire spectrum of the criminal justice system and its

relationship to Aboriginal people. The Public Inquiry was conducted by a single commissioner over a period of nearly two years. The Task Force was comprised of seven members and completed its activities in fourteen months.

Using a detailed legalistic investigative process that called evidence under oath and in some cases under subpoena, the Public Inquiry focused on the treatment of Indian people by police in a limited geographic area. The Task Force used a wide ranging consultative process to study all aspects of the criminal justice system across the whole province of Alberta and its impact upon both Indian and Metis people. In contrast to the testimony heard by the Public Inquiry in its formal hearings, the Task Force travelled to various Aboriginal communities throughout the province and talked to Aboriginal people in their own environment about their perceptions of the criminal justice system.

To address and resolve the outstanding and sensitive issues that precipitated the Public Inquiry, the actual process of conducting the Inquiry is of primary importance. This is aptly demonstrated by the "Report of the Public Inquiry into Policing in Relation to the Blood Tribe" concerning the Cardston Blockade:

*Ten years after the event, it is difficult to estimate the depth of damage inflicted on the trust relationship between Police and Natives. Hopefully a start has been made to restore the trust as a result of this Inquiry.<sup>1</sup>*

The Task Force's primary objective was to develop concrete recommendations that ensure that Aboriginal people receive fair, just and equitable treatment in all stages of the criminal justice process. The Task Force has made numerous detailed recommendations in an attempt to address

the problems faced by Aboriginal people in the criminal justice system. The Public Inquiry made only a small number of general recommendations that basically reflected the status quo and readily accepted the existence and continuation of certain established institutions such as the Fatalities Inquiry Board which the Task Force notes has no Aboriginal participation.

The report of the Inquiry focuses on the recent relationship between the Blood Tribe and the Royal Canadian Mounted Police, and it makes only passing mention of the historical nature of that relationship. The lack of recognition of the significance of historical events such as land claim disputes, can lead to differences in the interpretations of more recent events - especially when those events are not perceived from the same historical perspective. With respect to the report of the Inquiry, it is interesting to note that the impact of existing established institutions and their effect upon historical dissatisfaction with the relationship between the Blood Tribe and the R.C.M.P. is not explored in depth.

The Public Inquiry, as required by its terms of reference, has produced a report that presents solutions pertaining to policing of the Blood Tribe. The Task Force has been required to undertake a fundamental evaluation of the criminal justice system and to provide a long-term perspective on the future direction of the system in Alberta as it relates to Aboriginal people. Part of the long-term perspective adopted by the Task Force is a commitment to community-based control of the criminal justice system. This perspective reflects the confidence with which the Task Force views the abilities of Aboriginal communities to assume greater control over the criminal justice process.

The report of the Public Inquiry acknowledges limited community control.

The report of the Public Inquiry and the report of the Task Force clearly differ on the issue of discrimination and racism. Although the report of the Public Inquiry recognizes the cultural insensitivity of some police members, the actions of the police are not attributed to racism or negative bias. The Report of the Public Inquiry states that:

*The Commissioner of the Inquiry believes from the evidence before this Inquiry that there is no conscious bias or racial discrimination evidenced in the treatment of the Blood Indians by the Royal Canadian Mounted Police.<sup>2</sup>*

The Task Force acknowledges that Aboriginal people are victims of racism, discrimination and systemic discrimination, both from within the criminal justice system and from society at large, and its recommendations attempt to address this problem.

The Public Inquiry and the Task Force both acknowledge cultural insensitivity by people working in the criminal justice system. Both recommend Aboriginal-specific cultural awareness training for such people and education about Aboriginal people for the public at large. Also, the need for improved relationships and communication between the police and Aboriginal people is acknowledged. In addition, there is agreement on the need for clarification of federal, provincial and Aboriginal jurisdictional and funding responsibilities in the area of policing.

That Aboriginals are dissatisfied with the current level of policing service is acknowledged by both the Public Inquiry and the Task Force. For those Aboriginal communities with policing responsibilities

the need to ensure the independence of the Police Commissions from the Band or Settlement government is also reiterated.

It is hoped that, in concert, the Report of the Public Inquiry and the Report of the Task Force will improve the relationship between the Aboriginal people of Alberta and the criminal justice system of the province.

## References

<sup>1</sup>Report of the Public Inquiry into Policing in Relation to the Blood Tribe, p126.

<sup>2</sup>*Ibid.* p178.