

**Aboriginal Policing:  
A Research Perspective**

**A Report Prepared for the  
Royal Commission on Aboriginal Peoples**

by

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**November, 1994**

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## **ABORIGINAL POLICING**

### **A RESEARCH PERSPECTIVE**

#### **INTRODUCTION**

The treatment of Aboriginal Peoples by the police is one of the dominant themes of the relationship between Aboriginal Peoples and the Canadian criminal justice system. Until recently, it would have been considered self-evidently true that the nature of police decision-making, as a critical point in criminal justice processing, has contributed to the over-representation of Aboriginal Peoples in federal, provincial and territorial correctional institutions. The criminological literature shows that Aboriginal Peoples are invariably incarcerated at rates considerably higher than one would expect from their percentage of the general Canadian population. This can be largely attributed, so it is claimed, to differential police charging and arrests which flow from racist attitudes and practices, including the exercise of discriminatory discretion by police officers.

As a result, governments have developed and implemented Aboriginal policing initiatives that are designed to reduce culture conflict between Aboriginal Peoples and the police. Foremost among these have been cross-cultural training, especially for non-Aboriginal police officers, and indigenization of the police which involves the staffing of Aboriginal People in various police organizations. Beyond these strategies, some Aboriginal communities have developed their own police services under the legislative and policy umbrellas of federal or provincial governments. Although these policies and practices have been in place for some time now, there is a nagging suspicion that the complexities of Aboriginal cultures and communities, and the nature of culture conflict between Aboriginal Peoples and non-Aboriginal criminal justice personnel and institutions, have been underestimated or oversimplified. Indeed, there has been little change in Aboriginal incarceration rates or Aboriginal involvement in the criminal justice system since the inception of policing initiatives designed to improve upon these concerns.

Nowadays, we are no longer so sure of the meaning or causes of the disproportionate incarceration rates of Aboriginal Peoples or of the usefulness of government policy initiatives aimed at reducing Aboriginal involvement in the criminal justice system. Alternative conceptualizations of over-representation have emerged both in Canada and abroad which challenge culture conflict as the decisive factor in its genesis. Moreover, the politicization of Aboriginal justice issues, including policing, has drawn attention away from the actual state of our

knowledge in the area which has been undermined by methodological difficulties, unsound analysis and theorizing, and other critical information gaps.

Consequently, researchers have begun to cut themselves loose from past certainties as well as from their own complacency in using incarceration data, anecdotal evidence, perceptions and untested assumptions as the point of departure and arrival in studies of Aboriginal policing. They have begun to pose difficult questions about the prevailing assumptions and beliefs upon which concepts of Aboriginal culture and culture conflict between Aboriginal Peoples and the non-Aboriginal justice system are based. This is a welcome turn of events. With the advent of community-focused research, Aboriginal Peoples and their communities, which have been buried and lost under grand theorizing about Aboriginal and non-Aboriginal culture differences and the rhetoric of various political agendas, have entered the field of investigation and on their own terms.

The purpose of the present report is to document and analyse the state of the art in Aboriginal policing research. Its aim is to provide the general parameters for a fresh understanding of substantive problems and issues in the area of Aboriginal policing in Canada. Towards this end, the discussion draws on a wide range of policing research and related materials, and attempts to give some coherence and shape to the relevant literature by distilling the best of research and commentary in a form that is current, comprehensive and policy-focused. The approach to this objective is guided by Barth's (1981) theories of social process. In particular, the report stresses how Aboriginal concepts of order, control, the police and policing are shaped by interaction rather than simply derived from predetermined cultural standards and frameworks. This perspective and theme is applied throughout the report and is especially relevant for the discussion of "culture conflict" and the development of Aboriginal policing policy and programs in a community context. Thus, the report also looks beyond considerations of specific research problems and results to the broader issue of the management of research information. In this context, the report is intended to provide a framework for discussing and identifying future policy and program related research needs and initiatives in the area of Aboriginal policing.

The report is organized on the basis of several sections. Section 1 examines selected background information on the Aboriginal Peoples of Canada, including Indians (status and non-status) Inuit and Metis. The focus is on the diversity of Aboriginal Peoples and the

circumstances under which they live and under which they are policed. An especially important component of this section is the summary of what is known about crime and disorder in Aboriginal communities across Canada. This information, together with other factors in the Aboriginal policing environment, raise a number of issues and considerations that have important implications for the development of Aboriginal police service and, therefore, serve to frame the remainder of the report. Section 2 discusses models of Aboriginal policing. It begins with a description of conventional models of Aboriginal policing, including programs and services currently in place. It then takes a closer look at government policies of indigenization and cross-cultural training and concludes, in the light of the results of police program performance, that they are inappropriate and ineffective for many Aboriginal Peoples and communities. These problems are brought to bear on a discussion of alternative models of Aboriginal policing. Here the available information on community-based policing is assessed and applied to a consideration of Aboriginal policing needs, preferences, circumstances and requirements. Section 3 pulls together the major findings of the report as it sets out, in the form of discussion points, a framework for future research and policy development. In the final section, Section 4, an attempt is made to summarize the issues and the need for Aboriginal communities to engage in significant discussion and deliberation on alternative solutions to their policing problems and needs.

## **1.0 THE ABORIGINAL POLICING ENVIRONMENT**

### **The Constitutional and Legislative Framework**

Section 35(2) of the Constitution Act, 1982 defines "Aboriginal Peoples" to include Indians, Inuit and Metis of Canada. However, legal and political definitions of "Aboriginal Peoples" can obscure the finer points of Aboriginal ancestries (Morse, 1992:45) which, together with self-identification, provide a more comprehensive, if not necessarily clearer, basis for Aboriginal identity. Therefore, in this report, the term "Aboriginal Peoples" refers to Indians (who may be registered under federal legislation as "status Indians", or unregistered and therefore "non-status Indians"), Inuit and Metis who may be identified as such according to legislative precedents, ancestry or other forms of self-identification. This characteristic looseness in the definition of Aboriginal Peoples implies that in some cases the data presented in this report may only approximate the demographic reality.

The policing of Aboriginal Peoples in Canada has developed on the basis of a number of key principles including equality and equity of police services<sup>1</sup>. These principles are, in a general way, protected under the Canadian Charter of Rights and Freedoms. In the Aboriginal context and within the context of the administration of criminal justice, the principle of equality focuses primarily on access to programs and services that ensures equality of treatment. More specifically, it is intended to provide equality before and under the law and equal protection of the law to Aboriginal Peoples. However, it has long been recognized that a variety of factors - including geographic location, demographic circumstances and the general marginal social, economic, political and cultural position of Aboriginal Peoples and their communities relative to the wider Canadian society - can affect the operation and delivery of police services to Aboriginal Peoples. In particular, these factors can affect the treatment of Aboriginal Peoples by the police as well as inhibit their access to police services. Together, these conditions can give rise to situations of unfairness.

In order to provide a corrective to possible unfair and unjust policing situations, the constitution also embraces the principle of equity. In practical terms, this means that preference is to be given to police programs and service delivery mechanisms that ensure the least restrictive options for Aboriginal Peoples that are adequate and appropriate under the circumstances.

Disparities in police services may also arise when cultural differences limit the ability of the police to respond fairly and justly to Aboriginal Peoples. However, the Canadian Charter of Rights and Freedoms promotes and provides for the preservation and enhancement of Canada's multi-cultural heritage. For Aboriginal Peoples, their cultural distinctiveness is further constitutionally recognized through the affirmation of existing treaty and Aboriginal rights in the Constitution Act, 1982 which includes various pre- and post-confederation treaties. Cultural distinctiveness is further confirmed by decisions on the constitutional status of Aboriginal title, resources rights and other Aboriginal rights litigation in the Supreme Court of Canada (e.g. Nepon, 1991). Beyond these considerations, the right of Aboriginal Peoples to participate in policing matters on the basis of their cultural distinctiveness is recognized in principles of Canadian criminal law which identify communities as having a role in criminal justice either through participation in the existing Canadian system or through initiatives which provide for more culturally comprehensive approaches to the policing enterprise (Justice Canada, 1982).

Thus, as a matter of constitutional principles, Aboriginal Peoples have a right of access to at least the range of police services available to other Canadians and their communities in comparable regions/areas with similar conditions, and have a right to culturally adequate and appropriate policing arrangements.

In general, federal, provincial and municipal governments have jurisdiction to provide policing services in Canada. The federal government's mandate for its involvement with Aboriginal Peoples has been generally affirmed by a number of constitutional provisions and legislative initiatives, including: the Constitution Act, 1867, various pre- and post-confederation treaties, the Indian Act and the Constitution Act, 1982.

Section 91(24) of the Constitution Act, 1867 gives Parliament exclusive legislative authority over "Indians" and "Lands reserved for the Indians". This authority extends to status Indians living on and off reserves. In 1939, the Supreme Court of Canada reached the decision that section 91(24) also applies to the Inuit (Morse, 1992:51). However, a similar decision has not been reached with regard to the Metis who are excluded from the federal mandate for the purposes of policing<sup>ii</sup>.

This constitutional authority is permissive in the sense that the federal government may define and limit the nature and extent of the constitutional responsibilities it is prepared to assume. To

date, the federal government has not legislated with respect to Aboriginal (i.e. status Indian and Inuit) policing arrangements<sup>iii</sup>. However, the federal government has authorized the Royal Canadian Mounted Police (RCMP) by the RCMP Act and the Criminal Code to enforce the criminal law and other federal statutes across the country, including Indian reserve lands.

The reluctance of the federal government to legislate on Aboriginal policing, and the difficulties in doing so, may be traced to political and financial reasons. On the one hand, most provinces consider federal legislative activity in this area an intrusion into provincial jurisdiction. On the other hand, the federal government appears unwilling or unable to bear alone the increasing costs of existing Aboriginal policing arrangements (Depew, 1992:468-469; Stenning, 1992:67-68; Task Force Report, 1990:5,18, 21). Therefore, in the absence of specific federal legislation, the provinces have assumed and, in some cases, exercise legislative authority in relation to Aboriginal policing. At the same time, the federal government has not abandoned its historical role of sharing the costs of Aboriginal policing with the provinces (e.g. Task Force Report, 1990:44-51).

Section 92(14) of the Constitution Act, 1867 gives the provinces the power to make laws in relation to the administration of justice and, therefore, to create police forces. A police force pursuant to provincial legislation can enforce provincial, municipal and federal laws, including the Criminal Code. The provinces have the authority to provide municipal police services but require certain urban centres such as cities and towns to maintain their own police service should their population size satisfy variable provincial requirements<sup>iv</sup>. Municipal police are empowered to enforce the Criminal Code and other federal statutes, provincial statutes and municipal by-laws. When municipalities do not establish their own policing arrangements, then the province will do so, usually by providing the services of the provincial police through the provincial Solicitor General's department.

With the exception of Ontario and Quebec which maintain separate provincial police forces (the Ontario Provincial Police and Surete du Quebec, respectively), the provinces and the two territories (Yukon and the Northwest Territories) have legislated to allow the RCMP to act as the provincial or territorial police force under contract. Where municipalities in these provinces do not establish their own policing arrangements, they too are policed by the RCMP.

Generally, the federal government considers status Indians off-reserve, non-status Indians and Metis to be subject to provincial police program authority and responsibilities. Not surprisingly, this



view is contested, in whole or in part, by most provinces who are concerned with the possible financial implications of this position and the demands on their own treasuries, and by most Aboriginal Peoples who are concerned about (further) provincial encroachment on their existing and other possible rights.

Finally, Indian reserves or Inuit settlements are not considered to be federal enclaves either by the federal government or by the provinces and territories. Provincial and territorial laws generally apply on reserves, either of their own force or, subject to some exceptions, through section 88 of the Indian Act. Subject to the terms of any treaty or other Act of Parliament, all provincial laws of general application, including provincial police Acts, apply to Aboriginal Peoples, except to the extent that those laws are inconsistent with federal legislation.

To sum up: constitutional and legislative responsibilities for the policing of Aboriginal Peoples and their communities is shared by the federal, provincial and territorial governments. Provincial legislatures can pass laws with respect to policing in the province provided these laws are not enacted in relation to status Indians "as Indians" or lands reserved for status Indians. These matters are exclusively in the realm of Parliament's legislative authority. However, Parliament has not restricted the enforcement of federal legislation to the RCMP-as-federal police since provincial and municipal police may enforce federal statutes. At the same time, Parliament could not empower Aboriginal police forces created pursuant to federal legislation to enforce provincial laws. Federal and provincial governments share jurisdiction with respect to the provision of Aboriginal police services on Indian reserves. However, there is considerable disagreement and confusion over the nature and extent of federal, provincial, territorial and Aboriginal jurisdiction with regard to policing<sup>v</sup>. One area of agreement between the federal and provincial governments seems to be that policing of Aboriginal People off-reserve falls within the jurisdictional authority of the provinces. In this case, Aboriginal People receive policing services which are also delivered to other residents of the province or its municipalities.

### **Population Size, Distribution, Organization and Resources**

Canada's population includes at least one million Aboriginal People. Legal documentation indicates that there are 490, 178 status Indians and 33,000 Inuit in Canada today (Justice Canada, 1992). Other sources, including Canada census data, suggest that there are at least 435,322 non-status Indians and Metis, although this figure probably underestimates the total

population of these groups (Giokas, 1993:193). How segments of this population are organized and distributed over space are important sources of diversity which must be taken into consideration for the purposes of policing.

The status Indian population is diversified, first of all, on the basis of its band organization<sup>vi</sup>. There are 605 Indian bands with memberships ranging from 50 to over 16,000 persons and an average (mode) band membership of approximately 915 persons. Significantly, only 39 bands have populations exceeding 2,000 members (Depew and Rocan, 1992:2; Indian and Northern Affairs Canada, 1991: 12). Band memberships are not static as they are subject to increases as a result of natural population growth and legislative changes, including the restoration of status to many Indians, especially women and children, under Bill C-31<sup>vii</sup>.

Band memberships are themselves diversified on the basis of geographical location. First, not all band members reside in distinct band reserve communities. In 1990, nearly 40% of the registered Indian population resided off-reserve in mixed Aboriginal and non-Aboriginal communities and primarily non-Aboriginal communities such as towns and cities (Indian and Northern Affairs Canada, 1991: 12-13; Siggner, 1992:25). For example, in the Yukon, there are communities where the Aboriginal population is in the majority, mixed communities where there are significant Aboriginal and non-Aboriginal populations, and communities where the Aboriginal population is in a minority. Statistically, there are 6 designated Indian reserves in the Yukon but most Aboriginal People (Indians) reside in 55 Crown land settlements which are organized into 14 bands (LaPrairie, 1992a:33, note 1). Furthermore, the proportion of status Indians living off-reserve in Canada is expected to increase to nearly 62% by 1996, including 90% of the people reinstated under Bill C-31 who usually reside in the larger cities (Indian and Northern Affairs Canada, 1991:12-13).

Nevertheless, 306,462 status Indians or 63% of the registered Indian population live on more than 2300 reserves, parcels of Crown land and settlements across Canada. Significantly, over 66% of these communities are located in remote and rural parts of the country while less than 33% are found in urban areas (Depew and Rocan, 1992:1; Giokas, 1993:193; Indian and Northern Affairs Canada, 1991:11-12). These communities tend to be homogeneous in terms of band (and kinship) affiliation and, similar to the off-reserve status Indian population, will experience further population growth<sup>viii</sup>. Nevertheless, most of these communities will likely remain very small in population size with limited or scarce human and financial resources<sup>ix</sup>.

To off-set the limitations and constraints of small size and scarce resources, most bands amalgamate to form larger, second order communities, such as tribal councils or other multi-band organizations and regional associations, especially for the purposes of program and service delivery. In 1993, 528 "band groups"<sup>x</sup> had organized into 80 tribal councils. These tribal councils represent from 2 to 16 bands, with the average (mode) tribal council being composed of 7 bands<sup>xi</sup>. A further 106 bands, including 20 bands with populations in excess of 2,000 members, remain unaffiliated for program and service delivery purposes (Depew and Rocan, 1992:2; Darrell Buffalo, personal communication). It should also be noted, however, that historically government policy played a key role in the process of creating current decentralized band structures, as in the case of the Mi'kmaq of Nova Scotia (Don Clairmont, personal communication).

Member bands of tribal councils and other second order Indian communities may, as already indicated, be widely scattered over vast territories and therefore often do not jointly occupy a continuous territory or land base. Discontinuities in territorial links between local band communities may also be paralleled by discontinuities in the membership of participating bands since individual band membership may fluctuate over time and in relation to specific program and service delivery issues. Stenning (1992:73-74), for example, provides an apt illustration of this process with regard to the current negotiation of Indian policing agreements in Ontario and perceptively notes the role which self government aspirations among individual First Nations or bands may play in it.

In contrast to the organizational and distributional diversity of the status Indian population, the situation of the Inuit is somewhat less complex as it is not characterized by band-type distinctions, although like reserve communities, Inuit settlements are characterized by strong kinship ties<sup>xii</sup>. However, the Inuit situation is unique in two important respects. First, they are the most geographically remote of all Aboriginal Peoples. The vast majority of Inuit inhabit the Northwest Territories, the Nunavut Settlement Area of the central and eastern Arctic, and northern Quebec and Labrador. In general, Inuit communities are small and widely dispersed. Wonders (1987:667) concludes that 60% of the 80 main settlements in the Northwest Territories and the Nunavut Settlement Area have populations of less than 300. This pattern of small, widely dispersed communities is also characteristic of the Inuit in northern Quebec and Labrador (LaPrairie, 1991:68). At the same time, more isolated Inuit communities may have relatively larger

populations. For example, the municipality of Igloodik, which is one of 25 Inuit municipalities in the Nunavut Settlement Area (Tungavik/DIAND, 1993:134), is located on a small island in the Baffin Region and has a population of approximately 850 Inuit (Rasing, 1988). Elsewhere, outpost camps dot the Arctic landscape and may be occupied on a temporary, seasonal or permanent basis by Inuit families and other small groups engaged in traditional subsistence activities. In 1987, there were a total of 109 such camps inhabited by 1300 Inuit (Wonders, 1987:668; Tungavik/DIAND, 1993:65).

