

# 2.0 Policing

## Preamble

The Task Force has identified problems and offered solutions designed for police to improve conditions or remove barriers to fair, just and equitable treatment of Aboriginal people in their contact with police agencies in Alberta.

Recommendations for increasing police complements for reactive policing for law enforcement purposes will be avoided. These considerations are left to the police agencies and their funders. This point is made in consideration of two facts: the Task Force does not possess the expertise to make these evaluations and it has not reviewed in detail the operation of provincial police forces.

It should be noted that estimated national policing costs are high in comparison to the other components of the Criminal Justice system.

*Compared to the other components of the Criminal Justice System, policing costs are approximately three times greater than the corrections sector and seven to eight times greater than the courts sector.<sup>1</sup>*

The Task Force hopes that recommendations with respect to policing will lead not to an increase in expenditures, but rather to a re-direction of programming and corresponding funding to reflect more effective utilization of resources. The Task

Force applauds the adoption of community-based policing by the major police forces in Alberta as an example of such re-direction.

## Policing Jurisdiction Generally

Jurisdiction to provide policing services in Canada is within the mandate of three levels of government: federal, provincial and municipal. The federal government, through the Royal Canadian Mounted Police (R.C.M.P.), has jurisdiction for: the enforcement of all Federal Statutes excluding the Criminal Code, and the enforcement of the Indian Act, including some Band Council by-laws. The provincial government has jurisdiction over the enforcement of the Criminal Code and all Provincial Statutes. Each province assumes responsibility for municipal and provincial policing. Municipal governments are responsible for the enforcement of municipal by-laws.

Alberta does not have its own provincial police force, although one existed in the past. To provide provincial policing, the Solicitor General's Department contracts on behalf of the Province of Alberta with the Government of Canada for the provision of provincial policing service from the Royal Canadian Mounted Police.

With respect to provincial authority to provide municipal police service, most provinces require that cities and towns maintain their own police force once their population has reached a certain number. In Alberta, Section 4 of the Police Act requires that any municipality with a population greater than 2500 people make its own policing arrangements. However, should a municipality not obtain the required size or fail to develop some sort of policing arrangement on its own, then the Solicitor General's Department is charged with the responsibility of providing police services. Usually, the province does this by providing the services of the provincial police force (the R.C.M.P. on contract).

Municipal police enforce the Criminal Code and other Federal Statutes, Provincial Statutes, and municipal by-laws. If the municipal police force is the R.C.M.P., the R.C.M.P. assumes this mandate. The R.C.M.P. currently maintains sixty-one municipal contracts in Alberta. For example, the municipalities of Wetaskiwin, Slave Lake and High Level are policed by the R.C.M.P. under a municipal contract. Edmonton, Calgary, Lethbridge, and Camrose are examples of municipalities which have chosen to establish their own municipal police.

## Police Service Available at Municipal Level

Policing alternatives available to municipalities which have exceeded the size limit are paraphrased from Section 4 of the Police Act:

They can contract with the provincial government to engage the provincial police services as a municipal police service. The current provincial police in

Alberta is the R.C.M.P. Therefore, the services of the R.C.M.P. will be engaged.

They can contract directly with the Government of Canada for the provision of policing services by the R.C.M.P.

They can contract with another municipality to provide policing services to them;

Several municipalities can join together, which can include the provincial government, to form a regional police force to service an area;

They may establish their own police service.

The Police Act also allows the Solicitor General to enter into special arrangements with individual communities or groups. Section 5 provides:

- 5(1) *The Solicitor General may*
- (a) *exempt any part of Alberta from the operation of all or any provision of this Act, and*
  - (b) *make any arrangements or agreements he considers proper for the policing of that part of Alberta exempted under clause (a).<sup>2</sup>*

Special constable appointments can also provide enhanced or flexible police service to a community or municipality. The Police Act provides for such appointments under Section 42:

- 42(1) *The Solicitor General may*
- (a) *appoint a person as a special constable, and*
  - (b) *subject to the regulations, suspend or cancel the appointment of a special constable.*

- (2) *The appointment of a special constable shall*
  - (a) *be in writing, and*
  - (b) *specify*
    - (i) *the authority, responsibility and duties, and*
    - (ii) *the territorial jurisdiction, of the special constable.*<sup>3</sup>

## Jurisdiction to Provide Police Service to Indian People

A recent Task Force Report entitled, "Indian Policing Policy Review (January 1990)," examined the question of jurisdiction. This Task Force concluded that both the federal and provincial governments have constitutional jurisdiction with respect to the provision of police service on Indian reserves.

After a review of issues of policing jurisdiction on reserves, the Indian Affairs Policing Task Force concluded that:

*The principal impediment to improving and expanding the capability to meet current law enforcement needs remains a lack of clarity on the issue of jurisdiction of the federal, provincial and territorial governments.*<sup>4</sup>

Our Task Force agrees with this conclusion, and considers the lack of clarity a significant problem.

In the Province of Alberta, the Solicitor General's Department and the Department of Indian Affairs and Northern Development both exercise jurisdiction by providing the policing services of the R.C.M.P. and various other arrangements or programs to Indian people on reserves.

The federal and provincial governments agree that off-reserve policing is the jurisdiction of the Provincial Solicitor

General. Indian people living off-reserve are considered to be ordinary residents of the province in which they reside. They receive the policing service for which the Provincial Solicitor General has arranged.

## Jurisdiction to Provide Police Service to Metis People

Although the Metis are recognized as one of the Aboriginal peoples of Canada, the federal government acknowledges no specific jurisdiction.

As a result, the Metis people are considered to be ordinary residents of the province in which they live, whether they reside on Metis Settlements or outside of an established land base. The provincial Solicitor General's Department has jurisdiction to provide policing services to the Metis of Alberta as it would for any other resident of the province.

## The Role of the Police

The duties of the police are set out in Section 38 of the Provincial Police Act as follows:

- 38(1) *Every police officer is a peace officer and has the authority, responsibility and duty*
  - (a) *to perform all duties that are necessary*
    - (i) *to carry out his functions as a peace officer,*
    - (ii) *to encourage and assist the community in preventing crime,*
    - (iii) *to encourage and foster a co-operative relationship between the police service and the members of the community, and*
    - (iv) *to apprehend persons who may lawfully be taken into custody, and*
  - (b) *to execute all warrants and perform all related duties and services.*<sup>5</sup>

The duties of the R.C.M.P. are outlined in the R.C.M.P. Act as follows:

*It is the duty of members who are peace officers, subject to the orders of the Commissioner,*

- (a) to perform all duties that are assigned to peace officers in relation to the preservation of the peace, the prevention of crime and of offences against the laws of Canada and the laws in force in any province in which they may be employed, and the apprehension of criminals and offenders and others who may be lawfully taken into custody;*
- (b) to execute all warrants, and perform all duties and services in relation thereto, that may, under this Act or the laws of Canada or the laws in force in any province, be lawfully executed and performed by peace officers;*
- (c) to perform all duties that may be lawfully performed by peace officers in relation to the escort and conveyance of convicts and other persons in custody to or from any courts, places of punishment or confinement, asylums or other places; and*
- (d) to perform such other duties and functions as are prescribed by the Governor in Council or the Commissioner. R.S., c. R-9, s. 18. <sup>6</sup>*

The role of the police, as set out in the Provincial Police Act and the R.C.M.P. Act, is implemented in various ways. Generally, it is accepted that the enforcement component is the reactive component of the job and that the remaining portion of the work, excluding administration and travel, consists largely of pro-active duties which can be defined broadly as including crime prevention and community relations duties.

The pro-active component of policing duties can and does contribute positively to the level of communication and quality of relationship with the Aboriginal

community. The Task Force holds that this is equally true for urban and rural Aboriginal communities.

We believe that crime prevention is primarily a community role and that police should contribute, but not be mainly responsible. This will be discussed later in greater detail.

## Models of Policing

The ways in which policing services are delivered are evolving quickly and reflect the changing face of Aboriginal communities and their needs. As a result, different policing models have emerged in Alberta. Some models reflect the current movement toward Aboriginal self-government and control by the community of police resources, while others reflect a move toward a greater degree of community input into the existing police forces providing service to them. These models will be discussed later in greater detail.

## Indian and Metis Involvement in Criminal Justice

In its brief to the Task Force, the Indigenous Bar Association stated the following:

*Until Indigenous people are actively involved at all levels in the Criminal Justice System, it will be difficult to foster rapport for indigenous spirituality, laws, customs and traditions. For this reason, it is important to ensure that education and training for personnel in the Criminal Justice System be broadened to include education for Indigenous people as a starting point. <sup>7</sup>*

This statement points at a number of key areas to be considered in relation to the impact of policing on Aboriginal communities.

Some of these key areas are: Aboriginal employment in the Criminal Justice system, for example, as police officers; cross-cultural training, including instruction on Aboriginal issues, by Aboriginal resource persons; Aboriginal involvement in prevention initiatives; and employment opportunities for Aboriginals in Aboriginal communities for the purpose of delivering Aboriginal program services.

## Racial Prejudice

Aboriginal people, in prison as well as in the various Aboriginal communities with whom we have been in contact, reported that prejudice against Aboriginals exists at all levels of the Criminal Justice system. Prejudice is a pre-condition to discrimination and when acted upon, results in discriminatory practices. We have heard many accounts of racial prejudice attributed specifically to the police. The perception that police are prejudiced against them is generally shared by Aboriginal people.

## Systemic Discrimination

Systemic discrimination exists in the Criminal Justice system. There is no doubt that Aboriginal people are over-represented in this system and that, at best, the equal application of the law has unequal results. Unless evidence is found to support the notion that Indian and Metis people are inherently more criminally-inclined than non-Aboriginal people, this imbalance must be redressed to bring about equitable results for Aboriginal people involved with the Criminal Justice system.

# Findings and Recommendations

## Term of Reference:

### Policing 2 (a)

*To review the delivery of policing services to Indian and Metis communities and more specifically, regarding indentifiable Indian and Metis communities, the Task Force will:*

- i) *Examine the existing relationship between members of the Indian and Metis communities and the R.C.M.P.*

The Blood Tribe stated in its brief to the Task Force:

*The Blood Tribe respectfully submits that maintaining the status quo in terms of the criminal justice system and its impact upon members of the Blood Tribe specifically, and all Aboriginal people generally, will only perpetuate the existing involvement of Aboriginal people with the criminal justice system. The Blood Tribe submits that substantial changes are needed in all areas of the criminal justice system particularly in policing, corrections, child welfare, family law and sentencing. Otherwise, the criminal justice system will continue to be responsible for the social disintegration of Aboriginal families, groups and communities. For example, the Blood Tribe advocates that an autonomous tribal police force is needed in order to overcome the deficiencies inherent in the present policing arrangement. Unseasoned police officers are being stationed at the Cardston detachment of the R.C.M.P. in order to give them "hard" experience. These officers are primarily concerned with laying charges too hastily and with doing things by the book and have the least understanding and appreciation of tribal customs and traditions and no community orientation. Hence, their use of discretionary powers in laying charges is virtually nil.<sup>8</sup>*

While recognizing the above sentiment, the Task Force also notes that the relationship between members of the Aboriginal community and the R.C.M.P. is complex and multi-faceted, with the prevailing views varying considerably from community to community, be they rural or urban, or Indian or Metis.

The Task Force has found that there are a number of variables that affect the relationship between the community and the police, some of which are:

1. *the age, experience and personal style of the individual Police Officer;*
2. *knowledge and understanding of the community and the people that are policed;*
3. *extent to which Police officers go beyond the traditional reactive style of policing.*<sup>9</sup>
4. *level of service provided to the community.*

Since these factors operate together to produce a different relationship in each R.C.M.P. detachment area, generalizing about the relationship between Aboriginal people and the R.C.M.P. will not be enough to account for the experience of all communities. For example, the Lesser Slave Lake Indian Regional Council conducted a survey of their nine member Bands and concluded that the relationship with the R.C.M.P. ranged from "good to strained."<sup>10</sup>

The Alberta Federation of Metis Settlements Association complained that "settlement members feel that the Police only come around when there is trouble."<sup>11</sup> The recommendations of the Association were aimed at "improving relations between the police and the settlements, and improving the R.C.M.P. Special Constable Program."<sup>12</sup> It was suggested by the Association that:

*If relations are to be improved the Police should spend more time at the Settlement, specifically for community relations purposes (e.g., home visits). This would allow them to meet the people in their own social environment so they can become more familiar with the lifestyle and culture.*<sup>13</sup>

The Association addressed a complaint, which was also expressed in other Briefs:

*Settlement members are often stopped in their vehicles, especially in the town that serve their communities, for no reason other than to be asked if they had any alcohol in the vehicle or if they had been drinking.*<sup>14</sup>

Other complaints by the Association revealed a perception that investigations are not always conducted properly. The Task Force has heard this perception expressed in the communities as well. The problem is often attributed to a lack of cultural understanding on the part of the officer(s) involved. Another common complaint of remote communities was:

*When a Settlement member is arrested on the Settlement, he is usually taken to town. When he is released on his own recognizance he is stranded in town with no transportation.*<sup>15</sup>

In particularly remote communities such as Trout Lake and Peerless Lake, such situations can pose a threat to people's lives under harsh weather conditions.

In its presentation to the Task Force, the Indian Association of Alberta showed the results of a survey conducted by the organization. One of the findings was that 72% of Native respondents believed that the "Police treat Natives differently than non-Natives and that non-Natives get better treatment."<sup>16</sup> The survey also showed that of the respondents, "91% believe there should be more Native policemen."<sup>17</sup>

In its Brief, the Indian Association asserted:

*We have confirmed by an extensive opinion survey what we knew from our own knowledge and experience, that is the majority of Indian people do not have confidence in the criminal justice system. Without that confidence particularly with regards to the Police and the Courts the Criminal Justice System cannot serve the vitally important role of inspiring respect for the law among our people.*<sup>18</sup>

Clearly, the relationship between the R.C.M.P. or other police agencies and the Aboriginal community presents an issue of concern. This is a complex and multi-faceted problem, and cannot be solved by an easy answer or single approach. The Indian Association of Alberta made these comments related to this complexity:

*Our First Nations are varied and diverse. We have different needs, resources and priorities. Our initiatives relating to criminal justice will necessarily vary from the modest objectives of better relations with the R.C.M.P. detachment to a sweeping and comprehensive approach to an alternative criminal justice system involving Indian peacekeepers and Indian Courts.*<sup>19</sup>

It should be stated clearly that, although Aboriginal people criticize the R.C.M.P., they do not reject the agency out of hand. Rather, they challenge it to meet the policing needs of contemporary Aboriginal people. Andrew Bear Robe, an Indian Association of Alberta Councillor, reflected in the oral presentation of the organization on the historical relationship between Aboriginal people and the R.C.M.P.: "I am in favour of bettering the relationship between the R.C.M.P. and Native people."<sup>20</sup>

Regena Crowchild, President of the Indian Association of Alberta, addressed the current R.C.M.P. attitude and response to the Aboriginal community and stated, "I have seen an improvement in this area."<sup>21</sup>

The R.C.M.P. too have engaged in a kind of organizational "soul-searching" to define and forge a new relationship with the Aboriginal communities. The process of defining a new relationship is relatively new for the R.C.M.P., as it is for other police forces. The strong recommendation issued in 1988 by the Canadian Human Rights Commission, that Canada's police forces should do much more to "command the confidence and trust of Aboriginal communities,"<sup>22</sup> seems to have foreshadowed the current events and changes.

In the 1988-89 "K" Division report which examines the R.C.M.P.'s relationship with Indian communities, R.C.M.P. Commissioner Inkster states:

*We must also consider a new policing approach for Aboriginal peoples. Our emphasis must be policing for native people rather than of native people.*<sup>23</sup>

The statement implies a direction. Commissioner Inkster publicly repeated it on May 29, 1990 at the "Sharing Common Ground" Conference in Edmonton.

The "K" Division report recommends that:

*in order to provide an adequate and community sensitive policing service to Native communities, the Force must maintain an ongoing dialogue with Native organizations, Chiefs and Councils, Elders, Tribal forces and Band Constables and other native involved relevant government agencies and the Native Community as a whole.*<sup>24</sup>

It was also suggested that all detachment Commanders form community policing advisory or consultative committees to deal with the policing concerns of these communities on a regular basis, and to develop a community-based approach to



addressing these concerns. The Task Force has been advised that this recommendation has become a directive.

A major shift to community-based policing is now taking place. There is reason to believe that these measures can deal effectively with the gap that currently exists in the relationship with the Aboriginal community. The holding of the "Sharing Common Ground" Conference is commendable and also indicative of a major change in the orientation of senior R.C.M.P. staff. The level of good-will and intent will, however, need to be transferred effectively to the community and field level where most of the day-to-day interaction takes place. The Task Force commends and encourages the development, but observes that a mechanism for auditing or monitoring of the relationship would be of benefit to both the communities and the R.C.M.P.

In his opening remarks at the "Sharing Common Ground" conference, Commissioner Inkster stated:

*It will be helpful for us, the R.C.M.P. to remember we have made mistakes. It will be counterproductive, however, to dwell on them; we must direct our energies toward strategies that prevent us from repeating our mistakes ... We must respond to community needs through a consultative process; we must be prepared to consider alternatives with the community and in concert with that community decide on a course or courses of action that best suit their needs, whether it is an Indian Reserve, a Metis Settlement or a predominantly non-Native town or city.<sup>25</sup>*

The Commissioner further said that community-based policing in Aboriginal communities had been made the "number one priority within the force in 1990."<sup>26</sup>

The Task Force offers the following summary of problems and factors related to the relationship between Aboriginal people and the R.C.M.P.:

- A. The R.C.M.P. are perceived to emphasize unduly reactive policing versus pro-active or preventative community work.
- B. The role of the police officer is not clearly defined or understood.
- C. People in remote areas often express concern over the inadequacy of police services, both pro-active and reactive.
- D. A cultural gap, often combined with a language barrier, is apparent in the relationship of Aboriginals with the R.C.M.P.
- E. In our hearings at correctional centres, Aboriginal offenders often reported prejudicial behaviour by the police. Sometimes, physical abuse was also alleged. The Task Force is convinced that the perception of abuse by police is widely held among offenders. In some cases, the same perception was shared by representatives of communities.
- F. Inmates and correctional staff reported that, in general, police most often respond negatively when asked for an assessment or recommendation with respect to early release of an Aboriginal offender. While a senior National Parole Board member confirmed this view, he stated that the R.C.M.P., in comparison to urban police forces, was more positive and often provided constructive comments regarding release plans.



G. Communication and liaison with Indian Reserves, communities and Metis Settlements require improvement if a "partnership and ownership" between the R.C.M.P. and the Native community is to be established effectively.<sup>27</sup>

H. Aboriginal communities do not have an effective voice in determining policing priorities on the reserves and in settlements. Mechanisms for effective feedback must be developed.

I. Many Aboriginals do not understand the Criminal Justice system and do not know how it works. This causes further alienation of the Aboriginal community from mainstream society.

Added to the problems noted above, or perhaps lying at the root of a number of them, is the fact that Aboriginal communities have different expectations of police officers than non-Aboriginal communities. Aboriginal people see police officers more as "peace-keepers" or "problem-solvers" than enforcers of the law. This will be discussed later in this Report.

### The Task Force Recommends:

2.1 That the police, in consultation with Aboriginal leaders, respond to the policing priorities and needs as defined by Aboriginal communities. At present, the R.C.M.P. and Aboriginal communities are establishing non-political aboriginal advisory committees which are consulted about community needs. We encourage this development and recommend that this activity include Indian Reserves, Metis Settlements, and communities with

a significant Aboriginal population.

2.2 That the R.C.M.P. in the field receive Aboriginal awareness training geared to sensitizing front-line officers to local Aboriginal culture. We have been advised that the R.C.M.P. is currently in the planning stages of providing such training to "K" Division front-line officers.

2.3 That an external system be established for the auditing of the R.C.M.P.'s relationship with the Aboriginal community. This audit must include Aboriginal people and be geared to determining the level of user and community satisfaction.

2.4 That the R.C.M.P. accelerate efforts to recruit Aboriginals. This measure is important to attain credibility in the eyes of the community while providing a culturally-sensitive police service. At the same time, it is acknowledged that the R.C.M.P. has recruited significantly greater numbers of Aboriginals than its municipal counterparts in Edmonton, Calgary, and particularly Lethbridge.

2.5 That the R.C.M.P. be involved in any community workshops or legal education sessions for Aboriginal people which address police practices, policies, and other relevant matters, and that this involvement continue to be a

responsibility of R.C.M.P. officers to the community. Legal education is required for residents of Aboriginal communities so that they will be less vulnerable to the abuse of their rights and will know the law and understand it. While this is a matter of community crime prevention and lies outside of the police role proper, R.C.M.P. involvement in such community sessions is critical to the development of a good relationship with the community.

- 2.6 That an overall crime prevention program be initiated by communities, with community members to co-ordinate and deliver services. This program should not be confused with the role of the police.
- 2.7 That the federal and provincial governments direct crime prevention funds to Aboriginal communities, and that community members co-ordinate and deliver these prevention services in consultation with the police. Crime prevention funds should be directed to community members and/or Aboriginal organizations in a position to deliver this service.

## Term of Reference:

### Policing 2(a)(ii)

*Examine the existing lines of communication between the R.C.M.P. and municipal police forces and Indian and Metis leaders to determine if existing police practices are responsive to Indian and Metis concerns, in particular the degree of Indian and Metis input into the identification of enforcement problems and the development of solutions.*

The first professional police force was created in England in the 1820's.<sup>28</sup> Its founding principle was:

*To recognize always that the power of the police to fulfil their functions and duties is dependent on public approval of their existence, actions and behaviour, and on their ability to secure and maintain public respect.<sup>29</sup>*

Police services across Canada, including some in Alberta, are shifting from a response to crime or reactive form of policing to a community-based or preventive style of policing. This shift is in line with the basic philosophy of policing. The concept of community-based policing:

*... relies on the philosophy that the Police are the people and the people are the Police and the notion that the community must have input into the identification of their crime problems, a voice in the development of solutions to these problems, lend some measure of ownership and participation in the programs developed to achieve these solutions.<sup>30</sup>*

Community-based policing requires that law enforcement agencies give up some control by allowing a sharing of power to set direction for the police agency's activities. Two-way communication between the community and the police

agency is essential for the community-based policing model to be effective.

To examine communications between Aboriginal leaders and the police services in Alberta, we must be aware of how their groups are organized.

Indian organizations, starting from the national organizations to the most community-based are:

- Native Council of Canada, Assembly of First Nations, and Prairie Treaty Nations Alliance (national)
- Indian Association of Alberta (provincial)
- Tribal Councils (regional)
- Chief and Councils of Reserves (local)

The representative organizations of the Metis are:

- Metis National Council (national)
- Metis Association of Alberta (provincial)
- Metis Zone Offices (regional)
- Metis Locals (community-based)

Alberta is unique in that Metis people have a land-base. Separate governing structures exist for representation of the eight Settlements:

- Federation of Metis Settlements (provincial)
- Settlement Councils (community-based)

In addition to these prominent structures, there are many other organizations and individuals with leadership roles in Aboriginal communities. At minimum, all policing agencies in Alberta should maintain liaison or consult with these organizations at the appropriate corresponding level.

### **The Task Force Recommends:**

**2.8 That at minimum, the R.C.M.P. and municipal police services in Alberta establish and maintain liaison and communications with Indian and Metis organizations of Alberta at the corresponding level of jurisdiction.**

In an effort to be more responsive to Aboriginal concerns, several police services have established liaison positions. This is a positive move to establishing links with the Aboriginal community. The Task Force commends those police services which have established such positions and support them actively. However, police services should not view this effort as the entire solution. The "K" Division Report states:

*No one person at any level can bear the total responsibility of generating and maintaining this positive dialogue and all must share the responsibility.<sup>31</sup>*

Several Aboriginal communities have said that they want to have contact with more than one designated officer. They have stated that they would like to be visited and patrolled by a variety of officers. They want to receive programming from more than one officer or have programs offered by non-Aboriginal personnel as well as by specifically mandated officers. These statements are based on the perception that, when a 3B Special Constable is in place, other members of the R.C.M.P. may be inclined to abdicate community liaison work in the Aboriginal communities.

Some of the police services in Alberta have specific non-enforcement programs directed at Aboriginal communities. Any non-enforcement program which brings law enforcement personnel into an Aboriginal community has a positive

effect on communication between R.C.M.P. and Aboriginals. The Task Force acknowledges that the R.C.M.P. is active in non-enforcement programming for the Aboriginal people of Alberta.

## Communication Between the Aboriginal Community and the R.C.M.P.

The "K" Division Report concluded that:

*The most evident deficiency in the service being provided to the Native sector of Alberta is our lack of ongoing liaison at all levels.*<sup>32</sup>

The Task Force has heard accounts of incidents that may have resulted from communication problems between Aboriginal communities and the R.C.M.P. Generally, comments can be broken down into problems related to:

- A. language and cultural barriers;
- B. lack of input into policing issues;
- C. insufficient information flowing back to the communities about investigations or complaints;
- D. lack of understanding with respect to what each party's expectations are about policing matters or roles;
- E. little or no information going back to communities about the status of recruiting applications;
- F. lack of non-enforcement contact between Aboriginal people and the police.

Some comments in Briefs relate to the issues, for example:

*No contact from local R.C.M.P. to Chief and Council of reported crimes on Reserve.*<sup>33</sup>

*According to presently understood policy, community members are forbidden to touch, or*

*move the victim of an accident ... such situations cause bitterness and confusion as the people feel powerless to act, being bound by outside controls.*<sup>34</sup>

*With no way to communicate concerns to each other, they have developed a relationship based on tolerance rather than trust.*<sup>35</sup>

We have heard, seen and read many things that lead us to conclude that at present, there are significant shortcomings in communication between the Aboriginal people and the R.C.M.P. To address the problem, which is acknowledged in its own reports, the R.C.M.P. has embarked on a number of initiatives to start building bridges between the police and the Aboriginal community. The "Sharing Common Ground" conference was one recent major initiative. The goal of the conference was:

*To improve the level of understanding and communication between the Native people of Alberta and the Police, through social and cultural exchange, and by developing recommendations for future action to address mutual concerns.*<sup>36</sup>

Implementation of recommendations from the "Sharing Common Ground" conference and "K" Division's Native Policing Study should have a positive impact on the current communication difficulties between the parties. However, the Task Force sees ground for additional recommendations.

### The Task Force Recommends:

- 2.9 That the government of Alberta, in consultation with Aboriginal organizations, develop a process to ensure the ongoing input from and participation by Aboriginal organizations in the development of policing policy and initiatives.

- 2.10 That R.C.M.P. detachments together with Aboriginal communities develop a forum or process for ensuring that local communities have input into the identification of problems and the development of solutions.
- 2.11 That the current trend to establish sub-detachments and workstations in remote and rural areas, or on lands reserved for Indian and Metis people continue when and where requested by the community and when and where feasible.
- 2.12 That, if the Detachment provides service to an Aboriginal community, the R.C.M.P. recruit local Aboriginal people to non-police positions in the detachment area.
- 2.13 That R.C.M.P. detachments work with Aboriginal communities to improve existing policies or practices by developing acceptable methods or practices to communicate information back to the community.
- 2.14 That when and where possible, R.C.M.P. members spend time in Aboriginal communities in a non-enforcement police capacity.
- 2.15 That R.C.M.P. members be encouraged to participate in non-police activities and community events in Aboriginal communities, and that Aboriginal communities actively invite the R.C.M.P. to participate.

## Communication Between the Aboriginal Community and Municipal Police Services

There are four major City Police Services in Alberta and seven Municipal Police Services. In addition, the R.C.M.P., on contract, provides municipal police services to sixty-one municipalities in Alberta.

The non-Aboriginal-specific statistics gathered by the Task Force show that municipal police forces in Alberta account for the largest volume of Criminal Code charging activity. With respect to Criminal Code offences, excluding impaired driving, only 34% of persons charged were charged by the R.C.M.P. compared to 66% by non-R.C.M.P. police forces.<sup>37</sup> The R.C.M.P. laid charges under the Criminal Code in 39.1% of violent offences and 32.6% of property offences, compared to 60.9% and 67.4% for non-R.C.M.P. police services.<sup>38</sup> The statistics show clearly that municipal police forces spend a much higher proportion of their time (81.4%) charging persons under the Criminal Code than the R.C.M.P. which spends almost half of its time (47.6%) dealing with provincial statutory offences. It is the R.C.M.P. which, under the Provincial Policing Contract, staffs rural detachments which are primarily responsible for policing reserves and isolated Aboriginal communities. The large urban Edmonton and Calgary police forces are responsible for charging 58.3% of all persons charged with Criminal Code offences in Alberta during 1989, excluding persons charged for impaired driving<sup>39</sup> and 55.2% of all persons charged with federal statutory offences.

Our research indicates that approximately 13.7% of all persons charged in Edmonton and Calgary were Aboriginal: 18.6% in Edmonton and 8.4% in Calgary.<sup>40</sup> Some police organizations stated that they dealt with a significant number of Aboriginal people which was not necessarily reflected in the charging statistics. For example, in the meeting of the Task Force with representatives of the Calgary Police Service, the police said that the bulk of their minority workload involved Aboriginals. We have reason to believe that contact between police and Aboriginals in Edmonton is even greater because Edmonton has a larger Aboriginal population.

In response to our request for information about communication issues, seven municipal police organizations responded to the Task Force. Some of their comments were:

*We do not hold regular annual or semi-annual meetings with any group of persons, inclusive of Native ... we have not addressed any concept of "townhouse meetings" or any device to create an environment where the Native or Metis are a part of input to policy revision ...*<sup>41</sup>

*Aside from the Community Service Officer position, there is no formal mechanism for the input of Native people into the identification of enforcement programs and the development of solutions.*<sup>42</sup>

*No formal mechanisms currently exist for the exclusive use of Native peoples to identify enforcement problems and to suggest solutions. They are, however, able to provide input through many other formal channels, i.e., at their community level - the district offices and zone personnel.*<sup>43</sup>

It has become clear to the Task Force that the gateways to the Criminal Justice system for Aboriginal people are the

largest in urban centres, especially in Calgary, Edmonton and Lethbridge. Municipal police forces together with urban Aboriginal organizations must begin to develop approaches to problem-solving.

The police services of Edmonton and Calgary stated that they have a Native liaison officer or position. The smaller municipal police agencies said that they have no liaison position even when the municipality has a significant Aboriginal population. An example is the City of Lethbridge Police Service. To make community-based policing effective, a willingness must exist on the part of the police agency to share responsibility for policing initiatives, programs and priorities to ensure that the service provided is not merely reactive.

Establishment of a liaison officer to develop communication links with Aboriginal communities is a minimal, yet important mechanism. Once contact is established, the police agency and the Aboriginal community can start to work co-operatively on developing initiatives and solutions.

Liaison and formal meetings should not be limited to Aboriginal groups whose focus is the urban centre. Many municipalities are near Aboriginal communities. We were told frequently about the flow of people in and out of the urban centre. Often, people arrested in a municipality give as their residence a place other than the municipality. If a municipality is near Aboriginal communities, municipal police should establish and maintain liaison with these surrounding communities.

The R.C.M.P. police sixty-one municipalities in Alberta. Some R.C.M.P. detachments have dual mandates

requiring a certain portion of their members to police a municipality whereas other members police the surrounding rural area. Comments and recommendations made in this section also apply to the R.C.M.P. when they are responsible for policing a municipality.

**The Task Force Recommends:**

- 2.16** That when and where a municipality has a significant number of Aboriginal residents, or a disproportionate amount of police workload involves Aboriginals, they be represented on the Police Commission.
- 2.17** That municipal policing agencies become involved in and respond to invitations to social and cultural events hosted by Aboriginal communities located in or near the municipalities, and that Aboriginal people extend invitations to police agencies when hosting community events.
- 2.18** That Aboriginal communities be encouraged to develop local advisory groups to address policing issues in municipalities.
- 2.19** That municipal police agencies work with Aboriginal communities to improve existing policies or practices by developing acceptable methods or practices to communicate information back to the community.
- 2.20** That when and where a disproportionate amount of police workload involves Aboriginals, the municipal police in consultation with Aboriginal organizations develop a process to allow them input into, or participation in the development of programs and other initiatives, as well as in planning and service delivery.
- 2.21** That when and where a large number of Aboriginal people reside in a municipality or a disproportionate amount of the police workload involves Aboriginals, a municipal police service actively and affirmatively recruit Aboriginal people to policing and non-policing positions in the police service.
- 2.22** That a position be established for liaison with Aboriginal communities by municipal police services which do not currently have such a position and have a workload which involves Aboriginals disproportionately, or serve a community with a large Aboriginal population.
- 2.23** That, when and where possible, Aboriginal members of municipal police services be involved in policing activities related to the Aboriginal community.



2.24 That municipal police who have a disproportionate workload of Aboriginals or serve a community with a significant Aboriginal population, be in regular contact with local and provincial levels of Aboriginal leadership, without being limited to the boundaries of the municipality. It is important that municipal police services establish and maintain liaison with surrounding Aboriginal communities.

## Term of Reference:

### Policing 2 (a) (iii)

*Examine the existing level of police service in the Indian and Metis communities, the working relationship between the R.C.M.P. personnel and band special constables, and the effectiveness of special programs such as crime prevention initiatives and other forms of police/community involvement.*

### Existing Levels of Police Service

Our options in examining existing police service were limited by resources, time and the established consultation process. Therefore, our approach to this matter is based largely on the perceptions of the Aboriginal people.

The Task Force encountered a difference in perception of the role of and service delivery by the police. On the one hand, Aboriginal people told us that police personnel should be peacekeepers, stressing prevention, reconciliation, mediation and as a last resort, punishment. On the other hand, many police officers considered it to be their role to detect crime and apprehend transgressors - aspects of reactive policing. This difference in expectations helps to explain some of the criticisms the Task Force has heard. Some R.C.M.P. members have said that high crime rates in some Aboriginal communities would justify an increased police presence or an increase in person hours allocated to serve the community. Unfortunately, this concern focuses on a reaction to crime. When Aboriginal groups addressed an increased police presence, they argued that resources be spent on non-reactive measures such as prevention, diversion

and reconciliation. Seemingly similar requests for an increase in police personnel serve to illustrate the differing perceptions of the role of the police and some of the dissatisfaction expressed by Aboriginal people regarding the current provision of police service.

Policing to Alberta's Aboriginal communities can be classified as:

- A. policing services provided to rural or remote Aboriginal communities (including Reserves and Settlements), and
- B. policing services provided to Aboriginal people living in municipal or urban settings.

## Police Service to Rural/Remote Indian and Metis Communities

Under the provincial contract for service between Alberta and the R.C.M.P., most Aboriginal communities receive the same level of service as other residents of Alberta. However, some Indian communities have developed or negotiated an enhanced police service. An enhanced policing arrangement is a service delivery which exceeds the services that would normally be allocated to a community under provincial contract. More will be said about alternative police arrangements later in this report.