The second unique and perhaps most startling feature of the Inuit population is its growth. For Inuit inhabiting the Northwest Territories and the Nunavut Settlement Area, the population is expected to increase by an astounding 125% over the period 1986-2016 (Northern Issues, 1992:1). The largest growth is projected for the Nunavut Settlement Area where the Baffin and Keewatin regions will likely see population growth of 134% - in the Kitikmeot Region, it will be slightly less at 115% (Northern Issues, 1992:3)<sup>xiii</sup>. Finally, unlike the status Indian population where migration rates appear to be similar to the general Canadian population (Siggner, 1992:25), the Inuit are largely immobile with 80% of the population preferring or destined to stay in their communities and regions over the longer term (Northern Issues, 1992:6-7).

Geographically, the Metis and non-status Indian populations tend to be the least diversified of all Aboriginal Peoples. Metis and non-status Indians are primarily concentrated in urban centres with a significant proportion inhabiting the larger cities of Toronto, Winnipeg, Regina, Saskatoon, Calgary, Edmonton and Vancouver (Cawsey, 1991; Hamilton and Sinclair, 1991; Harding, 1991:373). However, distinct, smaller scale settlements are to be found, especially among the Metis, in rural or remote northern Manitoba, Saskatchewan and Alberta, and to a lesser extent in Ontario and the Northwest Territories (Depew and Rocan, 1992:8; Gerber, 1990:74; Wonders, 1987:664). A notable example are the unique eight Metis Settlement Areas in northern Alberta which were created pursuant to the Metis Betterment Act, 1938, and are home to about 5,000 Metis. These settlement areas also constitute the only legislatively recognized land base to be found among the Metis and non-status Indian populations in Canada (Martin, 1989:243).

The general distinctions of geographic and demographic variation which have been drawn here provide some parameters for an understanding of the issues relevant to the organization, functioning and status of the police in Aboriginal community settings. While this theme will be

developed in greater detail as the report proceeds, a general preview of what is to come seems appropriate at this point.

One of the most striking features of the data is that communities with predominately Aboriginal populations - mainly Indian reserves and Inuit settlements - tend to be small scale, geographically distant or remote, culturally distinct and kinship-based. These factors may combine in a number of ways to constrain and limit the use of formal or "mainstream" police services by communities. For example, among more remote and isolated Aboriginal communities, police service, including patrols and responses to calls for service, is often infrequent, untimely, or non-existent (Brodeur, 1991; Depew, 1986; Finkler, 1976; LaPrairie, 1991; Stenning, 1992:174-175; Task Force Report, 1990:13). At the same time, problems in the availability or accessibility of police services may be compounded by culture and kinship criteria. Some communities may simply define the "mainstream" police service as completely culturally or situationally inappropriate with respect to their policing needs<sup>xiv</sup>. In other cases, the community may define police intervention as appropriate or necessary only under certain limited and specific conditions or with regard to certain types of offences and disturbances. As a result, some Aboriginal communities may assume unofficial responsibility for "policing" themselves or may simply absorb problems in the absence of more effective traditional and customary practices or other necessary resources without handling problems in a manner satisfactory to community members (Auger et al, 1992; Brodeur, 1991; LaPrairie, 1991, 1992a, 1992b; LaPrairie and Diamond, 1992).

Not all of these issues are unique to smaller, isolated Aboriginal communities of course. Some urban reserves, for example, may also limit their use of non-Aboriginal police for a variety of social, cultural and frequently political reasons (Cawsey, 1991; Clark, 1989:35; Hamilton and Sinclair, 1991). These observations simply reinforce the idea that a community with a majority Aboriginal population will likely stress its resolve to deal with its policing problems in more direct community terms. This would also seem applicable to other geographic areas and circumstances where the Aboriginal population is in a different kind of majority situation, such as the Northwest Territories and the Nunavut Settlement Area where Aboriginal People are a political majority.

For the most part, however, Aboriginal Peoples, especially Metis, non-status Indians and status Indians living off-reserve (or Crown land settlements) constitute minority populations in

predominately non-Aboriginal areas such as cities, and are more likely to be subject to a different set of policing circumstances and problems compared to other Aboriginal communities.

The key to understanding this issue lies in the similarities and differences between the two types of Aboriginal communities. On the one hand, the research evidence indicates that both types of communities reflect similar disproportionate rates of crime and disorder (Canadian Centre for Justice Statistics, 1991a; LaPrairie, 1989, 1991, 1992b:285-286; Task Force Report, 1990:3). Yet, the data that is now coming to light strongly suggest that these types of communities differ greatly in terms of formal criminal justice processing. Statistically, minority Aboriginal populations, especially in urban areas, are subject to significantly greater criminal justice processing than Aboriginal People living in distinct Aboriginal communities, such as reserves (Cawsey, 1991; Elliot, 1989:18; LaPrairie, 1992b, 1992c; McCaskill, 1985)<sup>xv</sup>. These findings have extremely important implications for the conceptualization of Aboriginal diversity at the community level and its relationship to policing.

Unlike majority Aboriginal populations living in distinct communities which appear to direct their policing responses inward and away from the formal criminal justice system, minority Aboriginal populations, especially those populations dispersed throughout non-Aboriginal urban areas, appear to have few other choices than to relinquish their response options in the face of the formal, non-Aboriginal policing system. Put another way, in majority Aboriginal populations, there appear to be more reasons and alternatives, regardless of their effectiveness, for dealing with problems of crime and disorder than in minority Aboriginal populations which appear to have fewer alternatives to formal criminal justice involvement, regardless of how ineffective this is.

These and related matters are sociologically complex (e.g. Clairmont, 1992a) and will be dealt with at some length in this report. For now, some brief observations on the matter will suffice. Spatial proximity to non-Aboriginal communities can facilitate Aboriginal exposure to formal police responses on a more regular and consistent basis (e.g. Clairmont, 1992a:70). As the literature suggests, this may often translate into excessive police surveillance and the over-policing of Aboriginal Peoples (Bienvenue and Latiff, 1974; Depew, 1986:21). The research data also indicate that urban Aboriginal populations, especially status Indians, are much more transient or mobile than populations in rural and especially remote Aboriginal communities. According to LaPrairie (1992c:11, 18) and Siggner (1992:25), most of the migration of status Indians is to urban areas, although there is some evidence that they may also move back and forth between urban

centres and the reserve, perhaps on a structural or contingent basis and under the influence of push and pull factors related to unemployment, family problems and related behavioural or social status in reserve communities, or even boredom (Carol LaPrairie, personal communication). Some research suggests that out-migration is closely related to community tensions that flow from structural differentiation along economic and political dimensions and the corresponding inability of some reserve members to take advantage of or benefit from new social, political and economic institutions (LaPrairie, 1992c:18)<sup>xvi</sup>. A transient and potentially mobile Aboriginal population where community boundaries are not easily identified is less likely to provide an enduring basis for informal collective support, tolerance and sanctions as a substitute for or functional equivalent of a formal police response (Depew, 1986:91; LaPrairie, 1992c:17-18). Furthermore, non-Aboriginal policing may gain prominence more readily in communities where Aboriginal Peoples are a minority population through the processes of urbanization and communication which may undermine the institutions, social relations and values required to support and sustain distinctly Aboriginal, collective policing responses (see Clairmont, 1992a:25)<sup>xvii</sup>. Beyond these considerations, abdication of a distinctly Aboriginal response may occur simply through the sheer force of political and economic circumstances where non-Aboriginal interests can decisively influence and artificially shape "Aboriginal" policing preferences, priorities and methods (Stenning, 1992:187-192; cf. LaPrairie, 1992c:17; Elias, 1991:194-195).

To sum up: the available data suggest that Aboriginal communities vary significantly on the basis of geographic location and demographic homogeneity or heterogeneity. These factors provide general parameters for understanding the extent to which policing problems may be dealt with by Aboriginal communities or handled by the formal criminal justice system. However, they do not provide sufficient parameters for an understanding of crime and disorder which occur in Aboriginal communities. It is important, therefore, to consider other factors which may shed additional light on this issue.

### **Age Distributions**

One of the most significant characteristics of the Aboriginal population which highlights the relevance of demography for policing, is its youth. The disproportionate number of Aboriginal youth compared to non-Aboriginal youth has been one of the most frequently quoted statistics in the literature (e.g. Griffiths et al, 1987, Jackson, 1988; LaPrairie, 1991, 1992a). In 1991, for example, more than 53% of the status Indian population was under 25 years of age compared to

only 35% of all Canadians (Indian and Northern Affairs Canada, 1991:11). More importantly, there are significant differences between Aboriginal and non-Aboriginal populations with respect to the age group, 15-24, which is most likely to be involved in the criminal justice system on the basis of demographic statistics alone<sup>xviii</sup>. For example, in 1986, 21% of the status Indian population fell into this age range compared to 16% in the non-Aboriginal population. A similar distribution pattern holds whether the comparisons are made with non-Aboriginal populations at the level of Aboriginal ethnic divisions (e.g. Brodeur, 1991:54) or communities (LaPrairie, 1991:25, figure 1.1)<sup>xix</sup>. Significantly, the percentage of off-reserve status Indians in this age category may be even higher, ranging from 25% to 33% in some provinces (LaPrairie, 1992c:10). These figures mean that Aboriginal Peoples in general and status Indians off-reserve in particular have a higher percentage of their population "at risk" in the criminal justice system than do non-Aboriginals. Given projected increases in the Aboriginal population, especially the Inuit in the Nunavut Settlement Area, for all age groups - namely adult (25+), youth (15-24), and the young (under 15) - it may reasonably be assumed on the basis of demography alone that increasingly more Aboriginal People will become involved in the criminal justice system. However, the risk is not equal in all Aboriginal communities for they vary in terms of the proportion of those aged 15-24 in the community population (e.g. LaPrairie, 1992a:33, note 4). Yet, the risks may be compounded when one considers the pressures which these demographic trends will continue to place on Aboriginal housing, a topic not usually considered in studies of Aboriginal policing.

## **Housing**

Most Aboriginal communities experience serious problems in housing. While some improvements in the Aboriginal housing situation have been noted by official sources, they appear uneven and have done little to affect the overall problems of sub-standard housing as well as the excess of demand over supply of houses in many Aboriginal communities, especially those located in more remote or isolated areas (Cawsey, 1991:2-34; Ekos Research Associates, 1986; Indian and Northern Affairs Canada, 1991:15; Siggner, 1992:25-26; cf. Martin, 1989:282-285). Of particular concern for criminal justice issues is the problem of overcrowding. Siggner (1992:25) observes that in 1984, 36% of the houses on Indian reserves were seriously overcrowded. Despite reported reductions in the number of status Indians per house on reserve over the last 25 years (Indian and Northern Affairs Canada, 1991:15), it is not clear to what extent this has improved on the nature of overcrowding and its implications for justice problems. Indeed, LaPrairie (1991:14-15) shows that despite advances in housing and other benefits flowing



from their land claim settlement of 1975, the James Bay Cree communities relate continuing problems of overcrowding (for comparison with the Mi'Kmaq, see Clairmont, 1992a:20). The views of community members are supported by highly significant statistical data. Specifically, overcrowding among the Cree communities tends to involve youth aged 18-25 who are most likely to be unemployed and unskilled, and whether single or married, live with their parents. According to Niezan and St. Jean (1988:14), there was an increase from 19.8% to 22.8% over the period 1981-1986 in the proportion of the 18-25 age group and those over 25 years of age living at home with their parents.

This example is instructive for two reasons. First, as LaPrairie (1991:15) points out, there is evidential support for a correlation between overcrowded housing conditions and interpersonal conflict and violence which often takes place between close family members residing together. Second, and related to the first, Cree concepts of order and the cultural values placed on the orderly arrangement of people in space tend to reflect the legacy of nomadic-hunting settlement patterns. Overcrowded housing, therefore, merely exacerbates an already problematic sedentary existence in contemporary Cree communities (McDonnell, 1992). Thus current housing conditions in many Aboriginal communities contribute to tensions in kinship relationships that may in turn be linked to problems of interpersonal disturbances, conflict and violence.

## **Education**

It is generally recognized in the research literature that lower educational levels, including the quality of education (cf. Wax, 1993), are factors that are frequently associated with crime and disorder or to greater contact with the police and involvement in the criminal justice system. Similarly, lower educational levels can limit access to information as, for example, in the case of functional illiteracy, which may distort communication links between the public and the police and lead to various policing problems. Aboriginal education has improved over the last 20 years (Indian and Northern Affairs Canada, 1990:34-43; Indian Peoples in Canada Today, 1991:14-15; Siggner, 1992:27-28). However, there are still significant deficiencies, especially when compared to educational attainment levels among non-Aboriginal Canadians. For example, 38% of the Canadian Aboriginal population aged 15 years and over had less than grade 9 education compared to 17.5% of the general Canadian population (LaPrairie, 1992b:20). In some cases, regional differences may be greater, especially in remote and isolated regions. More than 50% of Aboriginal People in the Northwest Territories and the Nunavut Settlement Area, including those

aged 15-24, have less than grade 9 education while less than 25% have some form of post-secondary school training, including trades certificates and diplomas (Northern Issues, 1992:6)<sup>xx</sup>. At the community level, the differences may be even greater still with considerable inter-community variation. LaPrairie (1991:14) observes that among some James Bay Cree communities the proportion of the Aboriginal population aged 15 and over with less than grade 9 education ranges from 50% to 75%. (These communities also vary in terms of exposure to post-secondary education - there were only three communities with 3% of their respective populations having some university education - and trades training. In some communities, neither trades training nor university education were recorded). Only 42% of the status Indian population received high school diplomas in 1990 (Indian and Northern Affairs Canada, 1991:14). And the rate of status Indians attending post-secondary institutions is only 33% of the Canadian rate (ibid). In general, status Indians aged 15-24 and, in particular, those status Indians living off-reserve and in urban cores are the most disadvantaged of all Aboriginal Peoples in terms of education (LaPrairie, 1992c:11-13).

Bearing in mind the dissimilar geographic distributions of Aboriginal populations throughout Canada, it is not surprising that the Inuit have more limited access to educational opportunities than either Indians or Metis who appear to have roughly similar levels of education (Gerber, 1990:74). However, comparison of rural reserve and urban Indian out-of-school populations in 1981 reveals that only 13% of the former group had post-secondary education while 20% of the latter group had post-secondary education (Siggner, 1992:28).

### **Employment and Income Patterns**

Education levels also affect employment opportunities and income levels in Canadian society. Depressed employment and income levels are also linked to greater risk of involvement in the criminal justice system. Standard statistical measures of employment and unemployment among Canada's Aboriginal Peoples may not accurately reflect reality since many Aboriginal Peoples engage in non-wage activities such as hunting, fishing and trapping that are not captured by the employment statistics. At the same time, statistical definitions of unemployment may not apply to some Aboriginal Peoples who, therefore, do not get counted in this category (LaPrairie, 1992a:20; Siggner, 1992:26). Nevertheless, the available data does give a useful approximation of the Aboriginal employment situation which in general is dismal, especially for those aged 15-24 years. Based on an analysis of 1986 Canadian statistical data, Gerber (1990:77, Table 3) found that

unemployment rates among all Aboriginal Peoples aged 15-24 far exceeded that of the general Canadian rate of 17% for this age group. The Indian (status and non-status) rate was 44%, while the rate for Metis and Inuit was 39% for each group<sup>xxi</sup>. In contrast, the unemployment rate for Aboriginal Peoples aged 25 years and over was on average approximately 20% lower than the rate for the 15-24 age group, but three times greater than the Canadian rate.

Analysis of the data also shows that the labour force participation rates for Aboriginal males in the age range 15-24 years were from 15% to 25% less than the Canadian male rate for this age group. Again, on average, the labour force participation rate for Aboriginal males aged 25 years and over was 20% greater than their Aboriginal counterparts in the age group 15-24 years (cf. LaPrairie, 1991:13) but only 5% to 13% less than the rate for Canadian males aged 25 years or over. In fact, Metis males in the 25 years and over age category were more similar to the general Canadian population in terms of labour force participation rates than they were to their Indian and Inuit counterparts.

For Aboriginal females, unemployment rates tend to be lower than the male rate for all Aboriginal groups in all age categories, but significantly higher (up to 20%) than the female Canadian rate. Again, the greatest discrepancies between female Aboriginal and non-Aboriginal unemployment rates appear in the age group 15-24 years where Aboriginal females have a rate from 18% to 26% higher than the female Canadian rate. At the same time, labour force participation rates among female Aboriginal groups is significantly lower (from 24% to 31%) than the rate among female Canadians aged 15-24. The female Aboriginal labour force participation rate is also lower than the male Aboriginal rate: in the age category 15-24 years, it is from 5% to 15% lower, while in the age category 25 years and over, it is on average 25% lower for all Aboriginal groups.

In addition, male and female Aboriginal rates for full-time, full-year employment are only half the rates for the general Canadian population.

It is hardly surprising, therefore, that Aboriginal incomes are sometimes non-existent or significantly lower than non-Aboriginal incomes, especially in rural and remote areas and for Aboriginal women (Gerber, 1990:77-78)<sup>xxii</sup>. Furthermore, Aboriginal incomes are as irregular and unpredictable as their employment. This severely limits capital accumulation and the use of credit and savings and contributes to greater economic insecurity and instability in Aboriginal communities when compared to non-Aboriginal communities. These impacts at the individual level

may also translate into financial problems at the group or community level thereby making it difficult to implement and sustain various programs. Moreover, increased dependency on federal and provincial governments for program funding is often precarious, especially in times of fiscal restraint (Depew, 1992:468-469). This may also affect welfare dependency which is high, especially among status Indians living on-reserve where roughly 46% depend on welfare payments to provide their major source of income (Indian and Northern Affairs Canada, 1991:16; cf. Clark, 1989:21-26).