The R.C.M.P. have the bulk of the responsibility for policing Aboriginal people. In Northern Alberta, this is a heavy responsibility considering obstacles such as the large size of detachment areas, transportation problems, and weather conditions. In remote Alberta, the provision or lack of provision of services,

by police or other service providers, is an acute problem. Some of the criticism the Task Force has heard about lack of routine patrols and extended response times is due, in part, to the distances that must be travelled in some of the Northern communities. This matter must be addressed by all parties who provide, pay for and receive police service.

Assessment of the workload of an R.C.M.P. detachment to determine the number of person-hours a detachment area requires poses another problem for police. Police state that currently, only reactive policing statistics are taken into account. The Task Force has heard the tale of a "Catch 22" situation for many detachments. When the police are engaged in focused and intensive efforts related to patrols and crime prevention initiatives, the reactive statistics related to crime in the detachment area decrease. As a result, a detachment is deemed to need fewer person-hours and police staff members are transferred. Because fewer people are available in the detachment, the detachment can no longer engage in the previous pro-active activities because of a loss of personnel. As a consequence the reactive statistics increase again. It may take a while before this happens. We are unaware of the length of the cycle, but the existence of a problem is clear. This problem was addressed in the National R.C.M.P. Report entitled "Policing for Aboriginal Canadians: The R.C.M.P. Role." To reduce the impact of this staffing dilemma, the report recommended:

*73. That in line with the forces community-based policing model, we: (3) ensure crime prevention efforts within Native communities receive equal measurement to detection, investigation and arrest when detachment workload statistics are reviewed.<sup>44</sup>*

The Task Force commends this approach.

Some of the problems expressed by remote or rural Aboriginal communities regarding policing services were:

- A. Aboriginal communities have a perception that response time to calls is currently inadequate. The Task Force has heard that the response time can take days in some cases, depending on the location of the community, the situation at the detachment, and the nature of the complaint.
- B. There is a perception that non-Aboriginal R.C.M.P. are reluctant to become involved in policing activities in Aboriginal communities, especially where a Native Special Constable is stationed in the detachment area, and that non-Aboriginal officers only give attention to these Aboriginal communities in a reactive policing capacity.
- C. We have heard that the present call diverter system used by the R.C.M.P. detachments causes problems for Aboriginal people for two reasons:
  - (a) The person answering the call for police assistance is not familiar with the community or residents calling in. In some cases, this has resulted in frustration experienced by the caller and a withdrawal for the request for assistance.
  - (b) The person answering the call is fluent in English and French, whereas the person requesting the assistance may only be able to speak English as a second language.
- D. Several communities expressed the concern that they are currently only being provided with reactive policing services. They feel they receive inadequate routine patrols, and state that there is a general lack of police visibility.
- E. Concern was expressed about the inability of police officers to speak the language of the community or to understand its culture.
- F. Communities expressed concern about insufficient feed-back or communication related to investigations or crime statistics in their community.
- G. There is a perception that complaints made by Aboriginals do not receive the same conscientious investigation as complaints made by non-Aboriginals. However, vigorous investigation appears to result when an Aboriginal person is accused of criminal activity by a non-Aboriginal person.
- H. There is a perception that Aboriginal people are policed in a discriminatory manner, even in their home communities. It was stated in a number of different ways that police are more inclined to stop and question Aboriginal persons than non-Aboriginal persons regardless of whether they are on foot or in motor vehicles.
- I. Some Indian reserves expressed considerable frustration about non-enforcement of their Band By-laws by the R.C.M.P.

The report, entitled "Native Policing Study" prepared by "K" Division of the R.C.M.P. in 1988/89, concluded on the basis of statistical information that insufficient time or person-hours were recorded on Indian reserves in proportion to the amount of crime reported in the statistics from those reserves. With respect to these statistics, the report stated:

*This could be interpreted to support the Native claim that the policing services they receive are largely reactive and not geared to correcting and altering disproportionate high crime patterns.<sup>45</sup>*

The report went on to say that:

*the survey of people in various Indian communities in Alberta indicated half the people surveyed were unhappy with the police service provided to them.<sup>46</sup>*

The Task Force sees a need for ensuring more effective policing services to Aboriginal people in rural and remote Alberta.

### **The Task Force Recommends:**

**2.25** That the provision of policing service to rural and remote Alberta be reviewed by the parties who provide and receive the police service in order to address service delivery issues and options.

**2.26** That, at the request of an Aboriginal community, a detachment, satellite detachment, or workstation be established in the community where feasible. Use of these facilities should be made an efficient and effective component of police duties.

**2.27** That police training programs emphasize the exercise of discretion and the development of alternative problem-solving approaches to conducting police work, which are more in tune with expectations of Aboriginals of the role of a police officer in their communities.

**2.28** That the current process of taking complaints, or call diverter system, be altered and made sensitive to the needs of Aboriginal communities.

**2.29** That crime prevention and other pro-active police initiatives in Aboriginal communities be given the same weight as other activities in the assessment of detachment workload.

## **Police Service to Urban and Municipal Aboriginal Communities**

In response to a question from the Task Force, Aboriginal presenters stated that Aboriginal communities existed in urban centres.

*The Native people have created pockets within the districts of the cities that they reside within. Although normally associated with the 'drag area' these communal groupings are located within the residential districts of the city.<sup>47</sup>*

It is possible to identify pockets of Aboriginal people in most major cities in Alberta. In municipalities in northern Alberta, identification is even easier.

Urban centres in Alberta are responding increasingly to the concerns of Aboriginal people. In Edmonton, a Task Force was established to examine inner city crime. Wetaskiwin recently established a Task Force to examine policing issues in relation to Aboriginal people. The City of Calgary has had an Aboriginal Urban Affairs Committee since 1979, which includes police representation. The profile

of Aboriginal issues has had some impact on the development of these initiatives.

The lack of communication and co-ordination between urban police and agencies and organizations dealing with Aboriginals poses a problem. This problem is aggravated because, instead of there being one single organization to advocate strongly on behalf of urban Aboriginals, there are several Aboriginal service providers in each city. This situation, in itself, is not a problem. However, lack of knowledge about these organizations causes difficulties. The Brief from Native Counselling Services of Alberta states:

*Another option that rarely is taken advantage of is the networking with Native care providers to address policing concerns. As the police have the first-hand knowledge of the families in crisis, the sharing of this information would (be) beneficial to the clients, as well as, alerting the service agencies. Neither the police or N.C.S.A. has established what could be called a working rapport, to provide intervention or support services to the Native clients that they share. This should become a priority for both of these services in the near future.<sup>48</sup>*

The Task Force agrees. It is essential that municipal police and urban Aboriginal organizations network with each other and use each other in a supportive manner.

Aboriginal people, whether they live on a reserve or in a city, share the view that the role of the police is that of peacekeeper.

*With an extremely large Native population residing in the large urban centres, there is a need to provide a different style of police service(s) to these residents.<sup>49</sup>*

To facilitate the development of peacekeeping policing in urban settings, Native Counselling Services of Alberta proposed that:

*By targeting services to (predominantly Aboriginal) districts such as foot patrol, the police can provide a more effective service to the Native people. This more personalized process of policing allows for contact with the Native population at the community level, something that is essential if a communication level is to be established. There are, however, few Constables that have an understanding of the cultural or spiritual backgrounds of Native people. This understanding is also important as many of these people have moved into the cities from rural communities go into distress after living in the cities for a short period of time.<sup>50</sup>*

Several municipal police services in Alberta have foot patrol programs. The Task Force commends their initiative. Aboriginal people should have input into such programming or be able to provide feedback to the police service to ensure that the policing service is delivered in a manner they can accept and respect.

### **The Task Force Recommends:**

- 2.30 That foot patrol programs be established in urban centres with districts with large Aboriginal populations.
- 2.31 That foot patrol officers receive extensive and on-going Aboriginal awareness training.
- 2.32 That municipal police agencies in co-operation with urban Aboriginal service agencies establish an inter-agency working group to co-ordinate service delivery to

Aboriginal people. This group should have as many representatives from Aboriginal service providers as possible.

- 2.33 That Aboriginal spokesgroups in urban centres, for example, Canadian Native Friendship Centres or Metis Locals, be approached by municipal police agencies on an on-going basis for the purpose of identifying the concerns or needs for service of the Aboriginal community.

## Working Relationships Between the R.C.M.P. and Band Constables

The most recent program statement from the Department of Indian Affairs and Northern Development with respect to policing services on Indian reserves pertaining to Band Constables is contained in Circular No. 55, issued in September 24th, 1971 and up-dated in January, 1990 especially for Alberta. The stated objective of the Band Constable program is described in Circular No. 55 as follows:

*The objective of the Band Constabulary, over and above the matters of Band jurisdiction, is to supplement locally the senior police forces, but not to supplant them. Co-operation therefore is essential between the local R.C.M.P./Provincial Police.*

*Also, it must be remembered that policing is more than patrol and arrest. It is as much a question of bringing to the community an understanding and respect for the law. This is particularly true of the Town or Village Constable who must depend to a great extent upon the goodwill of the people for his effectiveness. Children especially may be beneficially influenced by a thoughtful and*

*considerate peace officer whose interest in serving the community is daily demonstrated by his constructive attitude and approach to his job. From time to time, he may find occasion to speak about the place of the law in the community to the young people in school or in their clubs, or to homemakers and other groups of adults.<sup>51</sup>*

In addition to their duties as the enforcement arm of a Band with respect to Band By-laws and looking after matters of a local nature outside the jurisdiction of the R.C.M.P., it was the expectation that local Band Constables would aid or act as resources to senior police forces in matters outside the jurisdiction of the Band Constables.

With respect to communication and liaison with the R.C.M.P., Circular No. 55 states the following:

*Band Governments and Band Constables are encouraged to maintain a good working relationship with the R.C.M.P. who in most instances are to be called in for infractions beyond the Band Constable's authority.<sup>52</sup>*

Circular No. 55 also states:

*Because of the varying circumstances between Reserves and Provinces, no firm rule can be laid down as to the actual duties and responsibilities of the Band Constables and the R.C.M.P. and the relationship of each. These should be worked out by the Band Council in discussion with the local R.C.M.P./Provincial Police Detachment.<sup>53</sup>*

This situation results from the manner in which Band Constables are empowered, a process which varies from province to province. In some parts of Canada, Band Constables are appointed supernumerary Special Constables under the R.C.M.P. Act, whereas in Alberta, Band Constables are empowered under the Police Act. Even within the provincial Police Act, there is considerable variation of the enforcement

authority that may be conferred on the Band Constable. For example, in Alberta a Band Constable's authority to enforce laws may range from enforcement of Band By-laws only to the duties of a fully-empowered peace officer equipped with a side arm, able to enforce any provincial or federal statute.

Some of the problems or issues with respect to Circular 55 Band Constables were brought to the attention of the Task Force:

- A. Some Indian Bands expressed considerable frustration over the inability to have their Band By-laws enforced when they have chosen not to employ a Band Constable.
- B. Difficulty having an Indian Band By-law prosecuted once it is enforced.
- C. There is a perception that Band Constables are not politically independent.

This Task Force was not sufficiently exposed to Band Constables to come to a general conclusion about the working relationship they maintain with the R.C.M.P., the matter was not addressed in Briefs. However, the Head Report says:

*As matters stand now, the relationship between our Force and the band constables in Eastern Canada is noteworthy and positive, while in western and northern Canada, it ranges from shallow to non-existent.<sup>54</sup>*

The "K" Division Report states:

*Throughout the division we found both adversative and co-operative working relationships.<sup>55</sup>*

During our visits to Aboriginal communities, we met a Band Constable at the Whitefish Lake Indian Reserve. He started out in his duties with limited law

enforcement jurisdiction, but when we met him, he had obtained the full status of a peace officer. The local R.C.M.P. Detachment which provides service to Whitefish Lake works with the Band Constable to improve the service to the increasing satisfaction of the community. It was clear to us that the R.C.M.P., the community, and the Band Constable all had a great deal of respect for each other, and that their working relationship was continuously evolving as new circumstances arose.

Regardless of the present character of the relationship, several points about the role of the Band Constable should be made. These were well described in one of the Briefs:

*The Native Constable was able to provide a unique service over that of his non-Native counterpart. Seen as more than just a peace officer, the Native Constable represents equality of treatment for community residents and a role model for Native youth.<sup>56</sup>*

Band Constables are people who are willing to serve their communities. They must be recognized as a valuable resource to both the community and police agencies. Efforts must be made to involve Band Constables, regardless of their authority, in monitoring policy development pertaining to a reserve, without excluding the input of Band Councils or other citizens' groups wishing to become involved. Because of their proximity to the community and job function or description, Band Constables are also excellent resources for helping to administer or develop crime prevention or pro-active policing duties together with the community or the R.C.M.P. In addition, they show interest in a career in law enforcement, which should be encouraged or facilitated by the local R.C.M.P. detachment. Local detachments



should aid in the development of skills and training of Band Constables through co-operative working relationships. Aiding and supporting Band Constables leads to several positive benefits for the R.C.M.P.: increased community acceptance, greater understanding of the community, and more effective delivery of policing services.

### **The Task Force Recommends:**

- 2.34 That Indian Bands and the R.C.M.P. meet for the purpose of resolving jurisdiction disputes related to enforcement of Band By-law prosecutions.**
- 2.35 That Canada, Alberta and Indian organizations meet for the purpose of resolving jurisdiction disputes related to Band By-law prosecutions.**
- 2.36 That the R.C.M.P. and Band Constables develop a protocol for liaison and communication to deal with matters pertaining to reserves, while recognizing that there are overlapping areas of jurisdiction.**
- 2.37 That Indian Bands consider making Band Constables accountable to a body external to and independent of the Band Council.**
- 2.38 That R.C.M.P. conferences or meetings about Aboriginal policing issues involve Band Constables as participants or presenters where appropriate.**
- 2.39 That Band Constables be invited to participate in interagency**

**committees of service providers where such committees exist.**

## **Special Programs**

Generally, crime prevention and pro-active initiatives of police services fall into one of the following categories:

- A. Education about the law, the Criminal Justice system, or crime;
- B. Police-community relations, liaison, or communications initiatives;
- C. Programs which enhance police effectiveness;
- D. Programs which increase police visibility;
- E. Programs developed to educate the public about the role of the police and the services offered;
- F. Programs developed to focus on a specific problem or issue.

It is worth noting that police agencies in Alberta are maintaining some level of pro-active police work. Police services have informed us that, as a result of their paid and voluntary efforts, criminal activity is reduced. Although this statement would be difficult to quantify, it is apparent that there is a connection between increased police visibility and reduction in crime in a community. However, it appears that in the Aboriginal community, crime prevention initiatives fall short of the mark.

*The system in general, and crime prevention tactics in particular, have not been very effective in the Native community. The great over-representation of Native people incarcerated in Correctional Institutions is evidence of this.<sup>57</sup>*

A number of questions must be asked when we examine why crime prevention initiatives to date are relatively ineffective. First, we must ask if it is the role of policing agencies to provide crime prevention programs to the Aboriginal community. The initial response would be "yes." Their profession seems to qualify police officers for crime prevention. However, that same profession disqualifies them. The very nature of daily police work causes prevention activities to focus on better ways to identify or detect crime, on programs that focus on shortening response times, and on a host of other activities that facilitate effective policing. These activities may well reduce crime, but mostly, they facilitate ways of detecting crime better or faster. This is not to say that police services should not play a significant role in crime prevention programs or initiatives. However, police should not be the only people responsible for crime prevention nor should police be the focal point. Any involvement with the Aboriginal community in a non-enforcement capacity can only strengthen police-community relations. The Task Force heard requests from many Aboriginal communities for more crime prevention activities and programs. Based on a survey of Aboriginal communities, one of the conclusions of the "K" Division Native Policing Study (1988/89) was:

*While community members would like to see more services in general being provided, they were particularly dissatisfied with the amount of time spent on community relations and crime prevention.<sup>58</sup>*

We know that Indian and Metis communities, urban as well as rural, are concerned about crime rates in their areas. They seek solutions, and in doing so, they usually look to the R.C.M.P. in rural

communities. This may be because the R.C.M.P. is one of the few service providers who have continuing contact with a community. However, for reasons previously stated, policing agencies should not be the sole providers of crime prevention programs. Crime prevention initiatives should be culturally appropriate and sensitive to the needs of the Aboriginal community. The Task Force raises the question of whether non-Aboriginal R.C.M.P. personnel are equipped to deliver or design such programs.

Another factor is that pro-active policing in rural areas currently receives little attention due to manpower constraints. In addition, because of a seemingly endless demand for reactive policing, it is likely that any allocation made to pro-active policing will quickly be absorbed by reactive law enforcement. Evidence for this trend is found in both the Head and "K" Division reports which reveal that Native Special Constables, who were to have spent most of their time performing proactive policing duties, were diverted to reactive policing to assist with detachment workloads. For these reasons, the R.C.M.P. should have a significant role and continue to be involved in crime prevention programs in the community as much as its resources will allow.

The question remains of who, other than the police, should have responsibility for crime prevention. We submit that everyone carries this responsibility, but the community should have the primary role.

Some communities wish to operate their own crime prevention initiatives, using community youth centres or community-operated youth programs as the focal point.

The Task Force favours the community approach to crime prevention because it is generally requested by communities which are prepared to organize around this need. In addition, this kind of preventive approach can form a base program capable of including a broad spectrum of specific preventive initiatives ranging from recreational activities for youth to supervision of offenders with community dispositions. The program can also include, if necessary, specific counselling services related to addiction and family violence. Programs should be flexible, with priorities determined by the community. Funding should be co-ordinated among responsible agencies, departments, and governments. Communities which have requested this type of program include the following: Assumption, Peerless Lake, Trout Lake, Loon Lake, and Fort Chipewyan. However, there is no clearing-house or co-ordinator of broad social services. As a result, Aboriginal people are caught or lost between the mutually exclusive mandates of provincial government departments or between the mutually exclusive mandates of the federal and provincial levels of government.

Every service provider, government department, agency, and individual should be involved in crime prevention. To develop meaningful preventive programs and initiatives, it is useful to examine some reasons why Aboriginal people come into contact with the criminal justice system.

- lack of employment;
- alcoholism and substance abuse;
- residual effects of residential schools or foster homes;
- lack of parenting skills;
- low educational levels;
- lack of recreational facilities;
- family breakdown and violence;

- low self-esteem;
- cultural breakdown;
- generally, lack of access to services.

This list is not exhaustive, but the recurrence of these problems, described in the communities we visited and in the Briefs we received, is alarming. Pitted against this list of fundamental social problems,

*current crime prevention projects such as Operation Identification, Lady Beware, Lock It or Lose It, are not going to make much of an impression.<sup>59</sup>*

These social problems may not be the direct cause of crime but they are certainly contributing factors. For example, in many of the communities we visited we asked questions about school facilities and educational opportunities. We were informed that the schools were physically adequate, but that generally, they could only accommodate children up to grade nine. To continue their education, children were expected to travel by bus to a school outside of their community or to relocate to another community altogether. It is well known that children are highly impressionable during adolescence. Nevertheless, Aboriginal adolescents must leave their home communities, and be without the guidance of their parents and the support of their community. We have been told that some children leave school because they are homesick, some leave because they end up in bad company, and others drop out because their parents cannot afford the little extras that high school children want. If education is a solution, then it must be promoted. Alberta Education states in its Brief:

*We know that every inmate costs \$4,000 a month to keep in confinement; we also know it costs the same \$4,000 to educate a child in school for a whole year ... as the saying goes, "you can*

*pay me now or pay me later." The real sadness is that far too many Native students pay now and pay later.<sup>60</sup>*

This example illustrates how limitations on one system, in this case education, may result in Aboriginal youth coming into conflict with the law. We must realize that a large budget for essential services costs us less than an even larger budget for Criminal Justice Correctional Services. As one community stated:

*We know that with improved services, many problems could be lessened or eliminated before they become serious matters.<sup>61</sup>*

An ounce of prevention costs less than a pound of cure!

Preventive measures in Aboriginal communities would, because of the factors Aboriginals say contribute to crime, involve a community development approach. In addition to dealing with those problems communities consider pressing, such an approach also ensures a relevant and culturally sensitive response. Transferring of resources and control over programs to the communities will have spin-off effects. Some of these benefits are economic development such as employment and facilities, and individual development such as leadership skills, role models, and marketable employment skills.

We have been in contact with communities which are in the beginning stages of a more community-based approach to problem solving and prevention. In some rural and remote areas of Alberta, inter-agency committees of service providers are in place which meet to co-ordinate services to Aboriginal communities. This is a positive first step. Because the approach is multi-disciplinary, people are less likely to go

without assistance and or many organizations can come together to pool resources to formulate solutions and programs. However, this approach would be strengthened by allowing the communities to have representation on these committees and by allowing them to state their views on programs and essential services needed. The best approach would be for communities themselves to control and deliver the services to Aboriginal communities. The Talking Drum Youth Program is an example of this last model. This program operates in several communities. The Task Force met with the people involved in the program in the Dene Tha' community of Assumption. The Talking Drum Program offers a range of services to youth, including: alcohol, drug and solvent abuse programming; recreational activities such as wilderness survival camps; cultural activities; educational opportunities; peer support and counselling; promotion of communication between youth and parents and Elders; and crime prevention. In their Brief to the Task Force, the spokesman for the Talking Drum Program said that:

*The success of the program is evident through the personal development of a number of youth. There has also been a substantial decrease in the number of youth in conflict with the Justice System.<sup>62</sup>*

The Talking Drum Program involves various jurisdictions because of the lack of local services and the size of the community itself. The community as well as presenters stated that the holistic approach to helping and developing the youth of this Indian community was very effective. However, the very approach that made the program effective caused problems in funding. Because the activity could not be fitted into a social services, recreation, crime prevention, or cultural

program, obtaining funding was difficult at best. This is partly the result of a funding approach adopted by urban centres, which is not relevant to a small, remote, Aboriginal community. Urban centres have many one-service agencies. This segmented approach is more workable in cities because of the urban population base. However, in a remote or rural Aboriginal community, a service or program is needed which is more in line with the Talking Drum multi-program or cross-jurisdictional approach. We should not expect a small, remote Aboriginal community to program in the same way as it is done in the cities, and urban funding criteria should not be applied. As one presenter stated, government departments must look for reasons to say yes to Aboriginal projects and programs instead of finding reasons to say no.

In its recommendations, the Task Force bears in mind that some communities are willing to take over crime prevention, whereas others will choose to have crime prevention remain the responsibility of the police or other service providers.

#### **The Task Force Recommends:**

**2.40 That police services continue to be involved in pro-active and preventative policing endeavours, only limited by their resources. In developing initiatives, police should have meaningful input from the Aboriginal community to ensure the initiatives are relevant and culturally sensitive.**

**2.41 That service providers, for example, social services, Solicitor General personnel, police, health personnel, and the Aboriginal communities form an inter-agency working**

**group which includes local Aboriginal community members as representatives.**

**2.42 That, when and where possible, resources for prevention programming be transferred to Aboriginal communities, and that programs be delivered by community members.**

**2.43 That funding agencies acknowledge that programs initiated by Aboriginal communities cannot be assessed or funded based on a segmented urban style of service delivery. Innovation, flexibility, and co-operation or joint funding between agencies is imperative to ensure that good initiatives receive proper support and resources.**

**2.44 That service providers engage in a pro-active approach to service delivery in Aboriginal communities. That is, that service agencies address the needs and try to develop solutions in co-operation with the Aboriginal community.**

**2.45 That Aboriginal communities acknowledge that criminal justice is an important issue to all community members, and that they place a higher priority on criminal justice issues, especially crime prevention.**

## Term of Reference:

### Policing 2(a)(iv)

*Review the impact of the R.C.M.P. Special Constable program in relation to the original objectives of the program in light of current needs.*

The R.C.M.P. outlined in its Brief the development and evolution of the Native Special Constable Program (Option 3(b)).

*In 1972, the Department of Indian Affairs and Northern Development (DIAND) commissioned a Task Force to conduct a Canada wide study into policing on Indian reserves.... The study report was entitled "Report of Task Force Policing on Reserves, January 8, 1973," and was released in that year. Within this report a number of options were provided for the provision of police services to Indian reserves. They were as follows:*

#### *Option 1 "Band Council Policing"*

- (a) civil by-laws enforcement only*
- (b) civil by-laws and minor offences under federal and provincial laws*
- (c) all federal and provincial laws enforcement.*

#### *Option 2 "Municipal Policing"*

- (a) "purchase" services from existing forces*
- (b) province considers reserve as a municipality for policing purposes.*
- (c) "use" of existing police services.*

#### *Option 3 "Third Area"*

- (a) separate Indian police force*
- (b) an Indian branch or contingent of an existing police force, of which it would be an integral part.<sup>63</sup>*

In 1973, the federal government approved Option 3(b) as the most viable approach. In Alberta, Option 3(b) was accepted by the provincial government and the

R.C.M.P., as a component of the provincial policing service provided by the R.C.M.P.<sup>64</sup>

Testimony presented by counsel on behalf of the R.C.M.P. to the Blood Inquiry in Lethbridge indicated that the reasons for the creation of the R.C.M.P. 3B Program included the following:

- (a) the R.C.M.P. had a critical need for more members of Native extraction;*
- (b) many Native applicants could not meet the R.C.M.P.'s visual acuity, or educational standards for regular members;*
- (c) the R.C.M.P. were reluctant to accept, as regular members, anyone with any form of criminal record;*
- (d) the program would provide the members with educational, training and promotional opportunities;*
- (e) the Constables could be part of an established institutional structure including salaries and pension benefits.<sup>65</sup>*

In 1973, two levels of policing were in place in Alberta: the large municipal police forces and all other policing by the R.C.M.P. Option 3(B) was implemented in the latter category to allow for an "Indian contingent of an existing Police Force, of which it would be an integral part."<sup>66</sup>

The R.C.M.P. hoped to achieve the following by implementing the program:

- 1. To provide improved policing services to Indian Reserves and Indian people by the employment of Indian Constables.*
- 2. To commence a program whereby Indian people would be policed to a considerable extent by their own people under the supervision and direction of experienced R.C.M.P. personnel.*

3. *To develop and create a feeling and subsequent acceptance by Band Councils and Indian people of a greater responsibility for law enforcement on Indian Reserves amongst Indian people.*
4. *To establish a vehicle (the Indian Constables) for better communications and understanding between the Police and Indian community generally.*
5. *To provide an opportunity for Indian individuals interested in law enforcement to receive training and experience as Police Constables with a view of a career as fully qualified Police Constables with the same opportunities as are available to personnel of the R.C.M.P. or any other Police Force.<sup>67</sup>*

A generic job description was developed:

- (a) *Under the general supervision of the Detachment Commander, investigates and enforces uncomplex provisions of the Criminal Code, diversified Federal, Provincial or Territorial Statutes and Municipal by-laws; assists senior investigators in the investigation and enforcement of the law and performs related duties.*
- (b) *Under the existing preventative oriented policing concept, assist in the development of a better rapport between the R.C.M.P. and the community.<sup>68</sup>*

Since its inception, the program has grown to include all contract policing provinces. Although national in scope, the program has not been "tied to a set of rules or concrete national policy." The R.C.M.P. states the following: "Each Division has been allowed to control and develop its own working strategies for the program."<sup>69</sup>

The 3(b) program, which was initially Indian-specific, grew over time into a Native Special Constable Program, involving both Indian and Metis recruits.

To encourage Aboriginals to join the R.C.M.P. as Special Constables, "the basic qualifications were made quite flexible...":

- (a) *Minimum height could be lowered when candidate possessed other compensating factors.*
- (b) *Grade X or equivalent preferred, however, lower grades would be considered.*
- (c) *Applicants would write the R.C.M.P. Educational Examination, however, it would be used as a guide only to determine the candidate's overall suitability.<sup>70</sup>*

The policy of the R.C.M.P. requires currently that the Native Special Constables spend 80% of their duty time on Reserves and in Native communities with 60% of their total time to be spent on enforcement and investigation of less complex matters with the remaining 40% to be spent on crime prevention/Police community relations.<sup>71</sup>

It should be noted that this policy differs from the anecdotal information provided to the Task Force by field staff of the R.C.M.P. and by the communities which are policed. The demand for reactive policing seems to have led to a much lesser emphasis on the crime prevention and community relations components of the job description.

The Province of Alberta funds 54% of the 3(b) Native Special Constable Program and 46% is provided by the Department of Indian and Northern Affairs, Canada. All positions have been supernumerary, in that they are added to the normal complement required to provide provincial policing services.

The current "K" Division philosophy in Alberta in relation to the use of Special Constables is that wherever possible,



Special Constables should be posted "outside of their home community, but in a community which shares their language and cultural background."<sup>72</sup>

In the fall of 1988, "K" Division conducted a Special Constable Seminar for its Native Special Constables. A survey showed that the Constables had likes and dislikes which were similar to those recorded in other divisions.

Problems with the 3(b) program have been reported in Robert H. Head's "Study of Policing for Aboriginal Canadians - The R.C.M.P. Role." They include:

- (a) *Native Constables doing the same work as Regular Members but receiving less pay and less training.*
- (b) *Annual assessments - using Regular Member standards to judge performance.*
- (c) *No career advancement in the program.*
- (d) *Job descriptions not followed - not enough time for crime prevention and police-community relations programs.*
- (e) *3(B) program directed toward policing benefits rather than Native community benefits.*
- (f) *No red serge for Native Special Constables and no dress uniform.*
- (g) *Having to wear Special Constable shoulder flashes.*
- (h) *Training needs for Special Constables not being met.*
- (i) *No transfers within and outside the Province - long-term postings.*
- (j) *No consistency in the federal/provincial/local management of 3(B) program.*

- (k) *Stereotyping of Native Special Constables - discrimination.*
- (l) *Not enough Native Special Constables.*
- (m) *No pay for being bilingual in the Native language.*
- (n) *Not wanting to be a community liaison officer.*<sup>73</sup>

In addition to the above problems, a major concern or drawback of the program arose as a consequence of the assignment of Special Constables to routine reactive policing duties. In this regard, Head reports:

*In the beginning, all 3b Special Constables were considered to be surplus to detachment establishment strength and their presence was not included in the workload statistics. In recent years, however, that has changed, resulting in frustration for our local managers, from detachment commander to division commanding officer. On one hand, they are supposed to be using the Special Constable primarily in the role of police-community relations but at the same time, their response-to-call workload has increased to the point where special constables have to assume the full range of regular member constable duties.*<sup>74</sup>

Reflecting some of the dislikes reported by Special Constables, Head reports:

*Citizens from the various communities also view our Special Constables as "second class" police persons, they wish to see their own people advance in the organization but they know this is not possible if they remain as Special Constables.*<sup>75</sup>

The Task Force was impressed by the Aboriginal Special Constables we met. Our experience has also shown that they are well received by most Aboriginal communities. Clearly, Aboriginals prefer to be policed by Aboriginals.

The Special Constables have acted as role models for the Aboriginal community. The pro-active or community relations component of the job has generally been viewed by the Aboriginal community as a necessary function and more in keeping with Aboriginal expectations of the role of a police officer, often referred to as a "peace-keeper" role. When the Constables are not used in the role originally defined for them, Aboriginal communities generally lament that situation, as expressed by the Alberta Federation of Metis Settlement Association:

*The Special Constable has a different job description from the regular member but still performs much of the same duties. They perform crime prevention and investigative duties, and police community relations. This conflict creates uncertainties for the Special Constable over responsibilities and priorities. If he is involved in too much police work there is no time for community relations and vice-versa. The program should evaluate the Special Constable on a different basis, perhaps by putting more emphasis on the community relations aspects of his duties.<sup>76</sup>*

The Task Force concludes that the program has been successful in the following areas:

- Improved policing to the Aboriginal community.
  - More Aboriginal involvement in the policing function.
  - Improved communication and understanding between Aboriginal people and the Police.
  - The provision of career opportunities for Aboriginal recruits.
- The provision of positive role models for Aboriginal youth.

While the above successes are real advances in Aboriginal policing, the gains constitute only a small foundation. However, this basis can be used for further improvement. In his summation of the program, Head<sup>77</sup> states that:

*Our Native Special Constable program sprouted from option 3 "b" and was initiated in order that the Force could, during a relative short period of time, recruit Natives for the job of providing policing services to Natives. To that end, it has been successful. The Native communities and the Force have both matured to the point where we should now look forward to an enhanced program ... we should now ask whether or not the Special Constable program has outlived its usefulness and if we should be looking at its replacement with something more attuned to the 1990's.*

Based on his findings, Head recommended "that the Force abolish the Native and/or Indian Special Constable designation." Commissioner Inkster did just that on May 29, 1990 in his opening address to the Aboriginal Policing Conference in Edmonton.

Although the Special Constable designation has been removed, it is unclear how the 3(B) program will develop. Indications from the R.C.M.P., the Department of Indian and Northern Affairs, Canada (INAC) Development, and the Alberta Solicitor General's Department suggest that the funding for the program remains intact, with the objective of providing Aboriginal policing.

### The Task Force Recommends:

- 2.46 That the R.C.M.P., the Department of the Alberta Solicitor General, and the Department of Indian Affairs and Northern Development articulate clearly their intent with respect to the policing of Aboriginal people in Alberta, particularly in light of the recent change made in the status of the Special Constables.
- 2.47 That the 3(B) program be changed to an affirmative action program geared to accelerating the recruitment of Aboriginals.
- 2.48 That Aboriginal Constables be re-oriented or that their mandate be re-adjusted to the task of community relations and pro-active policing. The Task Force has been told that this initiative may already be under-way.
- 2.49 That the R.C.M.P. build upon the successes of the 3(B) program with respect to Aboriginal recruitment. The program is the most successful of the Aboriginal recruitment initiatives which have come to the attention of the Task Force. We conclude that, in spite of its drawbacks, the program contains some ingredients of success.

### Term of Reference:

#### Policing 2(b)

*As it relates to Indian and Metis people in urban and isolated settings, to review existing relationships between Indian and Metis people and municipal police forces and the R.C.M.P.*

The relationship between the R.C.M.P. and the community it serves or polices has been discussed in Section 2 (a) (i). It was stated that, in general, problems exist and that Aboriginals require, and in some cases demand, more control over and input into policing priorities in their respective communities. The R.C.M.P. have affirmed their commitment to share this "common ground."

With respect to municipal police forces, it is clear that a low formal level of liaison exists between these police forces and the urban Aboriginals. This is particularly disconcerting because 50 - 60% of the incarcerated Aboriginal population comes from the cities.<sup>78</sup> A large part of the problem is the lack of an Aboriginal organization or agency which speaks with "one voice" in the representation of urban Aboriginal people in conflict with the law. In view of this fact, the police must make special efforts to foster a meaningful liaison and relationship.

In its oral presentation to the Task Force, Native Counselling Services of Alberta stated that its relationship with the Edmonton, Calgary and Lethbridge Police Services was less than satisfactory, particularly because the establishment of a good working relationship was not considered to be a "top priority" for the police forces. However, Native Counselling Services viewed the R.C.M.P. as fostering a good level of co-operation.<sup>79</sup>

Given the lack of community organization vis-à-vis the Criminal Justice system, the Task Force finds it difficult to assess urban Aboriginal-police relationships with any authority. Anecdotal comments heard by the Task Force about municipal forces have come from rural and urban Aboriginal people who have had encounters with municipal forces. Again, the perception is negative and there is little evidence of a good relationship. Discussions with the inmate population have made it clear that a large cultural and communication gap exists.