There may also be considerable variation in unemployment and labour force participation rates for Aboriginal males and females at the community level. LaPrairie (1991:13) documents considerable variation of these rates among James Bay Cree communities and shows that for Cree women, the unemployment rate is half that for Cree men. It is also apparent that status Indians living on-reserve and in the inner cores of cities, especially in Western Canada, have lower employment and income levels (LaPrairie, 1992c:11, 15, 17).

While these facts reveal the generally depressed economic and financial circumstances of Aboriginal individuals and communities, they also conceal important differences in the distribution of economic and financial resources within Aboriginal communities (Lithman, 1984). These differences contribute to the uneven distribution of economic and political power, especially among historically linked families and clans, that can pose problems for the organization and delivery of certain types of police services.

### **Aboriginal Culture, Tradition and Customary Law**

One of the most striking features of Aboriginal Peoples is their linguistic, social and cultural diversity. There are over 50 different Aboriginal languages divided among 11 major language families<sup>xxiii</sup>. These language groups in turn are associated with distinctive cultural characteristics and practices<sup>xxiv</sup> which may, initially, be approached from an historical perspective.

Traditional subsistence patterns such as hunting, fishing, gathering and agriculture provided a basis for variations in settlement patterns (ranging from nomadic to sedentary communities), kinship organization (including extended family and clan based groups), marriage exchange (between relatives and non-relatives of varying degrees on the father's or mother's side of the family/group), child rearing practices and so on. Gender and age distinctions, role

complementarities, status definitions, and group identity and relations were integral to the conduct and order of social life and were infused with moral, religious and cosmic meanings and significance which were often elaborated, debated, reinterpreted and recreated through ritual, ceremony, oral tradition and the visual/aesthetic arts (e.g. Balikci, 1970; Boas, 1988, 1912, 1930, 1935; Briggs, 1970; Cove, 1987; Damas, 1984; Duff, 1975; Goldman, 1975; Honigmann, 1949, 1968; Howard, 1984; Levi-Strauss, 1968, 1971, 1975; McDonnell, 1984, 1992a; Rasing, 1988; Riddington, 1968, 1981; Slobodin, 1966; Smith, 1975; Suttles, 1987; Trigger, 1987).

Traditional social organization also varied along political and related economic dimensions and included egalitarian-type systems characteristic of hunter-gatherer societies (but see Legros, 1985) as well as rigidly hierarchical systems such as the rank-based and stratified systems of the Northwest Coast cultures. However, all forms of traditional social organization were structured, in general, in terms of "Indigenous Service Economies" (Gell, 1992a, see below) and relationships of reciprocity. The former encompassed the economic and social organization of domestic relations or households while the latter involved direct and indirect exchanges of goods, services and spouses, including the accumulation and redistribution of resources and wealth by chiefs as occurred in the celebrated "potlatch" of the Northwest Coast cultures.

Social integration, order and control were maintained not so much on the basis of rules that can be codified or represented as such (as, for example, in the case of band by-laws passed pursuant to the Indian Act), but in terms of the cultural and social organization of everyday practices. In this view, individual and group interests and actions were not simply mechanical responses/obedience to, or disobedience of, rules. Rather, they involved, by and large, the everyday relevance and uses of kinship relationships, including a division of labour organized on the basis of age and gender (Bourdieu, 1990; Gell, 1992a; Lipuma, 1983). Put another way, the moral obligations, duties and responsibilities between culturally defined kin and affinal relatives entailed complementary social roles and role relationships, and a corresponding moral basis for social integration, order and control. Cultural values, related symbols and other normative categories provided the source of meaning and legitimation for social roles and practices but could, as changing circumstances demanded or as dynamic kinship relationships dictated, be re-evaluated and reinterpreted in order to guide, direct or "control" behaviour<sup>xxv</sup>.

Thus, what is often referred to as "customary or traditional law" (e.g. S. Clark, 1990; Haysom and Richstone, 1987; Morse and Woodman, 1987) are morally-defined role relationships and

practices, and their underlying principles of order and control which have their origin and context in the cultural organization of social, economic and political relations and the nature of on-going social interaction<sup>xxvi</sup>. Conceptualised this way, customary or traditional law corresponds, in a significant sense, to what Gell (1992a:150-152) calls the "Indigenous Service Economy", an important aspect and principle of social, economic and political process that, like the principle of reciprocity, plays a major role in setting the terms for social order at the community level. The "Indigenous Service Economy" along with variable forms of reciprocity are dominant features of Aboriginal social life that were and, for many Aboriginal communities, remain a fundamental source of diversity among Aboriginal Peoples in Canada and an especially important context for understanding Aboriginal "policing".

Customary law, in the sense indicated above, is both dynamic and, in some community contexts, a source of fundamental disagreement. A number of scholars have drawn attention to the "flexibility" of customary law and its situation-specific character which provides scope for its redefinition, reinterpretation and re-evaluation, especially in relation to the sometimes competing or conflicting (pragmatic) interests of individuals, groups and communities (Gordon and Meggitt, 1985; LiPuma, 1983; Moore, 1989). Similarly, other theorists and ethnographers, such as McDonnell (1992a, 1992b), have shown how externally-induced social and economic changes have affected the "Indigenous Service Economy" and structures of reciprocity, and resulted in divergent and sometimes conflicting views on the nature and status of customary law at the community level. This is an important observation in so far as the justice literature often assumes customary law is uncontested and non-problematic. This assumption, however, is difficult to sustain on the basis of historical and ethnographic evidence. But, where significant differences in community views on what constitutes customary law can be reconciled or where views on customary practices are significantly more uniform (e.g. Duiven, 1986; cf. McDonnell, 1992b), the implications of customary law for approaches to Aboriginal policing may be quite profound.

Traditionally conceived and practiced, the "police" and policing are not significantly differentiated from the flow of everyday life and practices, although in some pre-contact Aboriginal societies, the police and policing are identifiable roles and institutions (e.g. the akicita among the Dakota or Sioux, Cornell and Kalt, 1993:48). Traditional "policing" in Aboriginal societies is usually situated within face-to-face, subject-subject interactions in contrast to relationships between individuals and policing institutions typical of mainstream Canadian society. In other words, Aboriginal "policing" is conceived and practiced as a diffuse aspect of social and moral relationships, a part

and reflection of more general and pervasive kinship and community relationships. When conceived and practiced as exclusively discrete institutions and processes, especially those that are external to the community, the police and policing may be judged by some Aboriginal communities as neither appropriate, legitimate, desirable nor workable relative to their policing needs, requirements and objectives (Depew, 1992a:463; 1992b:540; Stenning, 1992:116-117) and, therefore, are unlikely to be supported by the community.

Traditionally, breaches of customary law are usually handled by a variety of social control mechanisms built into community kinship and social structures. Shaming, ridicule, gossip, persuasion and advice are usually employed to restore social integration and order, depending on the circumstances of their breach. In more extreme situations, punishment, including destruction of property, banishment and death, were traditionally used. It is important to recognize, however, that tension, stress and strain in social relations among, for example, kin, affines, the sexes and the generations are a given condition of traditional life, and not a "pathological" condition of the social order. As McDonnell (1992a:xii) rightly puts it, "social life is intrinsically problematic". Accordingly, Aboriginal societies have exercised a variety of tension-management strategies including "silence" (i.e. quiet, unobstructive behaviour) and physically/socially distancing oneself from others when tensions between people threatened to exceed tolerable levels. More generally, responses to the intrinsic problems of social life are traditionally based on the recognition of a pervasive social morality rather than on an articulated civil or criminal justice system.

What the facts of Aboriginal culture and social organization reveal, in particular, is the significance of interpersonal and inter-group relations for ordering, regulating and controlling individual and community life. However, this significance is not limited to the spheres of human kinship and the family since Aboriginal Peoples, like indigenous peoples elsewhere, personalized their relationships with the wider natural and supernatural environments. Thus, an important source of difference between many Aboriginal Peoples and non-Aboriginals today is the degree to which relationships may be personalized with the environment, both human and non-human. This often involves cultural distinctions, often of a religious or spiritual nature, that may be drawn, say, between what is considered to be animate or inanimate - stones and wind may have life force in an Aboriginal cosmos - or what life forms are capable of human-like behaviours - certain animals, for example, may have the power of articulate speech, thought, vision and moral influence on human beings in Aboriginal societies (e.g. Cove, 1987; McDonnell, 1984, 1992a;; Ridington, 1968, 1981; Ross, 1992:50-69). In the context of policing, these distinctions and

classifications played a significant role in regulating relations between humans and animals which in turn had important implications for the regulation of conduct among humans themselves (e.g. Goldman, 1975; McDonnell, 1992a:59; Mills, 1988:389). As Campbell (1989:73,74,80) puts it, such distinctions may be a source of disagreement or perhaps incompatible assumptions, beliefs or poetic imagery (Ridington, 1987) between Aboriginal Peoples and non-Aboriginal Canadians that require mutual appreciation of the distinctions being drawn. But for some commentators, these distinctions go far beyond notions of disagreement.

The distinctions, some argue, are grounded in the very nature of linguistic and corresponding conceptual differences between Aboriginal Peoples and other non-Aboriginal Canadians. At first glance, this view has some practical appeal especially in the context of policing. There is no question that the inability of a police officer to speak an Aboriginal language is a barrier to communication and understanding and, therefore, a severe constraint on adequate police role performance, especially in situations where the Aboriginal language community is quite distinct and homogeneous. But some recent claims about Aboriginal and non-Aboriginal languages go far beyond this obvious practical issue. Linguistic differences between Aboriginal Peoples and non-Aboriginals are said to point to vastly different ways in which Aboriginal Peoples think about and perceive the world. Advocates of this view call attention to the common observation that there may be no terms in some Aboriginal languages for concepts conveyed by English terms such as "crime" or "guilt". At another level of analysis, Aboriginal languages may not include noun classes that appear in the English lexicon, for example, and, the argument goes, this implies an absence of corresponding concepts or the presence of a greater emphasis on other types of concepts in Aboriginal thought (e.g. Cawsey, 1991:9-3; Clark, 1989:47; Hamilton and Sinclair, 1991:38-45). Asserted more boldly, the argument concludes that since Aboriginal languages call into being the cultural worlds in which Aboriginal Peoples live and order their lives, existing differences between Aboriginal and non-Aboriginal languages and language communities entail mutually alien cultural products such as the police. Therefore, since non-Aboriginal police, as a category, are culturally and conceptually incongruent with Aboriginal communities today, Aboriginal People need and require their own distinct policing and justice systems (e.g. Cawsey, 1991:9-3; Hamilton and Sinclair, 1991:42,44,45; cf. Elias, 1991:213).

What is odd about these arguments is that, firstly, they appear largely innocent of the linguistic composition of contemporary Aboriginal communities. If Aboriginal language is to play its role in structuring the conceptual foundations of the police, it is a minimal requirement that the language



be shared, spoken and understood by a significant number of community members. The results of recent Aboriginal language surveys give pause for further reflection on the issue.

According to Statistics Canada (1993), over half (55%) of all Aboriginal adults aged 15 and over who were surveyed (N = 388,900) indicated that they never spoke an Aboriginal language<sup>xxvii</sup>. For Aboriginal respondents aged 5 to 14 (N = 148,155), 71% never speak an Aboriginal language. However, these general figures mask some important differences between Aboriginal groups. For Indians living off reserve, 65% of respondents aged 15 years or over and 84% of respondents aged 5 to 14 reported having never spoken an Aboriginal language. The statistics for the Metis parallel those for Indians living off reserves. 74% of Metis respondents aged 15 years and over indicated that they never spoke an Aboriginal language while 89% of Metis respondents aged 5 to 14 reported that they never spoke an Aboriginal language. The situation for Indians living on-reserve (and possibly Crown land settlements) is very different: only 28% of respondents aged 15 years and over and 46% of respondents aged 5 to 14 reported having never spoken an Aboriginal language. These figures are paralleled by those for the Inuit: only 22% of Inuit respondents aged 15 years and over and 29% of Inuit respondents aged 5 to 14 indicated that they never spoke an Aboriginal language.

While the survey data may not be conclusive, they do suggest that Inuit and Indians living on reserves (and possibly Crown land settlements) are relatively homogeneous in terms of Aboriginal languages while Indians living off reserves, in urban areas, etc., and the Metis are not homogeneous in terms of Aboriginal languages. It is likely that the majority of these two latter groups speak and understand only English or French<sup>xxviii</sup>. Does this mean then that in terms of the linguistic proposition under consideration, only Inuit and reserve Indians have reasonably retained traditional concepts of justice (and policing) to the exclusion of the Metis and Indians living off reserve? Put another way, are Metis and off-reserve Indians excluded from developing culturally and conceptually innovative and unique approaches to policing and justice because of linguistic restrictions? In order to answer these questions, we must re-examine the proposition in terms of what is known about the relationship between language, thought and culture in general. The issues are, in fact, far more complex than has been discussed in the Aboriginal justice literature or that can be dealt with here (see, for example, Gumperz and Levinson, 1991; Hill and Mannheim, 1992). However, for present purposes, we may give an indication of these issues and the direction in which they lead the present discussion.

In much of the recent Aboriginal justice literature (e.g. Cawsey, 1991; Dumont, 1993; Hamilton and Sinclair, 1991), the argument that language "determines" or is the main foundation for thought (cognition) and culture is derived primarily from a particular understanding of the work of the American linguist Benjamin Lee Whorf (e.g. Whorf, 1956), and more generally from the so-called "Sapir-Whorf hypothesis" which (in terms of this understanding) postulates a form of linguistic relativism: i.e. the structural form or grammar of spoken language affects, constrains, conditions or (more implicitly) determines (see Sherzer, 1987:306, note 1) the way we think about reality. While superficially attractive when problems of translation between languages occur<sup>xxix</sup>, it is difficult to sustain the "hypothesis" and its theoretical framework in view of the relevant research and related literature. For example, Black (1959, 1969), has shown that the "hypothesis" cannot withstand scrutiny on a priori, philosophical or logical grounds. Nor does it easily hold up under the weight of recent empirical research on language, culture and cognition (Gumperz and Levinson, 1991; Ridington, 1987) which reveals their unique and distinctive structural properties and the fundamental logical similarities of all grammars (Chomsky, 1968:75-76; Hallpike, 1979:81-93; cf. Hill and Mannheim, 1992; Ingold, 1992; Rieber, 1983). In this context, Bloch (1977:283) registers an important observation concerning universal aspects of human language:

The logic of languages implies a notion of temporality and sequence and so if all syntax is based on the same logic, all speakers must at a fundamental level apprehend time in the same way, and indeed this seems confirmed by the total failure of psychological tests and attempts to substantiate the claims of Whorf and Sapir in this respect.

The claim that concepts of time are culturally variable and that Aboriginal concepts of time are different from non-Aboriginal ones has been repeatedly held up as an exemplar of crucial differences between Aboriginal and non-Aboriginal conceptual systems (worldviews), cognitive processes, culture and language (e.g. Cawsey, 1991:9-2 - 9-3; Hamilton and Sinclair, 1991:33, 42, 605; Sinclair, 1990). However, these claims rest, first, on a confusion between the universal human experience of duration (or the succession of events) and the variable forms, such as cyclicity (or repetition), linearity (or irreversibility) or other metaphors in which duration may be represented or reinterpreted. As Howe (1981) and Gell (1992b) have cogently argued, these distinctions in representational forms do not imply different worldviews or different ways of reasoning from either an ethnographic or logical point of view: indeed, notions of cyclicity and linearity can occur in the same society, a conclusion also confirmed by the Canadian literature (e.g. Christie and Halpern, 1990; Ridington, 1981; Suttles, 1987:68; cf. Munn, 1992). The second

source of confusion is the failure to distinguish a unique feature of social relations and concepts of the person among many Aboriginal Peoples. Contrary to the conclusion drawn by Hamilton and Sinclair (1991:33) that "Indian time" or "Metis time" are about different notions of time as a cognitive category, their references to "proper time", "social protocols" and "interference with other duties or activities" as illustrations of their point have more to do with Aboriginal concepts of and values attached to the self and interpersonal relations than they do with culturally unique concepts of 'time'<sup>xxx</sup>.

In addition to these observations, casting Aboriginal and non-Aboriginal differences in terms of opposed temporal-geometric metaphors - e.g. it is said that unlike Aboriginal Peoples who think holistically and in "circles", non-Aboriginal Canadians think in terms of "straight lines" (Cawsey, 1991:9-2 - 9-3) - is misleading (e.g. Munn, 1992:101) and misunderstands the impact of writing on thought. Marshalling ideas into a linear chain, a problem that faces every prose writer, imposes a very special type of cognitive demand (Ingold, 1992:16; cf. Goody, 1977, 1986). As Bloch (1991) has argued, most thinking is not like this at all. Reasoning in practical situations is non-linear in nature and is only peripherally linguistic.

Nevertheless, descriptions of Aboriginal and non-Aboriginal differences on the basis of false dichotomies are legion as witnessed in recent attempts to diametrically oppose "core" or "essential" Aboriginal religious premises, psychological or cognitive traits, and cultural values to those of non-Aboriginals (e.g. Cawsey, 1991; Dumont, 1993; Hamilton and Sinclair, 1991; Sinclair, 1994). Arguments based on contrasting "core" or "essential" elements not only frequently ignore considerable overlap between Aboriginal Peoples and non-Aboriginal people<sup>xxxi</sup>, but commit the fallacy of "essentialism" which fosters paternalistic stereotyping and reification of culture differences. Works of this type have been thoroughly exposed, criticized and discredited by Said (1978), Beidelman (1992), Carrier (1992), Turner (1993), Wax (1993) and others.

The doubtful validity of diagnostic statements that dichotomize culture differences between Aboriginal Peoples and non-Aboriginals suggests that the distinctions being drawn have more to say about confusion in the authors' methods of investigation/comparison and general working environments, both intellectual and political, than they do about any inherent characteristics of their subject matter.

For example, Hamilton and Sinclair (1991:20-23, 35) sometimes contrast a diversified Aboriginal "Culture" with a monolithic non-Aboriginal or Western "Culture", mistakenly made devoid of diversity, variability or multiple and global origin (see Crook, 1970; LaPrairie, 1992:432; Prattis, 1980; Wax, 1993). At other times, the comparison seems to be between only Aboriginal offenders and a certain sector of Western culture, namely the legal profession (or "sub-culture") which they encounter and which is just as foreign and mystical in terms of its concepts, values, interests and concerns, to other non-Aboriginal Canadians from different walks of life (Hamilton and Sinclair, 1991:40; cf. CBC, 1990; Depew, 1986:104). At this level of "culture conflict", would some non-Aboriginal Canadians who are not members of the legal (and political) elite not also qualify for a separate justice system? Indeed, the Western legal system is not a model of Western society, language, thought and culture but one of its variable products. The judiciary is a very limited and unrepresentative group of people, usually male, white upper-middle class, that is to say, an elite, whose ideas, language and thought may be just as alien to the rest of non-Aboriginal society as it is to many Aboriginal Peoples (CBC, 1990). To take the argument one step further: if, as Penner (1992) has argued, the exercise of legal judgments is none other than the exercise of power by an elite group of professionals, then the comparative question is not one of culture differences but one about politics and the uneven distribution of political and economic power and resources in Canadian society which affects Aboriginal Peoples most severely in many regions of the country (see, for example, Elias, 1991:143-144; Wax, 1993:108). Indeed, a number of authors have argued that assertions of "culture conflict" in the area of justice administration mask more fundamental issues of political and economic marginality among Aboriginal Peoples that increase Aboriginal vulnerability to criminal justice processing (e.g. Cove, 1988; LaPrairie, 1990; LaPrairie and Diamond, 1992; Smith, 1975; cf. Robinson and Scaglion, 1987).

Obviously, these arguments have important implications for the conceptualization and design of Aboriginal policing and police programs as cultural issues. In particular, they suggest that Aboriginal conflict with the criminal justice system is unlikely to be reduced or effectively managed by focusing mainly on matters of cultural sensitivity among non-Aboriginal (or Aboriginal) police officers in the policing of Aboriginal Peoples and their communities, or on culture conflict between "alien" cognitive and value systems. Yet, at the same time, there are significant distinctions in Aboriginal relationships, values and beliefs which have important implications for the cultural organization of policing and the police, and the relationship between the police and Aboriginal communities. This raises some important questions. How do cultural considerations frame our

understanding of the way(s) in which the police should be organized and relate to Aboriginal Peoples and their communities? And in what contexts do these considerations assume significance? Put another way, how can we expand the discussion of Aboriginal cultural distinctions and the possibility of 'culture conflict' to better understand their meaning in the context of policing Aboriginal communities?

For some observers, the starting point is at a very broad and comprehensive level. McCaskill (1992:34) for example, follows Tylor (1871) in his definition of culture as everything, material and non-material. Similarly, Hamilton and Sinclair (1991) identify Aboriginal culture with seemingly every conceivable dimension of Aboriginal life and environment<sup>xxxii</sup>. However, such an all-inclusive term denotes practically anything and connotes nothing and, consequently, outside the emotive or directive use of language, is useless. Indeed, such capricious application of the culture concept is confusing and misleading.

A more focused use of the culture concept which has direct relevance for the policing of Aboriginal communities has emerged from the commentary surrounding the "harmony model" of Aboriginal community life and justice administration. According to this model, policing problems and other (justice) issues are dealt with by Aboriginal Peoples in more socially just, egalitarian, cohesive and less adversarial or coercive ways than in non-Aboriginal societies. Underpinned by the structuring principle of reciprocity in social life (Depew, 1992a:463), the key mechanisms and processes by which Aboriginal justice is administered include consensus decision-making, mediation, arbitration, reconciliation, diversion, restitution and community and individual healing (e.g. Benson, 1991; Hamilton and Sinclair, 1991; Jackson, 1988; Mandamin et al, 1992; Marchant, 1985:18; Monture-Okanee and Turpel, 1992; Sinclair, 1994; Turpel, 1993).

As Brodeur (1991:iv) implies, there is ethnographic evidence that some Aboriginal customary justice is less adversarial and formalized than non-Aboriginal systems, at least in certain circumstances (cf. Gordon and Meggitt, 1985). However, as a general basis for conceptualizing traditional Aboriginal approaches to policing or contemporary Aboriginal practice of policing traditions, the "harmony model" has come under increasing critical scrutiny. Robinson and Scaglione (1987), for example, note the inegalitarian nature of otherwise egalitarian societies when they locate their discussion of Aboriginal or indigenous social control and policing within the context of gender- and age-based coercion and power. In a more focused ethnographic analysis, Ridington (1968, 1981) has drawn attention to circumstances where adversarial relations

and competition are an integral part of political, social and religious processes among the Beaver Indians of northeastern British Columbia. Contrary to the assumptions of the "harmony model", coercion and threats dominate the competitive appropriation of supernatural powers between individuals or groups which may, over time, create far more wounds than are healed (cf. McDonnell, 1992a:28-46 for a discussion of power and social antagonism among Cree groups). Goldman (1975:145) best captures some of the principles at work in Aboriginal societies, especially in the context of ritual, when he concludes that,

Rivals struggle against one another because contest is the most self-evident expression of biological process for hunting peoples<sup>xxxiii</sup>.

In a complex discussion of indigenous forms of social regulation and control, Strathern (1985:113) has questioned the general assumption that customary dispute settlement procedures have an interest in the functional regulation of social life which is comparable to Western 'law and order' interests or notions of "harmony". Rather, dispute management can be seen as an indispensable aspect of complex exchange relations which have little interest in the maintenance of "harmony", but at the same time can be easily distorted when "harmony" becomes the defining frame of reference. Similarly, Gordon and Meggitt (1985) have shown that traditional dispute settlement in Papua New Guinea takes place within contexts of competing interests, unevenly distributed resources and different interpretations of the conditions and outcomes of conflict resolution. Here, "harmony" is not a prime consideration since it is overshadowed by the political advantages or disadvantages enjoyed or suffered by individuals or groups differentially located in social structure and the network of power relations. Moore (1989) on the other hand, has questioned the temporal meaning of "harmony". She emphasizes the historical contexts in which any dispute takes place and notes that today's settlement is often tomorrow's conflict, depending on the renegotiation of tradition and custom as local and regional conditions change (cf. McDonnell, 1992b). From a slightly different angle, LiPuma (1983) has drawn attention to the manipulation of custom and cultural values on the basis of individual and group interests. These interests may have little to do with apparent public consensus on what constitutes normative conduct or community "harmony". Indeed, they may have far more to do with the variable and changing contexts in which culture or cultural elements (e.g. values, kinship relationships) are used to organize actions and solve problems, often on the basis of strategic self or group interests (cf. Swidler, 1986).

In this context, William Murphy (1990) has written a most insightful essay on traditional consensus decision-making in an African society where he describes and analyses the contrast between the public and private sides of traditional consensus decision-making (cf. Bailey, 1965, 1969; Goffman, 1959). Through a critique of the functional or "harmony model" of conflict resolution and consensus<sup>xxxiv</sup>, he shows how the image of moral consensus, which is constructed through public discourse, is strategically manipulated in order to mask private, individual and divisive interests in power and authority. Although it is disfigured by backstage behaviour, appeals by the powerful to consensus further legitimize and consolidate power differences and provide a measure of immunity from further public accountability. Barth's (1993) ethnographic study of North Bali also demonstrates that despite a pervasive emphasis on consensus and harmony by the Balinese themselves, factionalism predominates in everyday life and serves to defend individual interests against the ideological pressures for the Balinese to conform to consensus and cooperation. Significantly, Lithman (1984), Nahanee (1993) and Smith (1975:61) have shown that this critique has currency in the Canadian situation. In the related American context, Cornell and Kalt (1993:48) have examined the inherent tensions and strains in traditional Aboriginal society and conclude, "We can speculate, in fact, that the highly developed police force (the akicita) of Sioux society reflected the need to control the unsavoury edge of outrageous individualism".

It should come as no surprise then when Nader (1989) raises the significant question as to whether and to what extent the "harmony model" itself is an ideology with concepts learned from the colonizers. Similarly, Tooker (1994) has drawn attention to the remarkable extent to which Western images and values have penetrated Aboriginal representations of Aboriginal history. Murphy (1990) himself suggests that the "harmony" model has been imposed on Aboriginal Peoples by analysts through the theoretical persuasions of Durkheimian sociology. Other scholars, such as LaPrairie (1993) and Merry (1992), have drawn attention to political processes where Aboriginal communities have appropriated state legal concepts and institutions which, despite ideological disclaimers, may have little in common with the "harmony model". Bailey (1965) too questions the extent to which consensual politics reflects a unified, harmonious society and suggests that it is more an ideological charter for modern politicians and political writing than an accurate reflection of history and ethnography<sup>xxxv</sup>. If Bailey's observation is correct, then the apparent disinterest in the critique of the "harmony model" as reflected in much current writing and commentary on Aboriginal justice is more understandable.

When analysts do turn a critical eye towards the conditions of Aboriginal life, justice issues are usually discussed in the broader context of colonization and political economy with little attention being given to the structural and cultural implications of change for policing Aboriginal Peoples. Emphasis is usually placed on the socio-economic and political structures of Canadian society in such a way that the effects of colonization and modernization on traditional Aboriginal life usually remain at a broad and general level (LaPrairie, 1992b; Marenin, 1992:353-354; but see Smith, 1975). Consequently, specific changes in social relations, interaction and values resulting from adaptation to external pressures can lead to changes or modifications in Aboriginal concepts of order and control. Although they are crucial for a better understanding of the context of contemporary Aboriginal policing, these changes are not usually systematically documented or discussed.

Only infrequently is it recognized that colonialism and modernization have affected many Aboriginal customs and traditions in such a way as to often leave them "unused", ambiguous and uncertain (McDonnell, 1992a, 1992b), relatively ineffective, dysfunctional (LaPrairie, 1992b; LaPrairie and Diamond, 1992), or "replaced" by state-like institutions and systems (LaPrairie, 1993; Merry, 1992). The response to this state of affairs is sometimes seen to lie in the reinstatement of these customs and traditions by rejuvenating traditional forms of social control and "policing" within contemporary Aboriginal society. Although it is often unclear in operational terms, the response to change often assumes the form of a cultural renaissance that involves the ideology, if not the practice, of resurrecting and revitalizing Aboriginal Peoples cultural approaches to conflict resolution (Harding, 1991:372), a faith in the strength of traditional family and clan structures (Monture-Okanee and Turpel, 1992), the healing force of Aboriginal spirituality (Turpel, 1993; Hamilton and Sinclair, 1991; Jackson, 1988; Morse and Lock, 1988) or the potential of bicultural identities (McCaskill, 1992:39).

More generally, the interest in traditional ethos and worldview as a foundation for justice and policing often springs from a decontextualized view of contemporary Aboriginal kinship and cultural structures and processes (McDonnell, 1992b). As a result, the cultural renaissance movement and the status of contemporary Aboriginal communities may have more to do with situational adaptations to historical changes and modernization than to "the way it used to be" (Crook, 1967; Dickson-Gilmore, 1992a, 1992b)<sup>xxxvi</sup>. More importantly, the failure to contextualize the use of culture for the purposes of policing and justice administration completely sidesteps the important issue of what aspects of Aboriginal culture are relevant or effective in relation to what



types of policing problems and needs. As comparative evidence of the effects of culturally based justice programs in the United States suggests, some types of problems (including characteristics of the offender and offence) may or may not be amenable to culturally oriented solutions or may be amenable to these types of solutions in unexpected or unanticipated ways (Wooldredge et al, 1994).

These issues become especially important when one considers the alteration of and changes in key structures of "Indigenous Service Economies", reciprocity and the reciprocal constraints of traditional kinship roles, relationships and values at the community level (Depew, 1992a:463; Elias, 1991:145-148). These structures, relationships and values are transformed and reshaped by the constraints and vicissitudes of demography, education, communication, employment, income, political-legal structures and settlement patterns. Considered as changing contexts of interaction, these factors influence changes in Aboriginal concepts and values of order and control.

One of the most obvious but not fully appreciated or understood changes has occurred in relation to settlement patterns. Family and clan ties, for example, have been carried into community settings that are often very different from those of traditional or pre-contact times. Permanent villages have replaced nomadic settlement patterns and urban centres have concentrated rural populations. Under these conditions, strangers now live as neighbours and previously mobile community members are now more immobile<sup>xxxvii</sup>. As a result, traditional concepts of 'social space' that serve to structure activity, interaction and reciprocity between the sexes and generations (e.g. McDonnell, 1992a:60-62) have been drastically altered or forced into new situations, thereby testing and often exceeding the limits of what may previously have been important conditions for harmonious interaction. When these constraints are taken into consideration, contemporary conflict avoidance among Aboriginal Peoples appears less a psychological trait than a socially-induced tension-management strategy to deal with the new demands of spatial organization on role relationships, interaction and social functions. However, these strategies are not always successful in resolving tensions, redefining moral social practices or socializing people into a conception of harmonious interaction.

Sharing is often discussed as an exemplar of the principle of (generalized) reciprocity or, more accurately, of the "Indigenous Service Economy" at the level of the household and domestic provisioning (Gell, 1992a:152). Traditionally, sharing is an important principle and expression of

group identity, solidarity, cooperation and the quality of moral relationships between persons (McDonnell, 1992a:67-78). But in the justice literature, it is frequently depicted in ideal terms, applying equally across all situations and as a timeless principle of all Aboriginal life (Hamilton and Sinclair, 1991:32-33; Monture-Okanee and Turpel, 1992). This is unjustified on the basis of the ethnographic record (e.g. Burch, 1988; Hawkes, 1993). Smith (1975:56-57), for example, notes the contingency of the sharing ethic among the Aboriginal Peoples of the Mackenzie River Delta. Only certain items, such as food, are shared especially among close kin for the purpose of coping with temporary conditions of shortage. Furs and money, on the other hand, are rarely, if ever, shared even among close kin, a practice which seems to reflect concepts and values of individualism characteristic of capitalist enterprise. But even the frequency or regularity of sharing is limited, and when the limits have been reached, an individual may find himself/herself the subject of gossip, an important mechanism of social control which is itself subject to well-defined limits (Smith, 1975:59).

Similarly, LaPrairie (1991) and McDonnell (1992a) conclude that welfare and wage labour among the James Bay Cree disrupt traditional exchange and distribution systems where there was once little wealth differentiation. They go on to point out that welfare payments create individualization of poverty, thereby relieving the community of the traditional responsibility to help one another. Alternatively, economic individualism has been fostered in Aboriginal communities by an introduced administrative culture and economic structure that are supported and legitimized by individualistic values and a de-emphasis on concepts and practices of mutual sharing (McDonnell, 1992a; Ryan, 1991:92). This is partly reflected in changing notions of private property and ownership that put strains on traditional concepts, values and practices of owning and sharing property<sup>xxxviii</sup>.

These changes tend to nurture the growing role of socio-economic class in some Aboriginal communities which have become increasingly stratified in terms of poverty, and economic and political power (e.g. Franks, 1987:98). Ruling elites, therefore, come to reflect particular and not necessarily universal interests or ideologies. For example, LaPrairie (1991) observes that among the Cree of east James Bay, community members perceive village government in terms of alternations between powerful families. Similarly, Clairmont (1992a) notes Mi'Kmaq concerns over "favouritism" in the context of possible individual or group influence in the policing process.

More generally, this pattern has been augmented by the development of Indian reserves as part of a government-imposed system that brings Indian people together in terms of foreign and paternalistic political, economic and administrative relationships and forms of interaction<sup>xxxix</sup>. Under these circumstances, community structures and systems of resource distribution may have almost completely external terms of reference, such as the regulations and administrative practices that flow from the Indian Act. Thus, interest groups and conflicts between clans and families may become articulated in ways different from historical tradition with new concepts and structures, such as chiefs and band councils, emerging in response to changed circumstances that are economic, political and legal in nature. These circumstances point not only to the concentration of political and economic resources and power at the levels of chiefs, band councils and other Aboriginal organizations but also to the levels and nature of structural integration of Aboriginal communities with the wider Canadian society and justice system (Clairmont, 1992a; LaPrairie, n.d.; Merry, 1992; Prattis, 1980; Smith, 1975)<sup>xl</sup>.

The "legitimacy" of village or community government, therefore, is not necessarily based on overarching Aboriginal cultural values or consensus but, ironically, is tied to particularistic kinship criteria that buttress new concepts and values of political leadership and status. The result is that as traditional institutions are undermined, so are the traditional conceptual foundations of legitimacy. As concepts and values of political leadership become increasingly differentiated and contested, local political wills become divided. Consequently, family cleavages and friction, which have widened under the reserve system and the relocation of Aboriginal populations, weaken both traditional informal and imported formal control mechanisms but, at the same time, strengthen the basis for the heterogeneity of political interests, values and concepts (Cornell and Kalt, 1993:31-50; Elias, 1991:146; LaPrairie, 1992c:18-19).