Despite these considerations, we have heard from both Edmonton and Calgary City police officials that they are fully prepared to work toward the establishment of an effective working relationship. The Edmonton City Police, in its Brief, keeps in mind the potential gap between words and deeds when it says

*needless to say, concepts and philosophical statements of purpose remain unfulfilled promises until they are put into practice.<sup>80</sup>*

Both Police Services are actively pursuing the practice of community-based policing in an attempt to respond to the "emerging needs"<sup>81</sup> of the community. In this way they work toward the establishment of a relationship. The Edmonton City Police commented on this development and stated that

*the Service should no longer be seen in its traditional role of being an exclusive agent of law enforcement and punitive action, but rather as a participant in social development and change.<sup>82</sup>*

In its Response to "Request for Information", the Calgary City Police stated that

*no 'formal' mechanisms currently exist for the exclusive use of Native peoples to identify*

*enforcement problems and to suggest solutions.<sup>83</sup>*

A subsequent meeting with Calgary police officials revealed that the newly implemented Outreach Program is designed to "improve relationships." However, the program is multi-cultural in orientation rather than Aboriginal-specific.

In Edmonton, a similar approach of "community outreach" by the City Police has been multi-culturally based and the emphasis is on police as a promoter of minority interaction. Four visible minority civilians are employed as Community Service Officers. One of these is Aboriginal. No Aboriginal-specific channels of communication appear to exist at the senior levels.

The Lethbridge Police force stated that there may be a need for a Native Liaison Officer, but only four hours per week would be required. The Task Force disagrees with this position. Given that this force employs no Aboriginal officers at all, and further, in view of the large Aboriginal population both in and around Lethbridge, it is imperative that this force dedicate, a minimum of one full-time Aboriginal liaison officer to liaison services.

The Taber Municipal Police also stated that no formal lines of communication exist, even though 19% of its workload involves Aboriginals. Most municipal police forces should address vigorously the concerns about the relationship identified by the Aboriginal community. This is particularly true in view of the fact that 50 - 60% of Aboriginal people incarcerated committed the crime in an urban environment. Essentially, without concerted effort, 50 - 60% of the problem currently under review will not be addressed.

As noted earlier in Edmonton and Calgary, the thrust of police operations is toward community-based policing. While this is a positive move, the Task Force is of the opinion that the effort must be Aboriginal-specific in communities which have a high concentration of Aboriginals. In Edmonton, the Edmonton City Police reports several of these communities of which the inner city is the largest. We have been informed that in Calgary, communities with a large Aboriginal population can also be identified.

The Calgary Aboriginal Urban Affairs Committee of the City of Calgary impressed the Task Force as a good mechanism for addressing Aboriginal concerns and needs in the urban area by means of one structure. The committee has contact with the police and City Council. However, some frustration was expressed by the Committee with not having a direct reporting relationship to City Council.

A similar committee would be a useful structure for all sizable municipalities. It is the view of the Task Force that the magnitude of the problem deserves a concentrated, sincere approach at the highest levels.

Related to the above is the observation that the number of Aboriginal people migrating to urban areas is increasing due to the lack of housing available on reserves for the large number of Registered Indians. Forty percent (40%) of all Indians now reside away from the reserves.<sup>84</sup> The changing demographic picture is also influenced by the high birth rate of the Aboriginal population in general. The on-reserve birth rate is three times the National average.<sup>85</sup> The 1986 Canada census shows that 50% of the Aboriginal population in Alberta was, at that time, under the age of twenty years.

It is clear that it is imperative for municipal police forces as well as for other Criminal Justice and civic agencies to foster a good relationship and to establish channels of communication with the urban Aboriginal community.

As stated earlier, there are a number of Aboriginal service organizations which deal with Aboriginal people in the cities. However, no co-ordinated effort is apparent. The Native Friendship Centre in Edmonton, for example, does not even have a physical facility as a centre for its activities.

In view of this problem, Aboriginal organizations must also take a leadership role. In particular, the Indian Association of Alberta and the Metis Association of Alberta can be more active in Criminal Justice matters affecting Aboriginal people in urban areas. Native Counselling Services of Alberta, among other Aboriginal service providers, could also be a valuable resource to police and other agencies in relating to urban Aboriginals involved with the Criminal Justice system.

### **The Task Force Recommends:**

- 2.50 That the R.C.M.P. and municipal police force Chiefs establish formal communication channels with leaders or representatives of the respective Aboriginal communities. We are encouraged by the initiative of the R.C.M.P. "K" Division which has recently formed an Elders' Advisory Committee to the Commanding Officer.**
  
- 2.51 That the Indian Association of Alberta and the Metis Association of Alberta take a leadership role in relation to the problem of urban**

Aboriginal people in conflict with  
the Criminal Justice system.

represent urban Aboriginal people  
with respect to Criminal Justice  
issues.

2.52 That community policing and  
police prevention programs be  
Aboriginal-specific in identifiable  
Aboriginal communities in urban  
areas.

2.57 That all sizable municipalities with  
a significant Aboriginal population  
form Urban Aboriginal Affairs  
Committees to include among  
general concerns, Aboriginal  
Justice/Police issues. The Task  
Force has been advised by the  
Mayor of Edmonton that plans are  
being developed for an Aboriginal  
Advisory Committee. The Task  
Force applauds this move and urges  
the City to give this committee a  
high profile in civic affairs.

2.53 That Aboriginal Constables be  
stationed in identifiable  
communities with high Aboriginal  
populations.

2.54 That Native Friendship Centres  
and other local Aboriginal service  
agencies in urban and rural areas  
be used as channels for liaison  
between the Aboriginal community  
and the police officer working at  
the "zone" level. The Task Force  
encourages the establishment of  
this relationship where it is not  
currently in place.

2.58 That urban police services establish  
an effective liaison with reserves  
and surrounding communities. The  
Task Force was impressed by the  
effort in this respect made by the  
Calgary Police Service.

2.55 That municipal police services  
place a high priority on the  
establishment of good working  
relationships with the Aboriginal  
communities and that this  
relationship be reflected in  
Aboriginal-specific community  
outreach and liaison programs, with  
activity levels and resources  
proportionate to the Aboriginal  
workload.

2.56 That Native Counselling Services  
of Alberta and other Aboriginal  
service organizations be recognized  
and used as appropriate resources  
in the absence of an organized  
community group which can



## Term of Reference:

### Policing 2(c)

*To review and assess the current recruit training and other in-service training programs of the R.C.M.P. and municipal police forces in so far as this training relates to Indian and Metis cultural awareness and understanding.*

"Multiculturalism" forms the starting point for training in the R.C.M.P. and municipal police forces. This presents a problem, or common pitfall in that Aboriginal awareness is addressed on a basis of equality with other cultures. This equal application or even-handedness results in an inequity of result because Aboriginal people constitute by far the largest ethnic proportion of the police workload, both from a "charges" and an actual contact perspective.

Although it is clearly recognized that police services must be multiculturally sensitive, it is equally clear that, given the disproportionately large number of Aboriginal people involved with the Criminal Justice system, a specific Aboriginal-only awareness program is more appropriate than a broader multicultural program of which Aboriginal culture is only a part.

The above comment is particularly true of municipalities which have a significant number of Aboriginal residents. In Calgary, for example, the police force reports that the actual Aboriginal workload based on Natives charged is 8.4%. In a meeting with Calgary City police staff, the Task Force was told that the actual contact with Aboriginals by Calgary City police is considerably higher. In Edmonton the municipal police force

reports a 19% workload based on Aboriginals charged. The Lethbridge City police was unable to provide an estimate of its Aboriginal workload, but the high percentage of Aboriginals in the Lethbridge Correctional Centre (40%) and information gathered from discussions with the Aboriginals in the Lethbridge area indicate significant contact.

Taber and Coaldale are the other two communities with a non-R.C.M.P. police service which reported significant active contact with Aboriginals.

The Task Force recognizes that smaller police forces lack the necessary resources to provide Aboriginal-specific training in a significant manner. Therefore, a centralized Aboriginal awareness training centre may be in order.

Information from Briefs and from meetings with some municipal police forces shows clearly that Calgary and Edmonton have well developed cross-cultural training programs. However, these programs must be Aboriginal-specific and distinct from the multicultural orientation, particularly because 30% of provincial inmates are Aboriginal. In other words, specific cultural sensitivity to the First Nation status of Aboriginal people is required. Only then can the concern of the Aboriginal community be met. This was expressed by the Yellowhead Tribal Council: *"The attitudes of the law enforcers appears to be the biggest concern."*<sup>86</sup>

The comment from the Yellowhead Tribal Council is one of many. In this case, the criticism was directed at the police. Similar views were expressed in relation to other criminal justice agencies as a result of the belief that the respective officials in these agencies reflect the values and views of



the dominant society of which they are a part. In short, if cultural insensitivity is to be reduced, much more must be done to educate both Criminal Justice personnel as well as the public at large. The Task Force also observed that police forces generally do not distinguish adequately between Aboriginal cultures in their cross-cultural training. A greater understanding of differences as well as similarities can lead to a higher level of cultural sensitivity on the part of police officers in the field.

With respect to cross-cultural training or the Aboriginal component of this training, we note that the lecture style of presentation at the introductory level does not lend itself to a heightening of cultural awareness or sensitivity. Rather, it serves to disseminate information. It is recommended that a more interactive format be adopted at the introductory level which makes use of Aboriginal resources, and of group discussion and interaction techniques.

With respect to the R.C.M.P., the Task Force was invited to the R.C.M.P. Training Academy in Regina to review the Aboriginal component of the cross-cultural training program. This component is composed of seven hours of classroom training preceded by a four hour general introduction to multi-culturalism. In addition, a seven hour program addresses the Chinese, Vietnamese and Sikh cultures.

The Task Force noted that the R.C.M.P. instructor, who was non-Aboriginal, had a good rapport with the students and, as a result, the information was well received. While the presentation was introductory and readily understood by the recruits, the lecture appeared to be geared more to the provision of information and descriptive categorization in relation to Aboriginal

issues and associated legal definitions than to the heightening of sensitivity to Aboriginal culture. Nevertheless, the presentation impressed us as a good foundation or introduction to Aboriginal policing.

A manual called "Selection of Readings" was provided to the recruits. The Task Force considers this manual to be a good teaching aid.

With a view to the improvement of the R.C.M.P. training program, we suggest that a greater distinction be made between the Indian and Metis cultures. Aboriginal spirituality must also be included and Aboriginal staff and/or external Aboriginal resources should, in our view, be included to enhance this program. A good starting point would be consultation with Aboriginal community leaders.

Our earlier comments about the lack of specific Aboriginal awareness programs apply also to the R.C.M.P. from a workload perspective. The single largest ethnic or cultural minority group with whom the R.C.M.P. deals Canada-wide is probably the Aboriginal population. This is no less true for Alberta, both in urban and rural areas. The seven hours now scheduled should, in our opinion, be increased in view of the fact that a total of six months is dedicated to the preparation of the recruit for field service.

Discussions with senior Academy staff made it apparent to us that the R.C.M.P. may be unduly concerned about the requirements of Canada's National Multi-Cultural Policy and Official Bilingualism. For example, one officer thought that bringing in Aboriginal resource people who were not bilingual might lead to a complaint or a request for translation services. We also heard the

concern expressed that all ethnic minority groups must be treated equally. The above comments are especially applicable to the R.C.M.P. as most of its rural detachments in Alberta have some Aboriginal involvement. The generic multicultural program, called "cross-cultural training", is insufficient to meet the needs of the front-line R.C.M.P. officer in Alberta. We are encouraged by the fact that the R.C.M.P. is currently making changes to training standards, and we are confident that an appropriate program will result. The current program at the Training Academy in Regina involves a two-day multicultural program taken by all recruits during their initial training program, which spans a total of six months. Although the program has a good Aboriginal component, the presentation is the same for all recruits throughout Canada, and the content is too general. Consequently, it does not address the diversity of Aboriginal cultural groups in Alberta.

The R.C.M.P. seems to be aware of this shortcoming in Aboriginal awareness training and has advised the Task Force that it is in the planning stages of providing more specific Aboriginal training to "K" Division field officers. The Task Force notes that this concern was also addressed in two recommendations in the Native Policing Study - "K" Division:

*That mini cross-cultural indoctrination programs be developed at each Native policing unit in concert with local Native people to provide specific cultural awareness to all local detachment personnel, in particular new member arrivals to each unit and that the divisional Native policing section oversee and assist in this development.*

*That "K" Division training branch develop a cross-cultural training program which addresses specific Native cultures in Alberta*

*with particular emphasis on the practical application of cultural awareness to the community based model of policing.<sup>87</sup>*

A final observation about training at the Academy in Regina is that a number of recruits were perplexed about the need for Aboriginal awareness training. We found some resentment in relation to a real or perceived R.C.M.P. recruitment policy for Aboriginal applicants. The Task Force concludes that an introduction to Aboriginal awareness training should include an awareness of the extent of over-representation of Aboriginal people in conflict with the law as well as of the gravity and dimension of this social problem. Furthermore, Aboriginal awareness training and Aboriginal recruitment must be understood within this context.

#### **The Task Force Recommends:**

- 2.59 That all police services, when they deal with a significant number of local Aboriginals, establish a specific awareness program geared to sensitizing their members and staff to Aboriginal issues.**
- 2.60 That Aboriginal people not be defined as a member group of the multicultural mosaic, but as members of society with First Nation status and Aboriginal status.**
- 2.61 That Aboriginal people, during the course of Aboriginal awareness training, be identified as a group which requires remedial measures and assistance to be able to be represented on Alberta's police forces in proportion to their numbers in the respective communities.**

- 2.62 That police officers be required to take Aboriginal awareness refresher training after experience in the field. This recommendation is made because training during induction may be viewed somewhat academically by recruits during their first exposure to the Aboriginal community.
- 2.63 That Aboriginal people be utilized to deliver Aboriginal awareness training.
- 2.64 That Aboriginal recruits and staff take awareness training as well as non-Aboriginal staff, so that a cross-cultural dimension can be added to group discussions.
- 2.65 That delivery of Aboriginal awareness training include a significant amount of group discussion, and not consist of lectures only. This is important since the content and substance of Aboriginal awareness training deals with learned and ingrained attitudes on the part of the participants. Differing views and reactions must be allowed to be worked through in the sensitization process.
- 2.66 That Aboriginal awareness programs and sessions include as a central theme that Aboriginal people have special rights and that the relationship between the Government of Canada and Aboriginal people as defined in Section 35 of the Constitution Act is the starting point for the contemporary nature of this relationship.
- 2.67 That the Solicitor General of Alberta provide leadership in establishing a co-operative Provincial Aboriginal Awareness program for non-R.C.M.P. provincial police officers, and that Aboriginals have input in the development of this program.
- R.C.M.P.:
- 2.68 That the generic or central Aboriginal awareness training at the Training Academy be supplemented at the local and field level with a program to sensitize detachment staff to the particular cultures of the communities which they serve, and that this program include a visit to a local Indian or Metis community.
- 2.69 That the Aboriginal-specific component of multi-cultural training be enhanced both in quality and in time allocated. Given the size of the Aboriginal population as a client group of the R.C.M.P., the allocation of seven hours during a six-month program can probably be increased.
- 2.70 That the Aboriginal-specific component of multi-cultural training at the Training Academy distinguish more adequately between the Indian and Metis cultures of Canada. Leaders in the Indian and Metis communities should be consulted for this purpose.

- 2.71 That Aboriginal spirituality be included as part of the Aboriginal-specific training program at the Training Academy and that the Aboriginal community be consulted in the determination of appropriate learning materials.
- 2.72 That Aboriginals be engaged in the presentation of the Aboriginal-specific component of multi-cultural training.
- 2.73 That an extensive Aboriginal awareness program or exposure to the Aboriginal community be made mandatory for senior R.C.M.P. personnel and supervisors. This recommendation acknowledges that supervisors and managers require this exposure in order to provide the appropriate leadership to field staff.
- 2.74 That the civilian staff of the R.C.M.P. also receive Aboriginal awareness training.

## Term of Reference:

### Policing 2(d)

*To review and assess the recruitment and selection programs of the R.C.M.P. and municipal police forces that are designed to attract Indian and Metis people into the respective police forces.*

The Canadian Human Rights Commission has stated that:

*Questions of public trust and shared values apply just as much to other institutions as to the police. Until they can be said truly to represent and respond to the communities they serve, the suspicion that the guardians of the public trust are not fully trustworthy will continue to rankle. To be out of touch with substantial segments of one's public is to risk both incomprehension and unfairness.<sup>88</sup>*

The recruitment and selection programs of the R.C.M.P. and municipal forces as they apply to the recruitment of Aboriginal people become suspect when one views the results. The following Table helps to determine the proportion of Aboriginal staff on police forces in Alberta. The percentages in the Table are compared to the workload estimated by the respective forces on the basis of information on Aboriginals charged. We have been told by a Calgary police official that these figures are under-estimated because actual police contact with the Aboriginal community as a component of workload is higher than the figures based on "charges" data.