Similarly, the legitimacy of the role of elders in policing and justice administration may be put into question where changes in demography, kinship relationships, settlement patterns and politics are important factors of change in community conditions and circumstances. For example, elders also belong to families and clans with particular interests to promote and it is sometimes unlikely that issues can be dealt with in an unbiased fashion, independent of, or unaffected by, family ties (Marenin, 1992:361). Some elders may also be part of a social problem and, therefore, ill-equipped to resolve it on an impartial or effective basis (Nahanee, 1993:362, 363; Niezen, 1993:519). Differences in values, problem definitions, interests and power between the generations and between the sexes may also render traditional and contemporary authority roles

problematic and, in some cases, irrelevant, redundant, ineffective or sometimes oppressive (Elias, 1991:159-160; Fiske, 1993; Harding, 1991:373; LaPrairie, 1991; McDonnell, 1992a; Nahanee, 1993).<sup>xii</sup>

These examples serve as particular illustrations of the generally complex and often contradictory nature of social and community relations, and the difficulties encountered when it is assumed that the roles of various community members can be advanced for the purposes of policing and justice administration without further careful reflection on the matter. Indeed, raising these and other issues concerning Aboriginal culture, tradition and customary law is not an attempt to devalue contemporary Aboriginal cultures and social systems, to deny their strengths and points of integrity, or to "insult" elders or any other community members. Nothing could be further removed from the intent of the analysis. Rather, the intention is to encourage a more realistic appraisal of the Aboriginal policing environment and its relationship to concepts of "culture conflict". Specifically, the discussion has emphasized the status of interpersonal, family and inter-group relations and interactions among Aboriginal Peoples and the importance of these issues for understanding differing and changing concepts of order and control. Variable configurations of these social relations and forms of interaction do have distinctive cultural content - especially of a kinship nature - but they constitute a level of cultural complexity that should not be confused or equated with reified or fictionalized cultural differences between Aboriginal Peoples and non-Aboriginal Canadians.

Rethinking "culture conflict" in this context raises a different set of questions for thinking about the meaning of the police and policing in contemporary Aboriginal communities and the challenges facing possibly new approaches to Aboriginal policing. These questions should serve to contextualize the relevance of Aboriginal culture for policing problems and needs rather than simply presuppose it. For example, how is social order and control to be defined in Aboriginal communities? What areas of community life are in need of policing and why? What should be the objectives of policing? How should the police mandate be defined? Who should assume responsibility and accountability for policing and why? How should these processes be organized? These types of questions should be informed by the range of environmental factors that impinge upon and partly shape social relations and interaction in Aboriginal communities. These realities in turn provide more refined parameters for understanding the data on Aboriginal crime and disorder, matters which are, conventionally, the concern of the police.

## **Aboriginal Crime and Disorder**

Traditionally, criminal justice processing, including police arrest and charging activity, has provided the focus for descriptions of Aboriginal crime and disorder. More specifically, research has tended to rely on official incarceration statistics at federal, provincial and territorial levels to describe the nature and extent of Aboriginal involvement in the criminal justice system.

On the basis of this type of data, commentators have almost invariably concluded that Aboriginal People are over-represented in correctional institutions across the country - i.e. Aboriginal People are disproportionately incarcerated relative to their share of the general Canadian population<sup>xiii</sup> - and have theorized that "culture conflict" in the form of racist or discriminatory police practices is a causal factor. However, this type of information is of limited use when it comes to describing the nature and extent of Aboriginal crime and disorder, especially for the purposes of police studies. One reason is that the official statistics are often beset with methodological problems in their production which restrict their reliability, comparability and generalizability (LaPrairie, 1987a, 1990, 1991; Moyer et al, 1985). More importantly, they do not provide an accurate or comprehensive picture of the incidence of Aboriginal crime and disorder or of Aboriginal offence patterns (Clairmont, 1992a:48-51; LaPrairie, 1990:430), information that is crucial to an understanding of policing problems, police decision-making, policing styles and response options.

Until recently, surprisingly little data has been systematically collected on the policing problems and needs of Aboriginal communities (LaPrairie and Diamond, 1992:421). However, the research findings of community-based work now available together with some previous investigations are beginning to enhance our appreciation and understanding of these issues.

In his review of the relevant criminal justice literature, Brodeur (1991:21-27) concludes that alcohol abuse or alcohol-related disturbances are the most frequently reported Aboriginal offences (cf. Clairmont, 1992a:38; Depew, 1986:18-20; 1992:470; Hamilton and Sinclair, 1991:617). The literature also emphasizes that in general, Indian reserves have especially serious problems with

interpersonal violence, including domestic violence, as well as important problems with peace violations, other disturbances and property crimes.

At first glance, these observations contrast with some reports on crime and disorder among other Aboriginal groups. Finkler (1985), for example, observes that among the Inuit of the Baffin Region, liquor offences predominate, followed by property offences, while assaults against the person appear relatively infrequent. Yet other research and commentary suggest that interpersonal (domestic) violence, especially against women and children, may be more serious and frequent among the Inuit than is generally reported or appears in the official statistics (e.g. Billson, 1990; cf. Wagner Sorensen, 1990)<sup>xliii</sup>. The findings of recent community-focused research shed additional light on the discrepancies between official incarceration statistics and other data sources and, more importantly, on the nature and scope of Aboriginal crime and disorder.

Analysing information obtained from police daily reports, occurrence files, youth and adult court files and community interviews, LaPrairie (1991) provides a startling profile of crime and disorder among nine Cree communities of east James Bay, Quebec<sup>xliiv</sup>. She notes, first of all, that interpersonal violence, often in alcohol abuse situations and among persons related by kinship, produce an official assault rate, based on police occurrence reports, 6 to 8 times that of the general Canadian population (LaPrairie, 1991:62). These findings, when compared to non-Aboriginal communities of a similar size in Quebec show a disproportionate rate of crime, especially crime against the person and other categories of offences including mischief and disturbances that parallels research results for Indian reserves and Crown land settlements elsewhere in Quebec (Hyde, 1992), Nova Scotia (Clairmont, 1992a; Clark, 1989; LaPrairie, 1989), Ontario (Auger et al, 1992), Saskatchewan (Canadian Centre for Justice Statistics, 1991a) and the Yukon (LaPrairie, 1992a)<sup>xliv</sup>.

In urban centres, the available data suggest that Aboriginal People commit more crime and disorder offences than similar groups of non-Aboriginals, and proportionately fewer violent offences than Indians on-reserve (Canadian Centre for Justice Statistics, 1991b)<sup>xlvi</sup>. At the same time, it would appear on the basis of some studies that more crime and disorder offences are committed by Aboriginal People off reserves and in the cities (Cawsey, 1991:2-32; Elliot, 1989:180; McCaskill, 1985; Muirhead, 1983). But this difference may be more apparent than real.

For example, in 1988/89 only 5.7% of police charges against Aboriginal People occurred on reserves in Alberta although official crime rates on the reserves vary from 1 1/2 times (property offences) to 4 1/2 times (interpersonal offences) the rates for the general Canadian population. In contrast, 43.6% of persons charged by the police off-reserve in rural areas were of Aboriginal ancestry (Cawsey, 1991, Vol.III:1-25; Task Force Report, 1990:42, Table 1). In her study of crime and disorder among the Cree of east James Bay, LaPrairie (1991) found that not only are interpersonal offences and disturbances the most common policing problem, but that they are also far less likely to be officially recorded and formally processed by the Cree police than property and other types of offences (cf. LaPrairie and Diamond, 1992:425-426). The results of community-focused research in other jurisdictions suggest a similar pattern (e.g. Auger et al, 1992; Clairmont, 1992a; Clark, 1989; LaPrairie, 1992a; Marenin, 1992). In addition, the Cree study shows that there is considerable internal variation in crime rates and types of crimes committed among otherwise linguistically and culturally homogeneous Cree communities, a finding that also holds for research among the Nishnawbe-Aski Nations of northern Ontario (Auger et al, 1992; LaPrairie, 1991:65-67).

These research findings suggest a number of important conclusions and hypotheses about Aboriginal crime and disorder and the respective roles of the police and Aboriginal communities in responding to them:

- 1) More violent offences occur in small-scale, often remote Aboriginal communities, especially Indian reserves, than are usually officially reported and formally processed by the police. Thus, much of what happens on reserves by way of crime and disorder is not formally processed. This contrasts with the situation of urban Aboriginal Peoples who appear to be subject to more criminal justice processing (e.g. Bienvenue and Latiff, 1974; Cawsey, 1991:2-13).
- 2) There is a greater tendency in small scale, rural/remote Aboriginal communities to inhibit or preclude the formal processing of interpersonal offences when compared to the treatment of other types of offences.
- 3) The factors of kinship, community and social relations which inhibit formal police processing of interpersonal offences in some non-urban Aboriginal communities may

either be absent or fail to function in similar ways among some urban Aboriginal communities.

- 4) Police responses to crime and disorder in non-urban Aboriginal communities, including Indian reserves and Inuit communities, frequently differ from police responses to Aboriginal crime and disorder in urban areas, especially among Metis and non-status Indians. One source of difference appears to lie in the range of variation in communities and their responses to crime and disorder in non-urban or rural, remote and reserve communities.
- 5) Indian reserve communities and communities with majority Aboriginal populations seem to have some unique problems and ways of dealing with them while other off-reserve areas, especially Aboriginal People in cities in the Prairies, British Columbia, Ontario and Quebec may present different criminal justice problems for some Aboriginal People (LaPrairie, 1992b:419; 1994).
- 6) Differences in the policing circumstances and problems between non-urban and urban Aboriginal Peoples, as well as differences among non-urban Aboriginal communities must be identified if policing responses are to have any meaning or useful effects.

In order to put these conclusions and hypotheses into sharper perspective, the following questions need to be addressed. Who are committing the offences? Who are the victims? How do the police respond to these issues and under what circumstances do the responses take place? And what are the consequences of alternative and variable police responses? In the process of addressing these questions, it will be useful to keep in mind the geographic, demographic, economic, social and cultural factors discussed earlier that frame Aboriginal diversity. These factors contribute to an understanding of the incidence of crime, offence patterns and the environmental constraints on police options for responding to them. In other words, they provide a description of the situations in which the police must function.

An examination of the international criminological literature shows a number of universal characteristics of offenders. They are overwhelmingly single males, between the ages of 15 and 25, and have limited education and skills (Cove, 1992; Clifford, 1978; Hirshi and Gottfredson, 1983; Simon and Sharma, 1979). In addition, a relatively small proportion of offenders often



commit the majority of offences and on a repetitive basis (Bottoms, 1991:14; see also Clairmont, 1992a:35,36).

These observations are confirmed by the results of research among Aboriginal Peoples and communities in Canada which, significantly enough, also show that offences, offender characteristics and the nature of the relationship between offender and victim may vary by community and over time (Auger et al, 1992; Bonta, 1989; Cawsey, 1991:2-47; Clairmont, 1992a; Depew, 1992:470; Finkler, 1985; Hyde, 1992; Jackson, 1988; LaPrairie, 1989, 1991, 1992a; Moyer, 1992; Rasing, 1988). In addition, there is community variation among Aboriginal offenders on the basis of age, sex, marital and occupational status. For example, in some communities most offenders may be older, in others more offenders are married while in still others there may be more offenders who are unemployed (e.g. LaPrairie, 1991:78-87).

Kinship and familiarity frame most offender-victim relationships in many Aboriginal communities, especially Indian reserves and Inuit settlements. These types of relationships may be especially prone to tension, friction and disruption in situations where offenders often live with their parents in over-crowded housing conditions. The criminological study of the Cree communities conducted by Brodeur, LaPrairie and McDonnell (1991) confirms this proposition and provides a useful profile of offender-victim relationships which seems to have general relevance for Aboriginal communities of a similar type elsewhere.

On average, victims tend to be older than offenders and tend to be from the same community in which they are victimized, a fact which reflects the geographic immobility of Aboriginal People in more remote Indian reserves and Inuit settlements. In the Cree study, the aggregate data show that a relationship of kinship or affinity holds in 59% of the cases where a relationship between offender and victim was known<sup>xlvii</sup>. A spousal relationship (23%) dominated followed by a parent/child relationship (19%), siblings (8%) and other close relatives (9%). Significantly, 60% of the assaults reflect a kinship relationship as do 90% of the threats.

There is also a significant correlation between type of offence and kinship relationship. Spouses are involved in more assaults, parents and children in more family disturbances and siblings in threats. However, there may be considerable variation by community. For example, in some communities spouses are more often victims of interpersonal violence while in other communities the victims may be mainly siblings, parents or children. Similarly, there may be more common

assaults in one community compared to another where "getting mad", i.e. spontaneous outbursts of emotion and frustration rather than premeditated offences, predominates. And these may all vary over time and across communities (cf. Auger et al, 1992). In contrast, most property offences occur between "strangers" or when the offender and victim are not closely related by kinship or affinity.

There is also a significant correlation between the victim's age and type of offence committed. Property offences and family disturbances affect older victims (over age 30) while assault and sexual assault affect victims under 25 years of age.

Gender is also an important variable relative to type of offence. For example, 64% of interpersonal victims are female while 63% of property victims are male.

Offender-victim relationships may also vary by community in other ways. For example, more spouses may be victims in one community compared to another where parents and children are more frequently victims. Also, in some communities male victims may predominate while in others females are more frequently victims. In still other communities, victimization may be evenly split between males and females.

Interview data in the Cree study indicate that 66% of victimization issues are interpersonal and 33% are property matters. Significantly, these proportions are more consistent with information contained in police daily reports than they are with official police records which show, misleadingly, a preponderance of property offences.

Victims of interpersonal offences are predominately female and under 25 years of age if they are victims of assault, and over 35 years of age if they are victims of someone (usually a male) "getting mad". In all of these cases, the victim is related to the offender either as a girlfriend, spouse or parent.

Again, alcohol is the most significant factor placing victims at risk whether it be in private homes where most victimization occurs or in public places usually involving male youths in a physical fight.

On the basis of the Cree study and related research, a number of important conclusions may be drawn.

- 1) "Unofficial" statistics (including police daily reports) and community interviews show a preponderance of violent interpersonal offences among kin and affines, although official records often give the false impression that property or other Criminal Code or provincial/territorial statute violations are more common in some Aboriginal communities.
- 2) Although attrition on interpersonal violence, especially assaults against women, is a general feature that affects the nature of police responses to policing problems in Canada (Clairmont, 1992a:31, 1992b:545), the sheer volume of attrition among some Aboriginal communities, in particular Indian reserves and Inuit settlements, separates them from many non-Aboriginal communities and, possibly, from other Aboriginal groups, including Metis and non-status Indians in urban centres.
- 3) The level of interpersonal violence and its kinship/affinal character suggest the misuse and abuse of family relationships and, more generally, certain families in conflict and crisis. No less important, the kinship nature of offender-victim relationships and the context of incidents suggest problems of social disorder rather than crime per se (Clairmont, 1992a:161; Depew, 1992a:471; LaPrairie, 1992a:107). Indeed, when incidents occur, they are usually spontaneous ("explosive") or situational rather than premeditated, and they are usually alcohol-related and repetitive (Clairmont, 1992a:31-50; Depew, 1992:470-471; LaPrairie, 1991; Marenin, 1992; Moyer, 1992:392). Problems of social disorder may be linked to problems of Aboriginal unemployment, income deficiencies, lower education levels, poor housing (and health) conditions, geographic (and social) immobility, and demographic factors that put Aboriginal populations, or more importantly, certain sectors of these populations such as youth (with certain characteristics), at risk in the criminal justice system (Clairmont, 1992a:76; LaPrairie, 1992b, 1994). Together, these factors reveal important aspects of social, political and economic marginality and disadvantage among some but not necessarily all Aboriginal People in different regions and areas of the country, including rural and urban locations (e.g. Griffiths et al, 1987; LaPrairie, 1994).
- 4) Notwithstanding their frequent marginal status, some Aboriginal communities are often reluctant to subject problems of interpersonal violence and social disorder to formal police

processing (particularly as suggested by case attrition and under-reporting of offences by the community and the police). Social and cultural prohibitions on reporting or formally following through on incidents or police charges point to the value and functions of relationships of kinship and affinity (or other social and cultural forms) especially in small scale, more remote Aboriginal communities in dealing with policing problems.

- 5) However, traditional or contemporary kinship-based mechanisms of social control in many Aboriginal communities appear ineffective or inappropriate given the recycling of community policing problems over time (as reflected, for example, in the repetitiveness of offence patterns and rates of crime and disorder in Aboriginal communities).

Some tentative explanations for these latter observations may be advanced at this point. As indicated earlier, some elders or other Aboriginal "authorities", for example, may be the focus of the policing problem (Foulks, 1987:350; Nahanee, 1993:362-363). Or, they may be constrained or restricted from intervening in policing situations by family and clan affiliations, obligations and interests (Clairmont, 1992a:117; LaPrairie, 1991:140, 142; Marenin, 1992:361, 364). In other cases, elders or other respected members of the community may eschew responsibilities for justice matters or simply be overwhelmed by their volume (LaPrairie, 1992a:80, 81). Differing geographical, social and historical circumstances may also affect the traditional role of elders. Off-reserve Aboriginal leaders in Nova Scotia, for example, see little scope for the role of elders in contemporary Indian justice systems (Clairmont, 1992a:136-137). An even more important consideration is the fact that elders or the older generation in general may be seen as neither legitimate nor credible "policing agents" in the eyes of the most frequent offenders, Aboriginal youths and young adults (Harding, 1991:373; LaPrairie, 1991:142; 1992a:93; cf. Clairmont, 1992a:123, 152 note 10). This may relate not only to youth devaluing the status and role of elders but also to the possibility that elders may be or could be more harsh than the existing non-Aboriginal justice system in their treatment of offenders (Clairmont, 1992a:125, 152 note 11).