**Report of the Task Force on the Criminal Justice System and its Impact  
on the Indian and Metis People of Alberta, March 1991**

**NUMBER OF NATIVE POLICE OFFICERS EMPLOYED  
BY POLICE FORCES IN ALBERTA**

<b>Police Force</b>	<b>Number of Police Officers</b>	<b>Number of Native Police<sup>d</sup> Officers</b>	<b>Native Police Officers as a % of all Officers</b>	<b>Workload (% Native)</b>
Edmonton	1,101	11	1.0%	18.6% <sup>e</sup>
Calgary	1,254	13 <sup>a</sup>	1.0%	8.4% <sup>f</sup>
Lethbridge	102	-	0	Unknown
Medicine Hat	71	2	2.8%	Minimal
Camrose	21	-	0	Minimal
Lacombe	11	-	0	Minimal
Taber	9	-	0	18.5% <sup>g</sup>
Coaldale	7	-	0	10.1% <sup>h</sup>
Redcliff	7	1	14.3%	Minimal
All Municipal	2,583	27	1.0%	-
R.C.M.P.	2,052 <sup>b</sup>	50 - 55 <sup>c</sup>	2.4 - 2.7%	32.7% <sup>i</sup>
All Police Total	4,635	77 - 82	1.7 - 18.0%	20.9%

<sup>a</sup> Based on a December 1989 voluntary workforce survey. Data refer to permanent sworn and civilian police members and is based on a 86.3% departmental response rate. The 13 Native Police Officers represented 1.2% of the total Police officer respondent population.

<sup>b</sup> Includes Special Constable positions; excludes civilian members and public servants.

<sup>c</sup> Includes 35 Special Constable positions and an estimate of 15 - 20 other Police Officers with Aboriginal ancestry.

<sup>d</sup> Ethnic Status is self-reported.

<sup>e</sup> Persons charged estimates provided by Edmonton City Police.

<sup>f</sup> Persons charged data provided by Calgary City Police.

<sup>g</sup> Total crime figures provided by Taber Police Department.

<sup>h</sup> Persons charged data provided by Coaldale Police Department.

<sup>i</sup> Estimates from Task Force's Statistical Report.<sup>89</sup>

Note: If the 35 Special Constables (3(b)) are excluded from the R.C.M.P. establishment and the calculations, then the number of Native Police officers is 15 - 20 out of an establishment of 2,017, which is 0.74 - 1.0%

R.C.M.P. data obtained October 4, 1990.

## Municipal Forces

The Table shows that, apart from the Taber and Coaldale municipal police, the Edmonton and Calgary police report the larger workloads. The Lethbridge Police reports its Aboriginal workload as unknown. However, it is believed to be considerable, in view of the large number of Aboriginal inhabitants of the city and the large surrounding Aboriginal communities which include the Blood and Peigan Reserves.

The comments of the Task Force will apply primarily to the Edmonton, Calgary, and Lethbridge forces as these have significant Aboriginal contact. However, the conclusions and recommendations should be taken as being applicable in general.

The Table clearly demonstrates that the 1% Aboriginal staffing of police officer positions is not a reflection of either the workload or the cultural make-up of the community. The Task Force was surprised to learn that the Lethbridge police force has not recruited Aboriginal police officers. This situation is all the more serious because of the significant Aboriginal population in the area.

Anecdotal information provided by police officials indicates that Aboriginal staff continue to be underrepresented in the higher ranks of the police.

## R.C.M.P.

When the workload of the R.C.M.P. is examined in relation to Aboriginal members, it becomes clear that even the successes of the 3(B) Program are overshadowed by the need for more Aboriginal recruitment. While the

Aboriginal workload estimate is approximately 33%, Aboriginal staffing levels are approximately 2.5%. This figure includes 3(B) Special Constables who are technically surplus to the complement. When the 3(B) program is excluded, the numbers drop to the same level as that of the municipal forces of Edmonton and Calgary.

## Barriers to Recruitment

The Task Force had the opportunity to meet with Aboriginal as well as with police communities. It seems that there is no common understanding of the barriers to recruitment. The Aboriginal community, on the one hand, acknowledges that the career of police officer can carry with it a stigma in the Aboriginal community which deters Aboriginal involvement. On the other hand, we have heard Aboriginal people express frustration with the lack of outreach to the Aboriginal communities for recruiting purposes. The length of the application process has sometimes been stated as a factor. In a workshop at the "Sharing Common Ground" Conference, one police participant stated that the R.C.M.P. application process can take eight to twelve months. Eyesight requirements and physical fitness have been mentioned by Aboriginal people as standards which are difficult to meet. However, our discussion with the police did not confirm this perception.

It seems that criminal records are a barrier to recruitment. While one representative of a police force stated that the pardon criterion is used informally to assess acceptability in the review of criminal records, other contacts revealed an absence of solid criteria or policy. In fact, no criteria or policy were mentioned in the



Briefs by police forces. One Chief of a large municipal police force affirmed his belief that enough Aboriginal people without criminal records could be recruited.

Education was cited often by police forces as a barrier to Aboriginal recruitment. However, we heard a different view from the Lethbridge Native Friendship Society which painted a gloomier picture. The Society stated that educated Aboriginals are not achieving the success they deserve in applying for jobs in mainstream society. If this observation is true, it may suggest that the education ladder for Aboriginal people is not the ladder of success it is believed to be.

In any event, it is clear that the barriers to Aboriginal recruitment are not clearly defined or understood. What is clear is that the approach to Aboriginal recruitment should be Aboriginal-specific. To acknowledge the magnitude of the problem, dedicated resources and staff should be directed to Aboriginal recruitment. This effort should not be subsumed under minority or multi-cultural recruitment because it is evident that Aboriginal people have special status and encounter particular difficulties not shared with other multi-cultural minorities or ethnic groups.

## New Developments

In response to the Report of the Visible Minority Task Force, the Calgary Police Service is currently conducting a "Review of the Recruit Selection Process. The existing process will be reviewed to ensure the testing and assessment instruments are fair, valid and appropriate."<sup>90</sup>

The Report of the Visible Minority Task Force noted that when an exceptional candidate is identified, a 'fast-tracking' of

the process can occur to pre-empt job offers from other employers.<sup>91</sup> The process described, however, is multi-cultural rather than Aboriginal-specific.

In his Report to the Commissioner of the R.C.M.P., Assistant Commissioner R. Head recommended

*That the force re-examine the application processes and change where necessary to ensure they are not culturally biased against Native persons.*<sup>92</sup>

Our Task Force endorses this recommendation as well as the recommendation "that the force embark upon an affirmative action program specific to Aboriginal Canadians."<sup>93</sup>

When we discussed affirmative action with Calgary Police officials, they stated that they would be in favour of a program to bring Aboriginal people to a competitive level separate from the normal recruitment process. In other words, the lowering of recruitment standards for Aboriginal people is not viewed as desirable. Preparation for entrance to a "level playing field" was also implied by the Edmonton City Police Service which has announced a Targeted Remedial Training program.<sup>94</sup> The Edmonton City Police stated about this program:

*We queried the Department of the Solicitor General and the Secretary of State about the feasibility of a formal remedial training for the members of visible minorities whose education does not meet our application requirements. The proposed training should increase the number of Natives and Metis constables by:*

- a. raising their education to satisfy the application requirements;
- b. providing appropriate life skills;



c. *providing insight into policing, and*

d. *providing career related training.*<sup>95</sup>

The Task Force considers this program a positive effort.

The R.C.M.P. Native Special Constable Program to which we referred earlier is an example of an Aboriginal recruitment program that has achieved some measure of success. Currently, 35 Native Special Constables serve in the R.C.M.P. in Alberta. The Task Force suggests that this program be examined to identify the factors contributing to success so that these can be used in the recruitment of Aboriginals.

The Task Force believes that peer support is a necessary condition for successful Aboriginal recruitment and that "cluster hiring" can be an important factor. It is also important that Aboriginal people hold senior influential positions in police organizations to provide an even greater network of support. This support is necessary to overcome the stigma mentioned earlier and to counter the effects of occupational isolation.

The process of including Aboriginals in Criminal Justice agencies is long overdue. It is one of many ways in which Aboriginal people can participate more in the affairs of Criminal Justice and in society in general.

The R.C.M.P. and the Edmonton and Calgary Police Services are issuing statements of intent and making concrete plans to increase the numbers of Aboriginals in their ranks. While it is difficult to quantify results in Aboriginal awareness training, success in recruitment and staffing efforts can be measured easily by tracking the presence, or lack, of

Aboriginal police officers. While the Lethbridge City Police did not articulate any new recruitment objectives or initiatives, any development in this area would be welcomed by the local Aboriginal community.

### **The Task Force Recommends:**

- 2.75 That all Alberta police services, including the R.C.M.P., streamline and shorten the recruitment process for Aboriginal applicants.
  
- 2.76 That the police services of Alberta, including the R.C.M.P., commit themselves to an affirmative action plan designed to increase significantly the level of Aboriginal recruitment. The pre-employment up-grading program under consideration by the Edmonton City Police Service is a positive affirmative action response to the recruitment problem. The Head Report suggests that a similar approach is under consideration by the R.C.M.P. The Task Force commends these initiatives.
  
- 2.77 That affirmative action programs allow Aboriginal applicants to be up-graded to meet realistic uniform standards for all police officers at the recruitment level. This would ensure that Aboriginal and non-Aboriginal officers, once recruited, would be on a level playing field with police officers.
  
- 2.78 That police forces express commitment and adopt a long-term plan for Aboriginal recruitment and that they begin immediately to

- educate young people in the communities about the positive aspects of policing and policing careers so that, in future, potential Aboriginal recruits will not have a negative and reactive view of policing. The newly implemented Calgary Police Service outreach program is commended as a positive example of such an approach.
- 2.79 That police forces dedicate staff and resources to their efforts to recruit Aboriginals. This process must be Aboriginal-specific and tailored to Aboriginal culture and the needs of police as well as of Aboriginal communities.
- 2.80 That recruiters be Aboriginal recruitment specialists who have considerable knowledge of Aboriginal culture and that these recruiters be Aboriginal themselves.
- 2.81 That recruitment goals for Aboriginal police be set ideally to reach levels of recruitment which correspond to the proportion of Aboriginal people in the community.
- 2.82 That the Task Force adopt recommendation No. 52 of the Head Report, which reads as follows: *"That the Force re-examine the application processes and change where necessary to ensure they are not culturally biased against Native persons."*<sup>97</sup>
- 2.83 That all municipal police forces in Alberta review their application process and criteria for the purpose of eliminating cultural bias, and identify other recruitment barriers such as physical fitness, eyesight requirements, and education.
- 2.84 That police forces apply cluster hiring as a recruitment strategy.
- 2.85 That police forces retain the services of one or more Indian or Metis Elders as a method of providing support to Aboriginal police officers.
- 2.86 That Aboriginals with criminal records not be excluded necessarily from the recruitment process and that the respective police forces and R.C.M.P. articulate policy with respect to the recruitment of Aboriginals with criminal records.
- 2.87 That the R.C.M.P. Native Special Constable Program be examined by Alberta police recruiters to determine the factors contributing to success so that these factors can be applied in recruitment processes and programs.

## Term of Reference:

### Policing 2(e)

*To review operational policies and practices of the R.C.M.P. and municipal police forces as they relate to the exercise of police powers as between Indian and Metis people and non-Indian and non-Metis people to determine if there are differences in treatment and whether those differences are desirable or detrimental.*

### Systemic Discrimination

In their Briefs, policing services in Alberta generally expressed the same response: we do not treat or police people differently on the basis of race, or: race is not a factor in policing functions. On the surface, this may seem satisfactory. However, it does not address systemic discrimination. Systemic discrimination involves the concept that the application of uniform standards, common rules, and treatment of people who are not the same constitutes a form of discrimination. It means that in treating unlike people alike, adverse consequences, hardship, or injustice may result. To help illustrate the concept of systemic discrimination in the area of policing, we will draw on examples from some of the communities we visited.

In a remote Aboriginal community serviced by a police detachment centrally located in a nearby municipality or township, an arrest and detention may cause greater hardship on the Aboriginal person than other similar arrests and detentions in the detachment area. The community of Peerless Lake is eighty kilometres from the nearest R.C.M.P. detachment which is located in Red Earth Creek. If an Aboriginal person from

Peerless Lake is arrested and brought in, and exactly the same procedures and criteria are used as those applied to a resident in Red Earth Creek, the impact on the Peerless Lake resident will be unjust or unduly harsh. This is especially so because, regardless of race, arrested persons are released outside the detachment doors. For non-Aboriginals from Red Earth Creek, the procedure is not as harsh as it is for Aboriginals from Peerless Lake, who must make their way back to their community on their own, eighty kilometres away on a road that is at times impossible to travel.

In an urban setting, systemic discrimination also emerges in policing situations. In one meeting, we were told the story of an Aboriginal man who was caught shoplifting a small item in Edmonton, and who was released with an appearance notice. He returned to his community near Slave Lake. Not understanding the nature of the proceedings, and unable to afford to return to Edmonton, he failed to appear in court. A warrant was then issued, and the man was arrested and held in the Edmonton Remand Centre on the grounds of failing to appear in court. The man, we were told, spent over a month in remand awaiting trial.

It is clear that operational policies applied uniformly to Aboriginal people sometimes have unjust or unduly harsh results. The reasons may be geographical, economic, or cultural. However, it must be acknowledged that the application of uniform policies can have a discriminatory effect. This matter must be addressed by scrutinizing closely the manner in which policing currently takes place.

**The Task Force Recommends:**

- 2.88** That policing organizations together with Aboriginal organizations and communities enter into on-going discussions to examine policies and practices used by policing services which, by their nature or application, have a disproportionately harsh or inequitable impact on Aboriginal people.
- 2.89** That police services, in addition to the usual factors, take into consideration the residence of an Aboriginal person when determining the option of release with a Notice to Appear or arrest, to ensure that undue hardship does not result.
- 2.90** That when Aboriginal persons are arrested, removed from a community and transported to another community, and then are released from custody, the police agency assume the responsibility for making arrangements for their return to the community in which they were arrested.

The impact of some programs on a disproportionate number of Aboriginal people is a problem. One example is Operation SHOCAP. SHOCAP stands for Serious Habitual Offenders Comprehensive Action Program. This program identifies young offenders who have the greatest likelihood of re-offending and allows for policing them more intensively. SHOCAP's premise is that only a small proportion of young offenders are responsible for the largest proportion of crimes committed by young offenders. SHOCAP is a means of

identifying these individuals and of applying more police resources for the purpose of reducing crime in the community. Individuals are identified by their criminal records. Their offences are mostly property-related.

SHOCAP operates in Edmonton and Calgary. The Calgary police stated that currently, 3.9% of the identified habitual young offenders are Aboriginals. The Edmonton police stated that approximately 50% are Aboriginals.

The SHOCAP program is based on a cross-jurisdictional or multi-agency approach to finding solutions and alternatives for young offenders. To date, the SHOCAP program has not developed beyond a reactive policing exercise, as stated by the Calgary Police Services in a meeting with the Task Force. Some concerns were expressed about the program. For example, the John Howard Society of Alberta said that SHOCAP was presently only being used as an intelligence gathering vehicle, and the Boyle Street Co-op in Edmonton said the program amounted to harassment of young people.

Although the multi-agency approach has not yet fully developed, it is a useful approach. The youth are not only coming into contact with the police, but they are also likely to be involved with many other agencies such as social services, school authorities, probation branches, public housing, and Canada Employment. An agency working in isolation cannot hope for success in terms of behaviour modification. An integrated response is necessary to identify and assist these young people. However, when they are Aboriginal, the resources of their communities should also be involved. An example of such a resource is the Metis Children's Services Society.

SHOCAP is an example of a police initiative that has a disproportionate impact on Aboriginal children. Other programs could have the same potential. Any program, operation or initiative that has significant contact with Aboriginal people should have input from Aboriginal people and organizations.

### The Task Force Recommends:

- 2.91 That police organizations, the Indian Association of Alberta, and the Metis Association of Alberta examine programs and initiatives of police agencies that have a significant impact on Aboriginal people so that viable solutions and alternatives can be developed.