An even more pressing concern is that Aboriginal women (and children), the usual targets of (sexual) assault and abuse, often find, paradoxically, that traditional forms of social control and conflict resolution are becoming less available through erosion at the same time that offenders appear increasingly to reinterpret and manipulate custom and tradition as forms of rehabilitation or justification for offences and continuing victimization (Billson, 1990:161; Clairmont, 1992a:161; LaPrairie, 1992b; Nahanee, 1993:361,363, 378, note #9; cf. Fiske, 1993:30). Thus, while

traditional practices of shaming and reintegration of the offender into the community may be a desired objective and successful policing strategy in some Aboriginal communities, it may be politically unpalatable or socially and culturally counterproductive in others (cf. LaPrairie, 1992b, 1993, 1994; Nahanee, 1993). Not surprisingly, in some regions of the country interpersonal violent offences and tensions in gender relations are gradually, but perhaps unevenly, being shifted from internal community resolution and containment to the criminal justice system (or to other social services) as Aboriginal women increasingly report violent offences to the police (e.g. Billson, 1990:156-157, 162; LaPrairie, 1991:133; Marenin, 1992:3)<sup>xlviii</sup>, pursue issues of spousal assault in court (Don Clairmont, personal communication) and assert their individual and collective rights before the courts<sup>xlix</sup>.

These facts indicate that certain aspects or elements of Aboriginal culture may not, under certain circumstances or conditions, be relevant or appropriate as response options for certain types of policing problems, needs and objectives.

### **Policing Needs and Police Roles in Aboriginal Communities**

For the police, the diversity of Aboriginal Peoples together with the level of and variation in the nature and extent of crime and disorder in Aboriginal communities and other geographic locations pose unique challenges to service capacity and delivery.

Aboriginal Peoples are in many ways unique in the manner and extent to which they are policed by formal police agencies as well as in the ways they make use of the police. Both factors influence and shape police role definitions, a crucial structural feature of police service organization (Depew, 1992a:466). How the police actually police Aboriginal People tells us something about their own definitions of their role. Similarly, how the police service is used by Aboriginal Peoples also provides some insight into the meaning of the police and policing, as well as what constitutes a policing problem in Aboriginal communities, for whom it is a problem and by whom it should be handled. Furthermore, the nature of Aboriginal use of police services (or non-use) reflects Aboriginal policing needs, concerns and preferences that flow from cultural, kinship, gender, age and victim differences, and provides a measure of the necessity, appropriateness or adequacy of formal police intervention in Aboriginal community relations and affairs.

One of the most consistent observations in the policing literature is that Aboriginal Peoples and their communities appear to be subject to the extremes of over-policing and under-policing (Brodeur, 1991:16-17; Depew, 1986:21-23). Over-policing has been linked to the rigorous enforcement of the law for minor or petty offences such as the excessive use of alcohol and fine defaults, to the high visibility or over-surveillance of Aboriginal Peoples in urban and other areas where they constitute a minority population or where there are higher police/person ratios, to higher rates of Aboriginal "crimes" of social disorder and to the repetitiveness of offenders (which means more offences result in arrests and charges) (Bienvenue and Latiff, 1974; Canadian Corrections Association, 1967; Cawsey, 1991, Vol III:1-25; Clairmont, 1992a:12; Depew, 1986:18-21; 1992a:476, note 4; Hamilton and Sinclair, 1991; LaPrairie, 1992a:37). Under-policing, on the other hand, often occurs in situations where the police are limited or constrained by cultural and other environmental factors that foster reactive, crisis intervention styles of policing that do not necessarily lead to the adequate protection of Aboriginal People from especially serious offences, including violent assaults against family members (Cawsey, 1991:2-6, 2-18,-19; Depew, 1986:29; FSIN Study, 1984:xi; LaPrairie, 1991:163). Significantly, either under-policing or over-policing can result in narrow or inappropriate working definitions of the police role that emphasize crime fighting and law enforcement, a state of affairs that may be inconsistent with the policing needs of Aboriginal communities (Depew, 1992a:472). However, these issues must be examined together with more recent observations on Aboriginal overuse, underuse and misuse of the police if we are to better understand the range of constraints on police role definitions and their relationship to the meaning of police functions in Aboriginal communities.

In their study of policing among 9 Cree communities in Quebec, Brodeur (1991) and LaPrairie (1991) found that community members relied on the Cree police for a wide range of criminal, quasi-criminal, threatening, general service and assistance matters and also made requests for services which have little or nothing to do with crime and disorder issues (e.g. taxi, messenger, babysitting, etc.) and are usually performed elsewhere by other relevant social service agencies. This observation is not unique to the Cree for it has been reported by policing research in other jurisdictions of the country, both on and off reserves (e.g. Finkler, 1976:15; Loree, 1984:21; Singer and Moyer, 1981:20).

This is an important observation since the use of the police as a general social service agency reflects not only a broad conceptualization of the police role and function but also a number of

other crucial conditions of Aboriginal community life. First, it points to inadequate resources in communities to mount and sustain more appropriate social service institutions and facilities (e.g. transportation facilities, day-care services, social centres for battered Aboriginal women, detoxification centres etc). And second, it is testimony to the inadequate information and misinformation about the role and functions of the police in particular and the justice system in general in the community and in society (e.g. Clairmont, 1992a:10-11, 137; LaPrairie, 1991:127-129; 1992a:132).

It has also been generally noted that police are often, if not invariably in some Aboriginal communities, limited to crisis intervention where they are brought in on an ad hoc basis to deal with and defuse, but not necessarily resolve over the longer term, interpersonal conflicts, especially domestic conflicts. Thus, to a much greater extent in Aboriginal than non-Aboriginal communities, the police are called upon to mediate disputes and conflicts within families and to regulate and re-order family relationships. These forms of informal intervention, however, also appear to be largely unsuccessful over the long term in many cases.

Significantly, there are distinct gender differences in the use of the police in these contexts. In the Cree study noted above, Aboriginal women, especially as victims and complainants, report more of the interpersonal offences, including assaults, "getting mad", fighting, family disturbances and unlawful entries (cf. Clairmont, 1992a:53,63; Marenin, 1992:350). In contrast, Aboriginal men tend to rely on the police with respect to property offences, alcohol abuse (drunk driving), public disturbances and alcohol by-law offences. In so far as these differences relate to different "policing" needs, they may say more about power relations between the sexes and forced dependency on the police, especially for Aboriginal women, than they do about police service preferences by gender (but see Clairmont, 1992a:161; Depew, 1986:109). Equally important, the disproportionate victimization of women and high levels of interpersonal offences point to dysfunctional relationships between Aboriginal men and women that may speak more to social and community development issues than to strictly policing problems per se.

In other Aboriginal communities with available and accessible police services, other types of policing issues may rarely, if ever, surface as a subject for formal police processing. This applies, for example, to transgressions by community members of practices, customs and rules relating to subsistence activities and lands and resources in general (Auger et al, 1992:326-327). These matters are usually regarded as internal to the community and subject to its control mechanisms<sup>1</sup>.

Similarly, the police are often underused with regard to the protection of Aboriginal women and children from assault and repeated victimization. In the case of band by-laws passed pursuant to the Indian Act, enforcement is sometimes sporadic or simply non-existent (Cawsey, 1991; Clairmont, 1992a:77,162; Hamilton and Sinclair, 1991; LaPrairie, 1992a). Finally, many communities appear divided over or uncertain about the role of the police relative to the role of the community in addressing criminal, civil and other justice concerns at the community level, and this may account for aspects of uneven policing across communities (Auger et al, 1992:332-336; Brodeur, 1991; LaPrairie, 1991, 1992a). Together, these facts raise a number of important considerations regarding policing needs and police roles in Aboriginal communities.

First, they direct attention to expanded concepts of policing and law enforcement in Aboriginal communities where police roles are required to be multi-purpose and oriented in new directions (e.g. policing issues in relation to Aboriginal lands and resources). Given community variation over space and time on a number of policing dimensions, Aboriginal requirements also entail flexibility in police role definitions and functions: they may be more narrowly or more broadly defined depending on place and time, and they may vary from formal to more informal styles. At this level of analysis, flexibility in police roles and functions can better accommodate variation and change across Aboriginal communities, even in culturally and linguistically homogeneous areas, with respect to variable and changing definitions of crime and disorder. This is an important point for the order which one Aboriginal community may wish the police to reproduce may be different from the order which police reproduce elsewhere (LaPrairie and Diamond, 1992), or it may change with changing community circumstances.

Second, it is clear that the greatest dilemma for police role definitions and functions lies in the area of interpersonal offences, an area where Aboriginal policing needs appear to be the greatest. But it is also in this area that police service is most limited and, in some cases, appears to be limited to the point of under-functioning.

The largely reactive, crisis intervention style of Aboriginal policing may be traced to the social and cultural situations the police and the community (i.e. victims and complainants) often find themselves in. For interpersonal violence is an area where formal police intervention appears least desired by Aboriginal People but where informal alternatives emanating from the police or the community are least likely, viable or effective.



Community reporting of and police response to interpersonal violence seems to occur when the thresholds of community mechanisms of social control are exceeded<sup>li</sup> or when prohibitions on formal police intervention are simply overridden by "acts of near desperation or defiance" especially on the part of Aboriginal women (Clairmont, 1992a:49; Marenin, 1992:350). However, police role ambiguity as well as status incongruency in role performance (e.g. conflicts of interest) emerge when violent offences, which are subject to law enforcement and the performance of the law enforcement role<sup>lii</sup> (i.e. formal criminal justice processing), are dealt with informally by the police, usually under the pressure and constraints of community kinship structures<sup>liii</sup>. The police are further limited in the performance of their law enforcement role by the consequences of formal intervention, especially in small scale Aboriginal communities. More often than not, formal intervention may lead to an escalation of conflict or a recycling of the problem within the community, followed by further crisis intervention or ignoring the problem altogether. These situations can lead to uneven or inconsistent role performance and further confusion over working definitions of the police. Beyond this, they can undermine the credibility and legitimacy of the police in the community since the police appear unable (and, in fact, are rarely able) to "fix" community problems of a family and social nature.

Third, the plurality of opinions and values in Aboriginal communities regarding the appropriate role of the police or the division of labour between the police and the community create further problems for a consensus on police role definitions and, therefore, problems in clearly defining a police mandate or what the police should do. No less important, they draw attention to various interest groups with uneven capacities to influence and shape such definitions. And herein lies another pressing need in many Aboriginal communities: that policing be objective, fair, impartial and culturally-informed if it is not to become simply an extension and instrument of existing or emerging power relations and arrangements in and across Aboriginal communities (e.g. Clairmont, 1992a:125, 127)<sup>liv</sup>.

How well these considerations are or can be accommodated by various policing models and programs currently available to Aboriginal Peoples is the topic of the next section.

## **Summary**

The Canadian Charter of Rights and Freedoms and Canadian criminal law promote principles of equality, equity and cultural relativism that are intended to ensure and facilitate access to

adequate, appropriate and culturally relevant policing services for Aboriginal Peoples. Nevertheless, these principles are not always or easily translated into practice. Furthermore, despite their constitutional and legislative pre-eminence, the range and legitimacy of federal and provincial authorities over Aboriginal policing are not always clear and are frequently debated and contested by Aboriginal Peoples and by non-Aboriginal governments on jurisdictional, financial and other practical grounds, including those involving program and service delivery.

These issues are accentuated and complicated by the demographic and geographic diversity of Aboriginal Peoples and their communities. While most Aboriginal Peoples live in small-scale rural and remote communities, a significant and increasing number, especially Metis and non-status Indians, are located in urban areas. The diversity of geographical circumstances points to a corresponding demographic diversity in which majority or homogeneous Aboriginal populations are usually found in rural and remote settings, while demographically heterogeneous populations where Aboriginal Peoples are usually but not always in a minority situation, tend to be in more urbanized locations. Together, the factors of geography and demography, including settlement and mobility patterns, strongly influence the extent to which policing problems may be dealt with by Aboriginal communities on a more informal basis or handled by the formal criminal justice system.

Demography is also an important factor in determining the extent to which any population is at risk in the criminal justice system. The disproportionate number of Aboriginal youth, particularly those 15-24 years of age, increases the likelihood of Aboriginal involvement in the criminal justice system. The risk will likely increase disproportionately for Aboriginal Peoples as this sector of the Aboriginal population grows at a rate faster than that of comparable non-Aboriginal age groups over the next two decades. However, there are significant differences and variation among Aboriginal communities on this dimension, so the risk attributed to demography alone is not equal for all Aboriginal groups.

At the same time, the risk of Aboriginal Peoples' involvement in the criminal justice system is a systemic issue. Despite differences and variation in absolute population increases for Aboriginal youth, for example, general increases in the Aboriginal population place additional demands and pressures on an already inadequate housing situation. Overcrowded housing affects many Aboriginal Peoples and contributes to tensions in kinship relationships and social interaction that may in turn be linked to interpersonal problems, conflicts and violence. Particularly for those

Aboriginal Peoples in the group 15-24 years of age, problems of overcrowding may be compounded by problems of low education levels and limited skills, uneven or minimal employment opportunities, meagre or irregular incomes and welfare dependency, and idleness. These factors are linked to crime and disorder, increased contact with the police and greater involvement in the criminal justice system. But again, they can vary by community, by age, by gender, and by family groups within communities. Consequently, the vulnerability of Aboriginal Peoples to the criminal justice system also varies on the basis of these types of factors.

These environmental factors also increase the vulnerability of Aboriginal Peoples to criminal justice processing to a much greater degree than that experienced by non-Aboriginal Canadians. Conceptualized as structural factors, they place the discussion of Aboriginal justice and policing within mainstream justice issues. There is another important consideration, however. The place of Aboriginal culture in the policing enterprise is significant but requires a far more sophisticated and critical analysis than what is usually offered in the criminal justice and policing literature.

Much of the justice literature has been fixated on distinctions of Aboriginal language and worldview as a basis and justification for new approaches to Aboriginal justice and policing. However, appeal to a broader research literature does not support the conventional wisdom that language and cosmology are the crucial source of conceptual and cultural differences between Aboriginal and non-Aboriginal Canadians in the areas of justice and policing. This discussion indicates that Whorfian, essentialist or other predetermined views on language, thought and culture are difficult to sustain as matters of theory or fact and, more importantly, that they overlook the significance of contextualizing the relevance of culture for Aboriginal policing. Thus, it is argued that unique forms of social interaction, including linguistic and non-linguistic cultural practices, within Aboriginal communities and between Aboriginal communities and the police, are the appropriate and fruitful theoretical and practical focus for a consideration of Aboriginal policing. It is in this context that it is appropriate and scientifically meaningful to speak of culture differences and their relationship to policing.

A focus on social interaction draws attention to the status and relevance of customary law for Aboriginal policing. As representative of moral and social forms of interaction, customary law highlights the influence of relatives, friends and neighbours in the policing process, and the value and functions of kinship and affinity for policing, especially in small-scale and more remote

Aboriginal communities. Yet, there is a certain ambiguity about customary law in contemporary Aboriginal communities. Social change and modernization have resulted in far more complex role relationships and interaction between the generations, between the sexes and between family groups than is generally acknowledged and which, to some extent, have adversely affected and eroded informal community control mechanisms embedded in customary law and traditional practices. This raises the important issue of how social and moral precepts might be reconstructed, incorporated and used for the purposes of policing Aboriginal communities, and how they would relate to the crucial issues of responsibility and accountability for legitimate police programs and services.

Complex and often unique patterns of crime and disorder in Aboriginal communities tend to be reflected in the erosion of customary law, although this can vary by community and change over time for any given community. Consistently, Aboriginal policing problems are more social than strictly "criminal" in nature. At the same time, however, considerable concern is registered especially with respect to high levels of interpersonal violence among kin and spouses, and serious victimization of Aboriginal women, children and the elderly. These patterns pose a dilemma for appropriate and effective police response options since the police mandate is usually more criminally than socially oriented while Aboriginal police practice in particular is influenced, if not determined by, ambiguous, inappropriate, conflicting or contradictory demands for service. This often results in minimizing formal police processing while exercising informal, but often ineffective, intervention strategies. These facts indicate that in Aboriginal communities, policing needs and roles are broadly conceptualized and dynamic, but narrowly addressed given inadequate policing options and resources.



## **2.0 MODELS OF ABORIGINAL POLICING**

### **Conventional Models of Aboriginal Policing**

Stenning (1992:19-34) makes an important observation concerning the development of Aboriginal policing models in Canada. Examining the history of police organizations in Great Britain and their influence in shaping policing throughout the old British Empire, he outlines a significant distinction between two basic models which hinges on the nature of responsibility and accountability for the police.

The first model of policing, generally and historically known as the "London Met", has provided an organizational charter for municipal and regional policing in Canada. The key organizing principle of this model is the notion of "local responsibility fulfilled through locally-controlled institutions". Generally speaking, in rural settings, the "London Met" model has evolved as an integral part of the community it serves. As Murphy (1991:334-336) has noted, the corresponding form of police organization has a number of distinctive features or characteristics: it usually has a simple, decentralized management and control structure and a reactive, discretionary and informal policing style which emphasizes order maintenance. Not surprisingly, these police departments continue to show low arrest and charge rates (Murphy, 1991:337). In summary, the main orientation of the police under a non-urban or rural variant of the "London Met" model is that of peace-keeping which, together with a reactive, responsive and informal operational style, reflect the organization and structure of the small-scale communities of which they are a part and, to some extent, a product.

It is important to note at this point that in smaller municipalities or rural settings, police practice and the style of policing under the "London Met" model is remarkably similar to the principles of a "peace-keeper force" that many Aboriginal leaders and communities wish to establish, or may have already established (see, for example, Cawsey, 1991; Clark, 1989; Hamilton and Sinclair, 1991; Mohawk Council of Kahnawake, 1989). As an organizational form and style of policing, the operation of this model in small-scale or rural municipalities is consistent, to some extent, with the predominately small-scale nature of most Aboriginal communities in Canada. On the basis of these criteria then, the rural or small-scale variant of the "London Met" model would seem to be less foreign to the policing preferences, aspirations and cultural orientations of Aboriginal Peoples than many commentators on Western models of policing either recognize or acknowledge.

The difficulty here may be traced to a failure to distinguish between two Western models of policing and, consequently, to incorrectly lump them together as if there was only one type to consider. In fact, most critical attention has been focused on a very different model of Western policing which occupies a unique position in the history of policing indigenous peoples of Canada and other former British colonies. This model finds its prototype in the Royal Irish Constabulary (RIC). In contrast to the ruralized "London Met" model's more informal organization and operational style, the "RIC" model is characterized, above all else, by a military-type organization, a formal policing style of intervention and law enforcement and a centralized management and control structure.

Significantly, while large urban and regional police forces in Canada may be based on organizing principles characteristic of the "London Met" model, they usually share many of the organizational characteristics of the "RIC" model (e.g. Depew, 1992a). But the "RIC" model is unique in so far as it is centrally organized and controlled with authority, responsibility and accountability for policing located at the level of cabinet ministers. Consequently, there is little scope for the "RIC" model of policing to be a part of the community it serves, and little scope for its legitimation in direct community terms.

It is also often overlooked by many commentators that the "RIC" model has more in common with the "police as an arm of the state" hypothesis (e.g. Brodeur, 1991:8; Ratner and McMullan, 1987; Robinson and Scaglione, 1987) than does the "London Met" model, particularly in terms of the latter's non-urban, rural and smaller-scale variants. It is not surprising, therefore, that the "RIC" model has been inherited in various forms by federal and provincial police forces such as the RCMP, OPP and SQ. But the crucial point to be made is that this model, rather than small-scale, non-urban variants of the "London Met" model or models of "policing" specific to Aboriginal communities, has been generally applied by federal and provincial police forces to the policing of Aboriginal Peoples, including those in both rural and remote small-scale communities.

Why this should be so, historically, is not difficult to comprehend considering the role of the RCMP and other colonially-administered police in the colonization, "pacification" and administration of Aboriginal populations (Depew, 1986:26; Haveman et al, 1984; Haveman, 1987; Smith, 1993; Stenning, 1992:35). Why this remains so today is due, in part, to the legacy of government management and control of Aboriginal populations, especially on the basis of constitutional,

legislative and policy precedents, and certain administrative practices (Harding, 1991:370; Pratt, n.d.:30-35; Smith, 1993). Federal and provincial control and management of Aboriginal policing has also been facilitated by the way(s) in which Aboriginal policing issues have been conceptualized, rationalized and politicized by both non-Aboriginal authorities and commentators and by some Aboriginal People themselves.

In this context, LaPrairie (1990, 1992c) has argued that most investigation and commentary on Aboriginal criminal justice issues over the last 20 years begins with the over-representation of Aboriginal Peoples in the country's correctional institutions. This is no less true for the topic of Aboriginal policing which has been dealt with in terms of a number of assumptions that flow from inferences about over-representation and its relationship to conventional models of Aboriginal policing.

For example, as a matter of theory and observation, it is generally assumed and argued that:

- 1) the criminal justice system in general and the police in particular over-process or process differently Aboriginal offenders as compared to non-Aboriginal offenders and with more severe consequences such as over-representation (e.g. Jackson, 1988, 1992; Morse and Lock, 1988);
- 2) the police discriminate against Aboriginal offenders and Aboriginal People in general as a result of individual racist attitudes and practices or as a result of systemic discrimination (e.g. Cawsey, 1991; Clark, 1989; Hamilton and Sinclair, 1991; Hickman et al, 1989)<sup>iv</sup>; and
- 3) Western or Euro-Canadian forms of policing are foreign to or culturally incompatible with Aboriginal forms of "policing" and social control.

This conceptualization of Aboriginal policing issues is then rationalized at the level of government policy where it is generally assumed that:

- 1) "culture conflict" is the main impediment to effective and efficient policing of Aboriginal Peoples and their communities by non-Aboriginals;



- 2) indigenization of conventional federal and provincial police forces through the involvement of Aboriginal People in formal policing leads to culturally-sensitive and more appropriate policing of Aboriginal Peoples and, therefore, serves to bridge cultural differences between Aboriginal and non-Aboriginal societies; and
- 3) cross-cultural training for non-Aboriginal police officers can improve police attitudes and practices towards Aboriginal Peoples and provide a corrective to the misuse or abuse of police discretionary powers.

For federal and provincial government officials, this policy position and orientation is somewhat insulated from further scrutiny by assuming, as a matter of research and evaluation, that:

- 1) for the most part, past data bases, methods of inquiry and conceptualizations are sufficient to understand the nature and scope of Aboriginal policing problems; and
- 2) Aboriginal policing problems are well-known and can be effectively addressed through the improvement (where necessary) and implementation of existing police programs for Aboriginal Peoples and their communities.

To what extent are these conceptual, policy and research assumptions consistent with Aboriginal policing realities? How well do conventional Aboriginal policing models and programs apply to these realities?

### **Police Programs and Service Delivery for Aboriginal Peoples**

Policing services for Aboriginal Peoples and their communities are largely provided by non-Aboriginal police officers in their capacity as the regular provincial, territorial or federal police service. According to statistics for 1987/88, an estimated 137 Indian bands (23%) were policed exclusively by non-Aboriginal police officers (Task Force Report, 1990). Similarly, most Aboriginal People in urban areas are policed by non-Aboriginal officers (Cawsey, 1991; Clairmont, 1992a; Clark, 1989; Hamilton and Sinclair, 1991). Figures for 1987/88 also indicate that 708 Aboriginal

Constables or police officers were employed by a variety of police programs across the country (Task Force Report, 1990:52).

As Jarvis (1992:1) notes, there are three types of Aboriginal police programs and services in Canada today which include:

- specialized units that have been developed with the regular, non-Aboriginal police force to serve Aboriginal communities;
- Aboriginal policing services with limited jurisdiction that are operated by Aboriginal communities; and
- "autonomous" Aboriginal police services<sup>lvi</sup>.

Within this framework, 5 basic program options have been developed and made available to Aboriginal communities. These programs include:

- an Aboriginal Constable component or contingent within the O.P.P, S.Q. and the RCMP as the provincial, territorial or federal police force<sup>lvii</sup>;
- Band Constables appointed by Indian Band Councils under the authority of "Circular No.55" (a policing initiative of the federal Department of Indian Affairs) and usually exercising restricted jurisdiction on Indian reserve lands<sup>lviii</sup>;
- an Aboriginal-administered police service organized at the Indian band, tribal council or regional level<sup>lix</sup>;
- police services purchased from a municipal police force that may also employ Aboriginal police officers<sup>lx</sup>; and
- police services from the regular provincial or territorial non-Aboriginal police<sup>lxi</sup>.

One of the main difficulties in assessing the extent to which these police programs have met the policing needs of Aboriginal Peoples and their communities is that most evaluation studies have had so little of importance to say about this crucial issue. From the initial conceptualization of the

problem which is focused on Aboriginal over-representation and its relationship to policing, to research designs which have been plagued by methodological problems, evaluation research in the past has been inconclusive or has reported ambiguous results (Clairmont, 1992a:11; Depew, 1986:40-72, 148-158; LaPrairie, 1990:431). Yet, ironically, these studies have contributed to the development of Aboriginal policing policy. Indeed, only recently have community-focused approaches to Aboriginal policing research started to yield some more useful insights and results for the purposes of policy and program development.

This point of departure has been facilitated by a more critical commentary on the conceptualization and facts of Aboriginal over-representation. Closer examination of the measures of over-representation of indigenous peoples in the correctional systems of Canada and Australia suggest that such factors as demography (age), gender (male), education, employment and income are far more important explanatory variables than Aboriginal "culture" or "culture conflict" between Aboriginal and non-Aboriginal groups (Bonta, 1989; Cove, 1992; LaPrairie, 1990, 1992c; cf. Hamilton and Sinclair, 1991:91-94, 107). Furthermore, the facts of over-representation (i.e. correctional data) indicate that status Indians living in the inner core of cities, especially those in Western Canada, are most vulnerable to police processing and are overwhelmingly incarcerated in correctional institutions compared to other Aboriginal groups (LaPrairie, 1992c, 1994).

Not surprisingly then, Aboriginal police programs have not accomplished what they are apparently designed to do since the initial conceptualization of the policing problem as one of "culture conflict" is far too narrow to serve as a realistic policy assumption. The evidence shows that Aboriginal incarceration rates have not been significantly improved and Aboriginal involvement in the criminal justice system has not been significantly reduced since the introduction of culturally-sensitive police programming. Many Aboriginal Peoples are also dissatisfied and concerned with the quality of life in their communities, including security and order. This suggests that Aboriginal policing problems and needs are neither fully documented nor well understood by policing authorities. Similarly, many Aboriginal Peoples are dissatisfied with (the quality of) police-community relationships. This problem appears to be less a matter of alleged police discrimination or cultural incompatibilities and more a question of control, including responsibility and accountability for policing and the issue of legitimacy of the police at the community level (Canadian Centre for Justice Statistics, 1991a; Clairmont, 1992a:69; Hamilton and Sinclair,

1991:87-88; Clark, 1989:29-30; Hyde, 1992; Jackson, 1988:2-3; LaPrairie, 1990:429; 1991:60-76; 1992c; LaPrairie and Diamond, 1992:432, note 2; Task Force Report, 1990:3-4)<sup>lxii</sup>.

These data and issues suggest a rather tenuous connection between over-representation as it is usually conceptualized and "culture conflict" as it is usually understood and discussed in the context of indigenization of the police. Granted, the anecdotal evidence indicates that both real and perceived racism with regard to police attitudes and practices is a concern of many Aboriginal Peoples (e.g. Clairmont, 1992a; Elliot, 1989:16-17; Hamilton and Sinclair, 1991) and should be researched systematically (Zatz, 1987)<sup>lxiii</sup>. But "culture conflict" is a far more complex issue than is generally recognized and understood.

Conceived as a problem with a police officer's knowledge of an Aboriginal language or inability to perform a set of culturally-informed interaction skills, indigenization of the police speaks more to the policing needs of the criminal justice system than it does to the policing needs of Aboriginal communities (Cove, 1988)<sup>lxiv</sup>. Furthermore, substituting Aboriginal police for non-Aboriginal police within existing police structures has little impact on policing problems, especially in small scale rural and remote Aboriginal communities. Hyde (1992), for example, has shown that while the status and role of the Amerindian police in Quebec is similar (i.e. "culture" is controlled for), crime and social disorder problems in Aboriginal communities are not only high (especially for interpersonal violence), but alternate and fluctuate over time. LaPrairie (1992a; cf. LaPrairie and Diamond, 1992:420) in her detailed study of selected Cree communities in Quebec has also shown that the impact of the formal policing system is very limited because community kinship and cultural structures insulate more serious policing problems, such as interpersonal violence, from formal police intervention as it now exists. As LaPrairie and Diamond (1992) suggest, this may have more to do with "owning" policing problems and control over policing at the local level than with "culture conflict" per se.

The key issue, it seems, does not lie so much with the psychological aspects of police role performance - a fundamental aspect of cross-cultural training - as it does with the structural aspects of the police role itself<sup>lxv</sup>. A multi-purpose and flexible role refers to a structural requirement of the police service which, in the Aboriginal situation, is influenced and given significant and variable definitions by the diverse communities being policed (Auger et al, 1992; Brodeur, 1991; LaPrairie, 1991, 1992a). What has been overlooked until very recently is that in the Aboriginal context, the "RIC" or crime control model of policing does not, and for many

Aboriginal communities manifestly cannot, change the structure of interaction within communities or between the police and the community. This is so because it is neither a part nor a product of community interaction and because it restricts police/community interaction. On the other hand, the interaction it does foster is usually far too narrow or ambiguous to be effective, appropriate or meaningful for communities (see Brodeur, 1991; Clairmont, 1992a; Depew, 1992a; Van Dyke and Jamont, 1980). In other words, conventional, "RIC" models of Aboriginal policing are often not appropriate or effective in dealing with social disorder problems and are generally inconsistent with the cultural and community structures, processes and contexts in which they are produced and reproduced. In this context, small-scale, non-urban variants of the "London Met" policing model, or perhaps alternative but as yet undetermined "Aboriginal policing models", would seem to have far more in common with the structural parameters and requisites of Aboriginal policing in so far as they are or promise to be more a part and product of the nature of community life itself. However, as Stenning (1992:36) notes, Aboriginal Peoples have been exposed mainly to the "RIC" concept and model which underlies most RCMP, O.P.P and S.Q. Aboriginal policing programs. The "London Met" or other alternative concepts and models of policing have remained relatively, if not completely, unfamiliar, foreign, "alien" or dormant for most Aboriginal Peoples. It would appear then that conventional models of policing currently available to Aboriginal Peoples through federal or provincial programs, and to a considerable extent through non-Aboriginal municipal policing (e.g. Clairmont, 1992a; Clark, 1989) are far too limited structurally and psychologically to meet the variable and changing policing needs of many diverse Aboriginal communities.

### **Alternative Models of Aboriginal Policing**

As Aboriginal Peoples move towards self government, the prospects for change in Aboriginal policing arrangements become more realistic and perhaps inevitable. In some cases, the move towards distinctive Aboriginal justice "systems" seems irreversible. For example, in some communities and regions, Aboriginal Peoples are or will be the beneficiaries of land claim agreements which either directly or indirectly commit the federal and affected provincial or territorial governments to negotiating self government and corresponding justice arrangements<sup>lxvi</sup>.

A model self government agreement initialled by the Council for Yukon Indians and each of the First Nations participating in the process, are expected to negotiate self government agreements, some of which will likely have provisions for administration of justice and policing (see LaPrairie, 1992a:22-23). Elsewhere, some Indian First Nations are in the process of negotiating new

legislative arrangements for self government under the federal government's community-based self government negotiations policy, established in 1986. Many of these communities, consisting of either a single band (e.g. Siksika in Alberta and Sioux Valley in Manitoba) or several bands in tribal councils or other associations (e.g. Meadow Lake in Saskatchewan and the Gitksan-Wet'suwet'en in British Columbia), have included policing as a subject for negotiation and/or have proposed research and pilot projects on policing as integral components in the development and implementation of self government institutions. Still other Aboriginal communities, such as the Blood Band in Alberta and Kahnawake in Quebec operate "autonomous" police services for their communities.

While there may be differences among Aboriginal communities in terms of what Aboriginal policing means to them, there is little doubt that it is seen as a desirable political goal by both Aboriginal and non-Aboriginal governments alike. However, until the broader issue of Aboriginal self government is resolved in the constitutional or legislative forum, Aboriginal policing issues among status Indians and Inuit will continue to be addressed, at least as a funding issue for most, in the context of the 1991 federal Indian policing policy (Stenning, 1992:148). Significantly, one of the premises of this policy is to provide support to Aboriginal communities to "take charge of their own affairs" and to encourage self reliance, a premise that is also the hallmark of the federal government's Native Agenda, a much broader policy initiative launched in the House of Commons by the Prime Minister in September of 1991.

The desire to participate in both the development and operation of policing institutions and services has been articulated by Aboriginal People in conferences, research reports and justice inquiries, both provincial and federal. At the root of this is the belief on the part of Aboriginal People that long-lasting solutions to policing problems are grounded in the people and the communities themselves. Obviously, Aboriginal self government offers the greatest scope for community involvement in policing. This is so not simply because it is the most promising - although not the only - avenue for change in existing arrangements, but because it promises a coherent and comprehensive foundation for community governmental structure, decision-making and law-making authority, all of which are prerequisites for the development, implementation and operation of truly autonomous, comprehensive Aboriginal police forces. It is this process of altering the structures of political (as well as economic, social and cultural) integration within the wider Canadian society that constitutes the broader challenge to Aboriginal policing.

Current trends in policing in general emphasize greater community involvement in the responsibility for policing, more police accountability to the public and more concentration on crime prevention. Furthermore, the legitimacy of conventional approaches to Aboriginal policing is increasingly being called into question, not only by Aboriginal Peoples, but also by non-Aboriginals who work within the system and who realize that the conventional approaches are not working, at least in terms of what was initially expected or hoped for. This trend and general critique has not been lost on the various Aboriginal justice inquiries across Canada, some of which strongly advocate a community-based approach to Aboriginal policing. Nor has it escaped the agenda of government departments responsible for Aboriginal policing<sup>lxvii</sup>. Indeed, the high profile accorded Aboriginal justice and policing issues in the last few years reflects a more general political climate where Aboriginal expectations and demands for action should not be underestimated<sup>lxviii</sup>. Neither should the need for careful consideration of alternatives to conventional approaches be overlooked if Aboriginal policing objectives are to achieve focus and clarity and police programs and services are to be designed for success.

### **Community-Based Policing: Concepts, Principles and Practice**

Over the past 10 years or so, criticism of the crime control model of policing (e.g. the "RIC" model)<sup>lxix</sup> in Canada has shifted attention away from attempts to reform conventional models of policing towards more broadly conceived and, in some ways, more innovative community-based concepts and models of policing. It would not be overemphasizing the point to note that there has also been a veritable rush to embrace models of community-based policing, so much so that their reputation has often preceded well-informed discussion and assessment of their nature and potential, particularly for Aboriginal communities (Clairmont, 1991:472; Depew, 1986, 1992a; Griffiths and Yerbury, 1984; Griffiths, 1988). As Clairmont (1991:469-470) rightly observes, while community-based policing has become the dominant ideology in police reform in Canada, it can be argued that only two police departments in Canada, Halifax and Halton Regional police, have actually made a commitment to the model and restructured their departments on the basis of the concept and its principles (see Clairmont, 1992a:79, 100 note 12, for a discussion of the Halifax Police Department's village constable program and its relationship to Aboriginal policing). Therefore, before proceeding with an assessment of the model's potential for application in the Aboriginal context, it will be necessary to first, review the concepts and principles that underlay the community-based model and, second, to examine the available evaluative literature in order to get a grasp of the implementation issues involved and how well the model actually works.