## Differential Policing

In Briefs and presentations, Aboriginal people have expressed concern about differential practices by the police in the treatment of Aboriginal and non-Aboriginal people. For example:

*Sometimes there is selective charging by Police outside the Tavern. At closing time the Police will only stop cars driven by Aboriginal people.<sup>97</sup>*

*Often, non-Native merchants and other people who associate with the R.C.M.P. are not arrested for laws they break.<sup>98</sup>*

*It is well known in places such as High Level, Peace River and Valleyview, that if you are a Native walking home you will be picked up by the R.C.M.P., thrown in gaol and at times charged for several offences. Whereas, if you are White and walking home, you will not be charged by the R.C.M.P. In some cases, these White people will be offered a ride home.<sup>99</sup>*

*Approximately three-quarters (72%) of the respondents feel that Natives receive different treatment than non-Natives when they come into contact with the Police. More than half (51%) do not feel that Police in the city or area in which they live treat Natives well, and over one-third (35%) feel that even Police on their home Reserve do not treat their people well. While 62% do express respect for the Police, only 29% feel that the Police respect Natives.<sup>100</sup>*

*R.C.M.P. appear to treat Native people different than non-Native people when picking them up in the Town of High Level. The methods used to perform this task, should sometimes be questioned. Many times it is simply a display of force to show the taxpayers that the R.C.M.P. are active and earning their wages.<sup>101</sup>*

*Settlement members are often stopped in their vehicles ... for reasons other than to be asked if they have alcohol in the vehicle or if they have been drinking ... This type of consistent treatment indicates a bias against the Native people and the application of Police Officer's authority to make routine checks.<sup>102</sup>*

*On the whole, Indian people seem to believe that non-Indian Police are more likely to stop vehicles driven/occupied by Indians and charge in cases where discretion may be used and they are often treated with discourtesy in their dealings with the Police. They are greatly concerned that these attitudes displayed are based on racial prejudice.<sup>103</sup>*

The reasons for these perceptions and concerns must be examined. An article by Tim Quigley, presented at the Western Judicial Workshop in 1990 and entitled "Introducing Cross-Cultural Awareness," explains that:

*The commonly held view is that there is more criminality among Native people than among non-Natives. But is that true? Studies in the United States suggest that there is not*



*significantly more criminality among Blacks and Hispanics than among Whites. The apparent differences are more explainable by Police conduct than by anything else ... Police use race as an indicator for patrols, arrests, detentions, etc.*

*While we lack comparable data in Canada, there are some strong indicators that the same results obtain here. For instance, Police in cities tend to patrol bars where Native people congregate, rather than private clubs frequented by businessmen. Remote Native communities, by comparison with largely White communities, tend to have more policing.*

*Does this indicate that Police are invariably racist? Not necessarily, since there is some empirical basis for the Police view that proportionately, more Native people are involved in criminality. It is just that the Police view then becomes a self-fulfilling prophecy ... They tend to police areas frequented by groups they believe are involved in criminality.<sup>104</sup>*

As an illustration of how race can be a cause of differential treatment, Quigley poses the question: "Have you ever noticed that police rarely arrest whites for being intoxicated in public?" Frequent charges are brought against Aboriginal people for public intoxication. However:

*The charges might never have resulted had Police not used race as an indicator for criminality. The response may be that the Native person in question was intoxicated and that that is against the law. True. But not everyone breaking the law attracts Police attention or is charged.<sup>105</sup>*

The Task Force also heard concerns about the attitude of Police officers toward Aboriginal people. Some of the comments were:

*Many rural R.C.M.P. have an authoritative attitude, coupled with a mind of righteousness, which develops toward inhumane police practices in dealing with Metis people.<sup>106</sup>*

*Police attitudes tend to be biased, intolerant, insensitive and prejudiced when dealing with Metis people.<sup>107</sup>*

*White R.C.M.P. officers appear insensitive, aggressive, and at times appear to abuse their authority and control.<sup>108</sup>*

*I lied to the R.C.M.P. to get respect from them. I lied and told them I was Italian. They believed me and totally changed their antagonistic attitude.<sup>109</sup>*

*A large number of participants expressed concern about the racist and arrogant attitude displayed by some City Police officers; City Police attitude stinks!<sup>110</sup>*

*For their part, the Police would perceive there is no problem ... sure they are not racist, but there is sure a difference who gets scooped and who doesn't.<sup>111</sup>*

The 1989 Head Report entitled "Policing for Aboriginal Canadians: The R.C.M.P. Role," addressed the attitudes of R.C.M.P. members toward Aboriginal people. The Report concluded that:

*The bottom line is that we have some very tolerant and understanding members working among Natives and some who are very intolerant.<sup>112</sup>*

A number of possible solutions have been proposed to the Task Force for dealing with the issue of negative police attitudes toward Aboriginal people:

- A. Intensive cross-cultural training, during initial recruit training and regularly thereafter, for all police services and their staff. This training could range from general matters to community-specific cross-cultural training at local police levels. It is generally believed that Aboriginal people should deliver or be

significantly involved in all cross-cultural training endeavours.

- B. Allowing the Aboriginal community to participate in the selection process of officers who will police them.
- C. Increased care in staffing by, for example, pre-screening interviews or administering attitudinal tests to screen out police personnel who would be inappropriate for Aboriginal policing duties.
- D. Increased non-enforcement and social contact by police personnel with the Aboriginal community.
- E. Increased recruitment of Aboriginal people to policing services as police personnel and staff.
- F. Significant disciplinary measures for police personnel who exhibit intolerant policing practices. Intolerant behaviour should not be rewarded by transfers to better or more desirable policing duties or postings.
- G. The need for the education system to teach school children about Aboriginal history, rights and culture to avoid the development of racial intolerance.
- H. Mandatory intensified or corrective cross-cultural training for police personnel who exhibit intolerant attitudes.
- I. Policy requiring police personnel who have Aboriginal policing duties to read specific literature about the community they police.
- J. Only posting certain personnel to Aboriginal communities; for example, personnel with an interest in the

outdoors; older, more seasoned officers; outgoing, helpful, compassionate people; and people who grew up in a rural area.

- K. Involve the Native policing unit of the police organization in service audits to determine the quality of service provided to the Aboriginal community and to detect any problems at an early stage.
- L. Have Aboriginal people police Aboriginal people.

Any measures taken by police organizations in Alberta to combat intolerance exhibited by members or personnel can only help to improve the relationship of police services in general with the Aboriginal communities in Alberta. The Head Report states that:

*Over the years there have been numerous examples of members in the force displaying racist attitudes toward Native people. How often have we seen one member with such an attitude destroy years of co-operative building by many solid, concerned and understanding members. Building takes time and patience, but destruction is quick and very painful to those members who follow and are called upon to deliver the service to the Aboriginal clients who are sworn to serve and protect.<sup>113</sup>*

Initiatives by Aboriginal people, locally, regionally, or provincially, will aid in developing more culturally-sensitive policing. It is crucial that Aboriginal communities become involved in the policing of their community and not be passive recipients of a service. If there is a problem that cannot be resolved, Aboriginal people must make use of the complaints process.

The Task Force has heard that police contact with Aboriginal people in some



communities is very high or can even constitute the bulk of their workload. As a result of continued negative contact with Aboriginal people, some police officers experience burnout, and may develop biased views of Aboriginal people in general. This situation is a result of forces beyond the control of the police. However, a consistently disproportionate Aboriginal workload should indicate a need for more services or resources to be allocated in a community to combat a problem that eventually leads to involvement or contact with the Criminal Justice system. To determine priorities and to facilitate remedial programming, comprehensive statistics must be maintained by police organizations on Aboriginal workload and charging. If the workload indicates a significant contact with Aboriginal people, the police organization should monitor the development of negative attitudes and, if appropriate, take remedial measures. The maintaining of Aboriginal-specific police statistics will also help to justify increased funding to helping agencies, which, in turn, will aid the function of the police.

#### **The Task Force Recommends:**

**2.92 That Canada and Alberta, and Aboriginals, develop educational materials about Indian and Metis people to educate the public about Aboriginal issues, history, rights, and culture.**

**2.93 That the Indian and Metis organizations of Alberta and Alberta Aboriginal communities become involved in the issue of differential policing for the purpose of identifying and reporting it.**

**2.94 That all police organizations in Alberta maintain statistics which would allow for the identification of Aboriginal workload or contact.**

### **Diversion**

Diversion is any action or measure used by police to avoid or limit the involvement of an accused person with the Criminal Justice process. Diversion can be achieved informally by releasing someone with a warning or formally by, for example, using the Alternative Measures Program for a young person. It has been suggested to us that police officers no longer have the discretion they used to have. However, of all the actors in the system, police still maintain the most significant discretionary power in terms of whether or not to lay a charge.

A number of factors account for, or are perceived as accounting for, the erosion of police discretion:

- A. that as society has grown more impersonal and legalistic, discretion is eroded;
- B. Police officers express concern that if they do not use a police response, that is, to lay a charge, they may be held personally liable.
- C. Police are less willing to take a chance with someone they do not know, or to whom they cannot relate;
- D. Under current police staffing policies, a police officer is posted to a community and removed again later. The officer may never have an opportunity to become a long-term member of the community who has a vested interest in changing conditions.

- E. With the decrease in government spending for services, and the centralization of services, fewer resources are now available in the communities for alternative actions by the police;
- F. Cultural barriers or a lack of understanding between police and Aboriginal people often result in a police response rather than a diversion;
- G. Police training focuses on developing reactive policing skills and does not train adequately for diversionary responses.
- H. A police officer's performance appraisal is based on reactive police statistics; that is, the officer's ability to detect crime and the number of arrests made by the officer.

The Task Force received statistics about young offenders that indicate that even where an opportunity exists, police are not diverting Aboriginal young offenders to the Alternative Measures Program. These statistics show that 93% of individuals accepted in the Alternative Measures Program are non-Aboriginal. The police is one of the agencies involved in the decision to divert to Alternative Measures. Although the police are only partially involved in the decision to divert to Alternative Measures, diversion of Indian and Metis youth is not taking place in proportion to their numbers in the criminal justice system.

To ensure maximum opportunity for the exercising of police discretion, Aboriginal communities must become involved actively in policing and criminal matters which affects their communities. For example, the predominantly Aboriginal

community of Fort Chipewyan is in the process of forming a community justice committee with representatives from the two Indian Bands - Cree and Chipewyan, the Metis, the police, Native Justices of the Peace, and others. This committee seeks solutions to youth crime, and wishes to become active in policing issues and sentence disposition. The Task Force enjoyed meeting a community group so determined to seek, co-operatively, relevant and workable solutions to the prevention of crime in their community.

### **The Task Force Recommends:**

**2.95 That Aboriginal communities, police agencies and service providers at the local level enter into discussions to determine formal and informal resources and programs in the community, for the purposes of diversion and co-ordination to address the issue of Aboriginal people in conflict with the law.**

## **Multiple Charges**

Aboriginal people expressed concern with the police practice of laying multiple charges:

*Many times a number of charges are laid because one main charge can have many associated charges. This system gives way to lawyers plea-bargaining for their clients. Of course, it also means that the person will be found guilty of something. Misinformation abounds from Police/lawyers about multiple charges and plea bargaining. How do you fight this system?<sup>114</sup>*

*Police officers have a practice of laying multiple charges, which is condoned by the Judiciary.<sup>115</sup>*

*Many Police officers express concerns that sentences are too lenient, especially with the*

young offenders. The Police spend many man-hours investigating an offence to bring these cases to Court only to see the accused given a light disposition. It is Native Counselling Services of Alberta's belief that to compensate for these alleged inadequacies, the investigating officer will often file multiple charges for one offence thereby ensuring a custody disposition.<sup>116</sup>

The Task Force has been told that Aboriginal people often plead guilty to get the matter "over with", or to get out of remand, which is considered to be "dead time." The practice of laying multiple charges out of a single fact situation also facilitates the plea bargaining process. This poses a problem in that there is an inherent danger that an injustice could result when multiple charges are laid. The practice of laying multiple charges must be addressed by the police, and must be discouraged.

Another problem that may result in laying multiple charges or over-charging emerges when police personnel are unsure of the appropriate charge or are unable to determine which charge is appropriate. Police-officers should be required to seek advice to determine if their charging is acceptable.

### **The Task Force Recommends:**

- 2.96 That police services ensure that multiple charges resulting from a one fact situation is discouraged or eliminated.
- 2.97 That, where police have doubts or are unsure about the appropriate charge to lay, they seek advice with respect to the appropriate charge. Advice may be sought from, for example, a senior officer, prosecutor or lawyer before the charge is laid.

## **Complaints**

Complaints were mentioned in Briefs and in meetings held in communities and Correctional Institutions. There were two major areas:

- A. Complaints about the conduct of police officers, and
- B. Complaints about the performance of police officers or service provided.

We have been told that "Native people do not complain." Whatever the reason for this lack of assertion, be it cultural or learned, it must be noted and remedial action must be taken. The complaints of sexual and physical abuse, racial comments, and improper investigations are heard so frequently that it would be an injustice to fail to address the matter. The Edmonton Police Service stated in their Brief:

*The quality of the relationship between Natives, Metis and the Edmonton Police Service, is reflected in the low number of complaints that have been lodged by the members of this ethno-cultural group in which allegations of general misconduct or racial discrimination were levied against our Members."<sup>117</sup>*

This statement may be a "false-positive". It assumes that because no complaints are lodged, there are no problems. Yet, the Task Force has heard from and about Aboriginal people who recount tales which justify complaining. However, no complaint has ever been pursued or even made.

Several main themes emerge when Aboriginal people are asked why they did not pursue a complaint:

- A. Lack of knowledge about the complaints process against police officers;
- B. Lack of knowledge about individual rights;
- C. Lack of confidence in the complaint system and questioning whether the complaint will result in appropriate action, or any action at all;
- D. Fear of retaliation by the police service against the complainant is made, and;
- E. A cultural trait that assumes that people in authority should not be questioned and are above reproach.

Several of these barriers can be addressed by providing information to Aboriginal people. Some of the problems can be mitigated by education about complaint processes relevant to the R.C.M.P. and municipal police forces.

However, several major problems remain with respect to current complaint mechanisms. The first concerns the process of filing a complaint against a police officer. The usual manner of lodging a complaint is for the complainant to walk into the local police station and to file a complaint at the front desk. This brings into play several of the barriers described previously. To deal with the fear of retaliation at the entrance phase of the complaint, a body outside the policing service should have authority to accept complaints and to advance them through existing complaints process on behalf of the Aboriginal person. The Blood Tribe stated:

*Indian communities should have a bona fide independent body through which they can voice complaints with regard to policing services they receive.*<sup>118</sup>

The Task Force agrees, the office of the Aboriginal Advocate should be established within the Aboriginal Justice Commission that is recommended in the section of the Report entitled "Ongoing Process." The office of the Aboriginal Advocate should be established to accept and monitor complaints from the entire criminal justice system, however, in this section of the Report we will deal specifically with policing matters.

To ensure that the Aboriginal Advocate is accessible to Aboriginal people throughout the province, the Aboriginal Advocate should have a toll-free telephone line so that complaints can be brought forward easily. An external Aboriginal Advocate will help to mitigate a possible screening process of potentially legitimate complaints at the detachment or station counter. An experience such as the following should not occur:

*I made a police complaint about the R.C.M.P. in Bonnyville, but it was totally ignored.*<sup>119</sup>

The Aboriginal Advocate can act in a support capacity during the complaint process, and can serve as a mechanism for providing information about the outcome of a complaint to the complainant. The Advocate can also act as a source of information about appeal procedures.

The current complaint process uses police to investigate other police officers. This raises the old issue of who polices the police. The Metis Association of Alberta told of comments by Metis people as follows:

*It was felt that the Police Department has developed an incestuous relationship among the officers which leads to internal cover-ups. How can the Police Force admit to errors when they may be breaking the law themselves? Police*

*protect Police first - before they will protect the legitimate interests of the Native person. We need to challenge the system when it is unfair.*<sup>120</sup>

Native Counselling Services of Alberta commented:

*Another common belief is, that when a complaint is filed, the Police will send out their own investigator, and the whole matter will be 'swept under the rug'.*<sup>121</sup>

Unfortunately, there are few people besides the police who are trained in investigative work. Therefore alternate choices are limited. However, external parties should be involved. Native Counselling Services of Alberta proposed in its Brief that:

*A Native person be designated to assist in the investigation of complaints ... against Police officers.*<sup>122</sup>

The Metis Association of Alberta made a similar statement:

*Because of concern of policing accountability to Metis/Indian people or public at large, internal complaints and investigations should be investigated by an external firm.*<sup>123</sup>

The Task Force agrees with this proposal but would alter the level of involvement. We believe that Aboriginal people should become involved in the review stage of the investigation, the point at which the determination is made to go forward.

The Metis Association of Alberta and the Indian Association of Alberta should become involved in discussions with the various police services in Alberta in order to establish a mechanism for such a process.

The Aboriginal Advocate should be involved with the monitoring of police complaints in general, as they arise from all components of the criminal justice system. This would allow for a central data bank for police complaints and allow for more effective monitoring. Criminal Justice personnel could pass on concerns of inmates or accused persons to the Aboriginal Advocate at any stage in the process. To achieve this, police agencies should forward annually all complaints to the Aboriginal Advocate, including any action taken on the complaint.

The current appeal boards and other bodies for the handling of police complaints, provincial as well as federal, should have Aboriginal representation. In our Report, we have stressed continuously that Aboriginal people must be represented equitably in all components of the Criminal Justice system. We advocate increased Aboriginal involvement in the system to facilitate the development of Aboriginal confidence in the process.

### **The Task Force Recommends:**

- 2.98 That Aboriginal communities be provided with education and information about proper police conduct, individual rights, including the right to lodge a complaint, and about the mechanisms for lodging complaints.
- 2.99 That a position of Aboriginal Advocate be established within the Aboriginal Justice Commission, independent from the police and that this position have a mandate to accept and advance police complaints on behalf of Aboriginal people.



- 2.100 That all complaints against police lodged by Aboriginal people and received by an R.C.M.P. detachment or police service be forwarded annually to the Aboriginal Advocate.
- 2.101 That the policing services of Alberta, the Indian Association of Alberta, and the Metis Association of Alberta enter into discussions to identify Aboriginal people who will assist in the review of police complaint investigations.
- 2.102 That the results of any investigations resulting from a complaint advanced by the Aboriginal Advocate be forwarded to the Aboriginal Advocate, so that the results can be given to the complainant. Accompanying this feedback to the complainant should be explanations regarding appeals processes should the complainant want to proceed further.
- 2.103 That all Criminal Justice personnel be provided with information about the role of the Aboriginal Advocate. In addition, a policy should be developed to ensure that, if information surfaces about police impropriety, Criminal Justice personnel forward their concerns to the Advocate's office.
- 2.104 That the Aboriginal Advocate's office be given a toll free line for the lodging of complaints to ensure that the office is accessible from anywhere in the province.

- 2.105 That police complaint appeal bodies include Aboriginal representation.

## Questioning of Aboriginal Accused Persons and the Availability of Translators

*Despite ... general safeguards ... Aboriginal people, particularly those in remote communities and those whose primary language is not English, appear to have special problems in exercising their right to remain silent and to refrain from incriminating themselves. Their statements appear to be particularly open to being misunderstood both by police interrogators and when read out in Court. Their vulnerability arises from the legal system's inability to break down barriers to effective communication between Aboriginal people and legal personnel, differences in language, etiquette, concepts of time and distance and so on.<sup>124</sup>*

The issue of statement taking by the police is not a new one. In the "Native Peoples and Justice" report (1975), it was recommended that when an Aboriginal person is detained, an Aboriginal police officer or Aboriginal organization be called in. This recommendation was probably difficult to implement. It would still be today since there is currently only about 1% Aboriginal representation on all police services in Alberta.

Native Counselling Services of Alberta stated:

*N.C.S.A. courtworkers have found that the Native accused have little understanding of their rights prior to or during the arrest process. Many of the accused unwittingly violate or waive their rights during the investigative stage and assist Police when not compelled to do so. Since the majority of offences occur under the influence of alcohol, the accused may not fully comprehend what is taking place during the interrogation. As most Native people cannot*

*afford a lawyer prior to receiving Legal Aid, they are left without any type of legal support.*<sup>125</sup>

While it is true that most of the offences involving Aboriginal people are committed under the influence of alcohol or drugs, the rules of evidence provide that statements taken under these circumstances are inadmissible. Nevertheless, Aboriginal people remain under the impression that the taking of statements and interrogation of people under the influence of alcohol is an allowable practice.

The Task Force has heard many concerns from Aboriginal people on the issue of statement-taking. Some alternatives for dealing with statements taken by the police are proposed by Edward L. Greenspan and Edward Ratushny:

*There is, in my opinion, a simpler, safer, and more radical way to ensure the integrity of evidence in Court. This, too, has been recommended by a number of authorities. It is to exclude as evidence everything a suspect tells the police - everything - unless he tells it to them in the presence of his lawyer.*

*Some authorities, such as Professor Edward Ratushny, have gone even further. They have made good arguments for excluding all utterances made to the police by an accused person, whether his lawyer is present or not.*<sup>126</sup>

Another approach was established in Australia in 1976 in a case called *R. v. Anunga and Others*.<sup>127</sup> The Anunga Rule provides:

1. When an Aboriginal person is being interrogated as a suspect, unless he is as fluent in English as the average white man of English descent, an interpreter able to interpret in and from the Aboriginal person's language should be present, and his assistance should be utilized whenever necessary to ensure complete and mutual understanding.

2. When an Aboriginal is being interrogated it is desirable where practicable that a "prisoner's friend" (who may also be the interpreter) be present. The "prisoner's friend" should be someone in whom the Aboriginal has apparent confidence. He may be a mission or settlement superintendent, or a member of the staff of one of these institutions who knows and is known by the Aboriginal. He may be a station owner, manager or overseer or an officer from the Department of Aboriginal Affairs. Combinations of persons in situations are variable and the categories of persons I have mentioned are not exclusive. The important thing is that the "prisoner's friend" be someone in whom the Aboriginal has confidence, by whom he will feel supported.
3. Great care should be taken in administering the caution when it is appropriate to do so. It is simply not adequate to administer it in the usual terms ... Police officers, having explained the caution in simple terms, should ask the Aboriginal to tell them what is meant by the caution, phrase by phrase, and should not proceed with the interrogation until it is clear the Aboriginal has apparent understanding of his right to remain silent. Most experienced police officers in the territory already do this. The problem of the caution is a difficult one but the presence of a "prisoner's friend" or interpreter and adequate and simple questioning about the caution should go a long way towards solving it.
4. Great care should be taken on formulating questions so that so far as possible the answer which is wanted or expected is not suggested in any way. Anything in the nature of cross-examination should be scrupulously avoided as answers to it have no probating (sic) value. It should be born in mind that it is not only the wording of the question which may suggest the answer but also the manner and tone of voice which are used.



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5. *Even when an apparently frank and free confession has been obtained relating to the commission of an offence, police should continue to investigate the matter and endeavour to obtain proof of the commission of the offence from other sources...*
  6. *Because Aboriginal people are often nervous and ill at ease at the presence of white authority figures like policemen, it is particularly important that they be offered a meal, if they are being interviewed in the police station, or in the company of police or in custody when a meal time arrives. They should also be offered tea or coffee if the facilities exist for preparation of it. They should always be offered a drink of water. They should be asked if they wish to use the lavatory, if they are in the company of police or are under arrest.*
  7. *It is particularly important that Aboriginal and other people are not interrogated when they are disabled by illness, drunkenness or tiredness. Admissions so gained will probably be rejected by a court. Interrogation should not continue for an unreasonably long time.*
  8. *Should an Aboriginal seek legal assistance, reasonable steps should be taken to obtain such assistance. If an Aboriginal states he does not wish to answer further questions or any questions the interrogation should not continue.*
  9. *When it is necessary to remove clothing for forensic examination or for the purposes of medical examination, steps must be taken forthwith to supply substitute clothing.*
- A. A standard caution administered to an Aboriginal person may have little or no meaning.
  - B. Some Aboriginal people are deferential to people in authority and may, therefore, answer any questions posed to them by police officers.
  - C. Aboriginal people will, at times, respond by giving an answer they believe the police officer wishes to hear.
  - D. Although Aboriginal persons may appear to understand and speak English well, they may not understand the concepts used or they may translate them into unequivocal Aboriginal concepts.
  - E. Non-Aboriginal concepts of time, space, and distance may not be the same as the concepts held by an Aboriginal person.
  - F. When an Aboriginal person is questioned about an event, all facts may not be brought out, especially if telling the whole story requires that the Aboriginal person criticize directly someone present, or if telling the story would result in overt expressions of emotion.

The above generalizations are given as examples to show that culture influences world view and interpersonal relations. These few examples, provided by Aboriginal people, illustrate that statements obtained by police from Aboriginal accused persons should be viewed with extreme caution.

The Anunga Rules are now applied almost universally in Australia and have been included in Australian police training manuals.<sup>128</sup>

The judiciary is sensitive to the issue of admission of confessions. However, greater understanding of Aboriginal culture is required. For example:

### The Task Force Recommends:

- 2.106 That the Anunga Rules be endorsed and adopted.
- 2.107 That police agencies review agency policies on the taking of statements to ensure that they reflect the Anunga Rules; and that where this is not the case, steps be taken to incorporate these Rules in a culturally sensitive way.

## Police Service on Reserves and Settlements - Today and Tomorrow

As a result of dissatisfaction with existing and historical relationships with policing authorities and with the quality and type of service received, on-reserve Indian communities are increasingly demanding control over policing services on reserves. Consequently, Indians on reserves often include the administration of justice as a component of proposals for self-government.

It is clear that a diverse range of national and provincial policing arrangements and different funding formulae exist for on-reserve policing. This range of policing includes Band Constables, Special Native Constables, provincially appointed police officers, the R.C.M.P., and autonomous Indian police forces appointed under the Provincial Police Act with full policing powers.

A recent national survey showed that "crime rates for on-reserve Indians are significantly higher than for off-reserve Indians and the overall National crime rate; the average number of on-reserve crimes per 1,000 is approximately four times the national average".<sup>128</sup> Note that

this quotation refers to the crime rate and not actual numbers.

We also note that the rate of the on-reserve population has grown by 3% per year over the past decade. In comparison, the national growth rate is 1%.<sup>129</sup> The influx of Bill C-31 Indians to reserves only serves to add to this pressure.

As a consequence of these factors, more program and policing services will be demanded by the on-reserve population in the future. The respective government jurisdictions must be prepared to deal with this development from a program as well as a funding perspective.

Differences between the cultural and spiritual values of Aboriginal and non-Aboriginal societies have been acknowledged as contributing factors to the disproportionate representation of Aboriginal people in the Criminal Justice system. This has led to a clear and strong demand for culturally sensitive policing on Indian Reserves and Metis Settlements.

Policing on reserves in Alberta is undergoing considerable change with respect to the delivery system and its funding base. A good example is the Louis Bull Band which in May 1987 established the first fully empowered Aboriginal Police Service in Alberta. The Band had traditionally been policed by the R.C.M.P., but believed that they would be better served by a police service tailored to meet their unique needs. They wanted a 24-hour police service with an emphasis on the ability to respond in keeping with cultural values and family relationships, and on the provision of local contact and crime prevention initiatives to combat an anti-police feeling among young people. This police service has operated for more than three years and appears to be effective.

The Blood Band in Alberta is in the process of establishing a police service with full policing powers. This project is a new initiative undertaken by the Blood Band with the co-operation of the provincial department of the Solicitor General, the Department of Indian Affairs and Northern Development, and the R.C.M.P. The plan calls for a period of graduated delegation of selected responsibilities. The R.C.M.P. will retain policing responsibility on the Reserve and oversee the performance of the Blood Tribe Police Service during this developmental phase.

The Task Force acknowledges the success of the Louis Bull Police Force and encourages the development of the Blood Tribe policing initiative. The Task Force also applauds the co-operation and assistance given to the Blood Band by the R.C.M.P., the Department of Indian Affairs and Northern Development, and the provincial Solicitor General's Department.

Another initiative in Alberta is the establishment by the R.C.M.P. of a satellite detachment on the Saddle Lake Reserve. R.C.M.P. officers will work jointly with two Saddle Lake Band Constables to provide policing services.

We have been told that in Hobbema, the R.C.M.P. is in the process of establishing a satellite detachment. The R.C.M.P. plans to work closely with the Four Nations Tribal Policing, which is composed of Band Constables with limited authority, toward the long-term objective of an autonomous Four Nations Tribal Policing.

The Metis Settlements Association told the Task Force that the Whitefish Band of Atikameg and the Gift Lake Metis Settlement are currently exploring, with the provincial Solicitor General, a proposal

to provide a fully empowered three-man regional police force to police both the Reserve and the Settlement. We understand that this police force would have full authority, limited only by a protocol to be negotiated with the R.C.M.P. responsible for policing the area.

These initiatives offer a potential for meeting specifically identified community needs. The Task Force encourages such efforts.

As we have mentioned, the structure of policing evolves as Aboriginal communities and Aboriginal needs change. While most communities demand input into policing priorities, some are planning to adopt their own style of policing. The following excerpt from an article from the Calgary Herald, October 7, 1990, points to the need for appropriate Aboriginal police officer training. Such training should involve Aboriginal and non-Aboriginal officers working in an Aboriginal community. It also points to the distinct community orientation of Aboriginal policing:

*ST. THOMAS, Ont. (CP) - Raymond Doxtator graduated from Police College last week fully trained to enforce the law as a provincial police officer.*

*But he'll need some "detraining" before he can assume his policing duties at the nearby Oneida Reserve, says the Chief of the southwestern Ontario Native community.*

*"Now we have to de-train him from the OPP (Ontario Provincial Police) method of law enforcement," Alfred Day said.*

*"We feel policing should be done preventatively. Get to know the people, go into the schools," Day said.*

*Doxtator, 28, was one of 271 new officers to graduate from Alymer Police College's 47-day*

course Friday. Aylmer is about 20 kilometres east of St. Thomas.

Doxtator will soon be driving a cruiser bearing the provincial force's white and black colours, but the insignia on the door will be that of the Oneida nation.

He'll join fellow Native officer Chico Ralph, who graduated from Aylmer six years ago and went to work at the Oneida Reserve.

Ralph, echoing Day's comments, said that when he began work at the Reserve he quickly put aside the methods taught at the College to adopt a more "community" approach.

"If I policed the way they taught...I wouldn't be in Oneida today." Ralph said.<sup>130</sup>

The story reflects that Aboriginal policing is generally based on the Aboriginal cultural imperative of peace-keeping. Pro-active, or preventative work is emphasized for police officers, or "peace-keepers" as they are sometimes called. The Aboriginal approach to policing is sometimes also called "enhanced policing". Because of the emphasis on pro-active policing in the enhanced policing model, the approach is more intensive from a staffing point of view, and thus more costly. This consequence can become a point of contention between the community and its government funders.

In any case, the type of policing appropriate for Aboriginal communities varies considerably. This fact was recognized by the Indian Association which pointed out that:

*Our First Nations are diverse in circumstance, culture and resources. Due to factors such as language, customs, traditions and contact with Criminal Justice institutions, including laws, police and the judiciary, First Nations are affected differently and respond differently to the*

*Criminal Justice System.*

*Individual First Nations have taken different initiatives relating to the Criminal Justice System. They took those initiatives because they deemed that their specific initiatives were needed and because they were ready to take the responsibility of implementing the initiatives.<sup>131</sup>*

Increasingly, self-government and community control are being asserted as the primary aspirations in Aboriginal communities. In many cases, sovereignty seems to be a basis for these interests. The Lesser Slave Lake Indian Regional Council stated that:

*Our view of the Criminal Justice System is one of a "foreign" process that results in "foreign" sanctions. Nevertheless, we recognize that the Task Force is dealing with the existing system. The Regional Council will have to concentrate on practical and reasonable recommendations within the existing framework.<sup>132</sup>*

The Task Force views the following statement by the Lesser Slave Lake Indian Regional Council as instructive and practical, and in keeping with the principle that one must build upon the successes of the past:

*The Lesser Slave Lake Indian Regional Council is proud of its track record, the credibility it has built up over the years, and its vision of Indian control over their future as communities with a distinct identity, culture, language and aspirations. Among these aspirations, controlling their own Cree Tribal Justice System is a positive goal. However, the Regional Council is also aware of its current capabilities, and recognizes that a gradual transition to control is best achieved by making an impact within the existing system. To start slowly and gradually grow has been the pattern of the Regional Council. For that reason, the L.S.L.I.R.C. submissions are designed to be practical, easily implemented and cost efficient, and capable of fitting within the existing constitutional regime.*

*Our recommendations are designed to offer a first step on the road to the ultimate goal of a Cree Tribal Justice System within the region of the Lesser Slave Lake Indian Regional Council.<sup>133</sup>*

The Lesser Slave Lake Regional Council reflected these comments in their recommendations for regional policing:

*That the Regional Council establish its own Police Force to police the nine reserves. There is historical and contemporary precedent for effective Tribal Police. Considerations include:*

- (i) *A tri-partite agreement;*
  - (a) *funding is paramount;*
  - (b) *jurisdiction;*
  - (c) *training phases.*
- (ii) *Dual Enabling Legislation.*
- (iii) *Appointment of an Independent Police Commission pursuant to the enabling legislation.*
- (iv) *Hiring of an experienced Chief of Police.*
- (v) *Hiring, training, discipline, administration, operations.*
- (vi) *"Detachments" located on each Reserve with large population.*
- (vii) *Essential R.C.M.P. liaison work.*
- (viii) *An independent complaint process.<sup>134</sup>*

The Lesser Slave Lake Indian Regional Council also commented on the intent to include affirmative action programs which would be *"in place as the Force is set up."*<sup>135</sup>

These recommendations for a regional police force show the vision and aspirations toward Aboriginal self-government and community control which are emerging. This proposal for a regional force differs markedly from the existing

Tribal Police Force of the Blood Band and the autonomous Louis Bull Force.

Regional Indian police forces and Native Police Commissions are not new policing models. The Task Force has been told about the Dakota Ojibwa Tribal Council's policing model which involves an Indian Regional Police Force serving eight Reservations in Manitoba. The Six Nations Regional Police Force in Ontario is also a regional policing model which seems to have earned the reputation of being a progressive model.

The advantages of regional Aboriginal policing are similar to the advantages of any larger policing agency, for example, the availability of transfers and promotions; uniform standards of policing, recruitment, and training; political independence; and perhaps just as important, the achievement of an economy of scale. This latter point is a clear advantage in comparison to individual Band or Tribal policing arrangements. However, it can be an obvious disadvantage in comparison to a larger established police force such as the R.C.M.P.

In any event, the Task Force supports the development of these initiatives when and where it is practical and financially feasible to do so. The Lesser Slave Lake Indian Regional Council has suggested to the Task Force that all proposals be scrutinized under the three "E"s: they should be efficient, effective and economical.



**The Task Force Recommends:**

- 2.108** That Canada and Alberta meet formally to outline a comprehensive policy framework to guide the development of policing programs, and that the respective Aboriginal communities be consulted in the process. Given the increasing Indian population on reserves and the high crime rate, it is clear that these communities will demand more policing program services. A Federal Inter-Departmental Task Force on Indian Policing Policy (1990) has stated that the jurisdiction of on-reserve policing is shared by the federal and provincial governments. However, the exact measure of the respective responsibilities has not been defined.
- 2.109** That funding responsibilities by the federal and provincial governments be identified clearly in relation to policing programs and in accordance with the overall policy. Clarification of funding responsibilities will enable Aboriginal communities to plan more easily for the administration of their programs.
- 2.110** That federal and provincial governments continue to support community-based, community-managed, and community-controlled programming as a legitimate way for Aboriginal people to gain greater control over their communities and programs, and that policing services be recognized as a component of the community program.
- 2.111** That where Aboriginal communities assume the responsibility for policing themselves, they be given the full benefit of the experience and expertise of established police forces such as the R.C.M.P. as well as support and guidance from the provincial Solicitor General's Department. Without this support, promising initiatives such as the Louis Bull and Blood Tribe policing programs will likely fail.
- 2.112** That police services in Alberta reflect, at minimum, the cultural make-up of the community it polices.
- 2.113** That Aboriginal style policing or peace-keeping be formally recognized in government policy as the police service required on Indian Reserves and Metis Settlements/communities of Alberta.
- 2.114** That, where practical and feasible, the responsibility for regional policing arrangements and police forces with Aboriginal Police Commissions be assumed by Aboriginal communities requesting this service.
- 2.115** That, in the context of federal-provincial funding arrangements, the provincial government develop a policing



policy which outlines short and long-term policing strategies and associated funding responsibilities in relation to the various policing models and options available.

2.116 That the provincial government policing policy serve as a framework for the evolution of provincial policing arrangements over the next decade, and that this policy also address a Provincial Aboriginal Police Service as a contingency.

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