As a concept and philosophy, community-based policing is an organizational and service delivery initiative that is designed to address and solve underlying community problems rather than rely exclusively on reactive responses to specific incidents or calls for service. Thus, the daily work of the police includes, to a considerable extent, the investigation of problems and incidents in the community. What constitutes a policing problem or what constitutes a threat to community order and security depends on how problems are defined by a significant body of community public opinion. This problem-oriented style of interaction with the community and the offender focuses on a need to examine and, where appropriate and feasible, change the underlying community context of offender behaviour. Strategically then, the police adopt a pro-active and preventive style of policing where the treatment and control of individual and community policing problems takes precedence over the detection of incidents and the apprehension of offenders. This suggests a more "holistic" approach to policing in so far as the duties, responsibilities and activities of the police become part of or integrated with public and social process, including other social institutions. Put another way, the police participate in the rhythm of everyday community life in a way that parallels the more informal aspects of policing under the "London Met" model or the nature of traditional "policing" in Aboriginal society. Indeed, community-based policing rests more on active public support and input from community members and institutions than on the more one-sided exercise of police authority characteristic of the crime control model. In this context, community-based policing is also a strategy for improving police-community relations.

The principles of organization and service delivery under a community-based model of policing may be described as follows:

- 1) The first principle entails a broadening of the police mandate to act in a general capacity as community problem solvers. The police assume an expanded, multi-purpose role in the community which includes functions commonly found among institutions and agencies within the criminal justice system (e.g. probation and parole) and outside the system (e.g. social work).
- 2) In concert with a multi-purpose role, the police develop and practice pro-active policing strategies but not to the exclusion of reactive policing which appears to be a given in any policing environment.



- 3) A pro-active strategy provides the foundation for a partnership and interdependency between the police and the community that involves more input from community members and other local agencies and institutions in the task of solving community policing problems.
- 4) Consequently, police organizations are decentralized in terms of management and operational structures that focus on local policing needs and their variation over space and time. In this context, decision-making is negotiated between the police and the community and the community exercises greater influence on police planning and priorities as well as police accountability to the public.
- 5) In general, the police engage in "soft policing" where physical force and coercion are either avoided or seen as an option of last resort.
- 6) Finally, the hierarchical, para-military bureaucracy of the police is replaced by a more "horizontal" organizational structure that enhances the status of uniformed police officers, especially in terms of their participation in the decision-making process and the quality of their role in the organization and in the community (i.e. more enriched and autonomous).

A cursory survey of the policing literature on Aboriginal Peoples in Canada can give the impression that community-based policing is operating at the reserve level and is operating well (e.g. Clark, 1989:35, 37; Griffiths, 1988; Hamilton and Sinclair, 1991:599, 616; Mohawk Council of Kahnawake, 1989:15-17). While Aboriginal police may be operating within the boundaries of the community and practicing community-based types of initiatives<sup>lxx</sup>, they do not involve comprehensive or fully integrated and developed arrangements for community-based policing services.

This state of affairs parallels Clairmont's (1991) observation that the organization and implementation of community-based policing in Canadian society in general has been extremely limited and incomplete. In addition, the research literature on implementation and impact (i.e. the literature that examines the relationship between the police and the community) appears to contain mainly anecdotal data, few positive research findings, and largely empirically untested propositions (Murphy, 1988:407). This may be traced, as Clairmont (1991:470) suggests, to the

fact that "...it is usually unclear exactly what was implemented" or what was being tested. These difficulties are particularly noticeable in urban areas where the concepts of community, public order and community consensus are notoriously difficult to define and operationalize (Murphy, 1988:408). What exactly then do we know about community-based policing as a working model of police organization and service, and its relationship to the communities being policed?

Most of the evaluative research that does shed some light on this question has focused on non-Aboriginal policing initiatives in Canada and the United States. Brodeur (1991:105) has summarized the research results which he adds are also controversial. The four major findings appear to be the following:

- 1) Similar to conventional crime control models of policing, community-based policing does not appear to have much effect on serious crime rates. Brodeur (1991:105) elaborates on this point when he argues that the effects of crime control and community-based policing are greater in shaping public beliefs than in actually solving crime control problems. In addition, Clairmont (1991:478) found that a community-based approach to policing in Halifax had negligible effects on response times, traffic ticket production, clearance-by-charge rates for break and enter and auto theft.
- 2) Although community-based policing generally appears to diminish fear in the community and related feelings of insecurity (cf. Clairmont, 1991), some research (e.g. Rosenbaum, 1988) suggests that it may have the opposite effect and increase levels of fear in the community.
- 3) Skogan (1990:93) suggests that community-based policing is most relevant and effective for the policing of disorder, including public drinking, as well as idleness among youths, public disturbances and harassments.
- 4) The public image of and satisfaction with the police appears to improve in the sense that a more positive relationship is developed between the police and the community. In addition, the police officer's view of the community in general tends to change from a negative to a more positive image.

Other studies have examined implementation issues within the police organization itself. The most common findings center on the demands of organizational adjustments and individual police officer or sub-culture resistance to redefinitions of the police role as multi-purpose. Potentially greater workloads, scepticism among the rank and file over greater participation in departmental decision-making and the general trends of structural differentiation and role specialization in modernizing (or post-modern) societies have all been noted to have a significant influence on prospects for implementation which are not always promising (Clairmont, 1991:476-479; Crook, 1970).

In addition, there appears to be questionable political, administrative and operational support from top management that is otherwise necessary to run a police organization. Such infrastructural considerations as shift scheduling have emerged as concerns for administrators and police officers alike (Clairmont, 1991:477). Research also indicates that police constables, who are judged to be superior by their peers and management, may sometimes be willing to accept a broader police role but at the same time be reluctant to engage in pro-active policing whether this be crime prevention, public education or community problem solving (Clairmont, 1990; 1991:477).

Nor is it clear that pro-active policing is always an appropriate policing priority for the police or the public. Most police work involves dealing with calls for service and public expectations of reactive policing are a fact of the policing environment. As Clairmont (1991:477) suggests, "There may be political problems of adjusting the demands of the public and of special more powerful interests".

There are also significant gaps in the literature concerning the nature of the links between the police and the community that do get established, under what circumstances this occurs, and how they are sustained or developed (Clairmont, 1991:478). No less important are a number of unanswered questions for management to ponder should adjustments be required, including the consequences for information flow of downsizing, if not eliminating, specialist units that already exist in many police departments, especially those in urban areas (ibid).

Finally, one of the most important considerations in the research literature is that of police governance. Perhaps to an even greater extent than conventional models of policing, community-based policing is exposed to the risks of increased police intrusion into social life and more subtle or invisible forms of social control and the exercise of unevenly distributed power. Conversely, the community may have unprecedented opportunities to influence and to some

extent control police decision-making in ways that could test the limits of democracy. The bias of socio-economic class can influence or determine the definitions of police targets or can apply significant pressure for certain kinds of police functions that are in the interests of specific groups and cliques rather than in the interests of the community at large (see Robinson and Scaglione, 1987). As we have seen from the discussion of The Aboriginal Policing Environment (Section 1) and as we shall see below, these issues are very relevant for community-based policing in the Aboriginal context.

### **Models of Community-Based Policing in the Aboriginal Context**

When considering the applicability of community-based policing models to Aboriginal Peoples, the appeal is not only to principles but also to evidence. The statistical and other data discussed in this report suggest that in the Aboriginal context, conventional policing may be failing more often than it is succeeding, at least with regard to Aboriginal policing needs. However, rather than simply replace conventional policing with community-based policing as a reform ideal or rhetorical promise (Murphy, 1988), it is necessary to consider its principles in the light of what is known about the Aboriginal policing environment. Put another way, the feasibility of community-based policing cannot simply be assumed in the Aboriginal context but must be demonstrated.

What follows can only be provisional and to some extent conjectural, based upon a reasonable surmise of how present and projected conditions and tendencies among Aboriginal populations will affect their policing options, but with no guarantees that any particular option may work out. Indeed, the extraordinary diversity and complexity of the Aboriginal population makes it difficult to summarize what is happening to all parts of it, let alone what may happen in the future. Nevertheless, the general features which have been described in this report still seem to prevail.

One thing is certain, however: policing Aboriginal communities does not mean standardization. Geography, demography, economics and culture will all ensure that one community's 'solution' will rarely be exactly the same as another's, although some similarities may certainly hold. This provides a compelling argument for the adoption of community-based approaches to policing. Localized authority and decision-making can better arrange a strategy of readjusting to variations and rapid changes in local policing conditions so that it can bring into balance unique and changing policing needs of the community and variable police response options. This balance can

only be enhanced through policy consolidation and control of daily police operations at the level of an independent (i.e. decentralized), local police organization.

Given the kinds of political and service delivery organizations, such as tribal councils, that often draw widely dispersed Aboriginal communities, such as Indian bands, together, the question of local or regional scale of community-based police service organization and delivery becomes an important consideration. Indeed, as Murphy (1991) has argued, the trend towards regionalization of police operations, especially under current political, economic, administrative and fiscal pressures at the provincial level, carries the risk (for many smaller scale Aboriginal communities) and the reality (for non-Aboriginal populations as well as Aboriginal populations in urban and off-reserve rural areas) of more formalized and standardized approaches to policing even in non-urban, non-Aboriginal areas where small-scale variants of the "London Met" model of policing have, historically, predominated. For advocates of community-based policing, the federal Indian policing policy of encouraging community-specific or "community-based" policing arrangements while at the same time advocating provincial responsibilities for Aboriginal policing, should be viewed with caution, if not suspicion.

Prospects for localized, community-based approaches are, nevertheless, enhanced where Aboriginal communities are geographically or physically distinct, as in the case of Indian reserves<sup>lxxi</sup>, or where Aboriginal Peoples are beneficiaries of land claim settlements. But territorial integrity together with homogeneous or majority Aboriginal populations do not always or easily translate into a blueprint for community-based policing, for that depends on many other factors, as noted below.

Here it is instructive to note the uncanny similarities between, for example, rural/remote Aboriginal communities and urban non-Aboriginal communities with respect to the problems that are often encountered in attempting to define a police mandate in the context of community-based policing. The general conclusions of Brodeur (1991), LaPrairie (1991, 1992a) and Auger et al (1992) that many Aboriginal communities are as uncertain about what order they want to maintain as they are about what the police should do, parallel those of Murphy (1988) whose study of a community-based policing initiative in Toronto also revealed a wide variation or plurality of opinions, perceptions, values and interests that significantly reduce the level of community consensus regarding police mandates and provide little support for a consistent set of police response preferences. In the Aboriginal context, this problem is visibly augmented by divergent

and significant gender, age, family/clan and class differences which are sometimes at odds with traditional values, norms and standards, or generate different views on and definitions of customary law. At other times, there may be no expressed opinion at all as to what should be done to advance policing initiatives (LaPrairie, 1991; cf. Smith, 1975). Obviously, this raises the crucial question of how the police are to legitimize a particular strategy as community authorized when community opinion is divided not only on the seriousness of a particular problem but on what police response, if any, is most appropriate<sup>lxvii</sup>.

These internal divisions raise the concern as to whether present decision-making structures in many Aboriginal communities permit an appropriate community-based policing strategy to be (effectively) carried out. This would require not merely a greater coherence in public opinion so that there are few or fewer divisions over the identification and prioritizing of policing problems, needs and responses, but would also involve managing a synthesis of Aboriginal political, economic and other strategic interests. Indeed, a community needing to reformulate its policing strategy in the light of larger and uncontrollable conditions and changes taking place in its environment may not be well served by divided community opinion or political will which seem to paralyse decision-making as a community exercise, or force the matter to be dealt with through external terms of reference as is now largely the case with conventional approaches to Aboriginal policing. This, in turn, may not be helped by pressures applied by factions and other interest groups in the community, all of which, by definition, are biased in respect to this or that policy direction and change. Nor are matters helped much by other, external political "advisors" and interest groups who may lean toward an inherent 'simplification' of these vital and complex issues at the community level by appeal to pristine custom and tradition or to pan-Aboriginal solutions (McDonnell, 1992a, 1992b).

Obviously, there is no absolutely perfect solution to this tension. But perfection is not really the concern. The problematic status of definitions of the police in many Aboriginal communities remains a thorny but perhaps not insurmountable problem. However, reconciling various views, opinions, values and interests in the community will be one of the most important tests of flexible and capable Aboriginal leadership.

The issue of defining a police mandate is shaped by the ways in which many community demands for police responses are actually articulated in practice. In general, the available evidence suggests that these demands are focused primarily on social disorder issues, including alcohol

abuse, interpersonal or family violence, and the problems that flow from the idleness of Aboriginal youth (e.g. Auger et al, 1992; Clairmont, 1992a; Depew, 1986:13-20; Hamilton and Sinclair, 1991: LaPrairie, 1992b; LaPrairie and Diamond, 1992; Marenin, 1992). As mentioned previously, social disorder is an area which may be particularly relevant and amenable to community-based policing approaches, strategies and styles (see especially Brodeur, 1991; Clairmont, 1992a) But, in order for community-based policing to be at least potentially successful, it is important that police roles be clearly defined and communicated within the community context. Community-based policing would seem to provide an appropriate and necessary method for community input into policing policy, including defining a police officer's role. Under existing programs and circumstances, this input is de facto and contingent and has a tendency to complicate and confuse police role definitions (Brodeur, 1991:31).

Evidence of Aboriginal overuse and misuse of police roles which may force the police to act beyond their mandate, points to misunderstandings, due to a lack of information or knowledge, about the purpose and functions of the police and police procedures in the community<sup>lxxiii</sup> and, perhaps more dramatically, to the need for other social service agencies and institutions which may act in concert with the police. Perhaps more than conventional policing, a community-based approach provides scope for the integration of a wide range of policing-relevant social institutions. Beyond these considerations, overuse and misuse of the police are also at least partial reflections of what policing means to many Aboriginal Peoples within certain communities and under certain circumstances. These meanings, as recent studies of Cree communities in James Bay, Quebec, and the Mi'Kmaq of Nova Scotia suggest, may provide the context for unique police role definitions and, therefore, a corresponding mandate in terms of which the police may legitimately act.

To a very large degree, the kinship-based organization of most Aboriginal communities remains both Aboriginal Peoples' opportunity and constraint in responding to interpersonal and public policing problems and exercising a measure of community control in the process. At present, the whole issue in many Aboriginal communities becomes one of balancing informal community interventions as an aspect of community "policing", and more formal police responses, especially in interpersonal violence situations<sup>lxxiv</sup>, where there is a local need for external control over more serious offences that exceed a community's ability to deal effectively with them. How community-based policing can capitalize on this potentially important social policing resource takes us back to a consideration of the nature of input into police policy. For their part, Aboriginal

police appear quite willing to solve many types of interpersonal and property conflicts in an informal way. As Brodeur (1991:xiii) reminds us, this is a common practice of police officers throughout Canada. Accordingly, and in a community-based policing context, these police attitudes and practices are a valued social resource which need to be supported and further developed. Therefore, in the policy planning process, Aboriginal police, as well as community members, need to be consulted and included in the structuring of informal policing styles and in defining the constituent police roles.

The data do suggest, however, that more often than not there is a marked imbalance between the two basic response options. On the one hand, there is underuse of police in their formal roles. On the other hand, there is a tendency towards overuse and perhaps misuse of police, especially Aboriginal, in their role as a family, clan or community member, or sometimes simply as an Aboriginal person, since proportionately few interpersonal offences and incidents to which Aboriginal police attend are formally processed. The constraints on a police officer's actions in these circumstances may not only be those of general kinship, but may also be linked to gender bias and antagonism (Depew, 1986:109): it will be recalled that most interpersonal violence is reported by Aboriginal women to male police officers. As in conventional policing, community-based policing must address the potential for unequal treatment of Aboriginal women by the police, and consider possible corrective measures that could or should involve greater participation by Aboriginal women in the police service.

As indicated earlier, the underuse of the police by Aboriginal communities may have seemed tolerable when kinship relations and structures provided significant checks and balances on offender conduct, both in deterring and treating such conduct. But the startling fact is that this is often no longer the case and that many Aboriginal women and children as well as the elderly are left unprotected when underuse of the police prevails.

The tension between often competing policing needs and demands can also severely limit intervention by non-Aboriginal police and place contradictory pressures on an Aboriginal police officer's performance of his/her formal policing role and his/her position as a member of the same Aboriginal community, cultural or linguistic group (see Van Dyke and Jamont, 1980). These issues are particularly acute where there are rapid changes in the social and economic framework which tend to impact negatively and predominately on family and marital relationships, often with an astounding suddenness. The public demands for police services are frustrated when, under



the circumstances, the police can offer only short-term remedies rather than more long-term solutions that might, under a community-based approach to policing, be facilitated through cooperation and coordination with other relevant social service agencies. As Brodeur (1991) and LaPrairie (1991, 1992a) have shown, these resulting frustrations may be directed at the police and the criminal justice system in general which invariably tarnishes their public images. To what extent this may affect choices for pro-active, preventative policing over a reactive style is difficult to say. At the end of the day, however, the difficult and sometimes awkward choices remain. Therefore, movement towards a community-based policing strategy will involve a sophisticated balancing act, requiring careful judgements as to the speed at which these changes can usefully occur, if at all, and, more importantly, as to the coordination of the community's internal (informal) and external (formal) policing needs and requirements.

Maintaining coherence in local social organization is a minimal requirement for community policing. However, this has been hampered not only by "welfare economics" in many Aboriginal communities but also, as LaPrairie (1992a) puts it, by the difficulties Aboriginal People often experience in organizing around existing community resources. Indeed, far too many demands are pressing upon their own modest and scarce resources. As a financial issue, this dilemma is further complicated by the current and likely continuing government practice of fiscal restraint (Depew, 1992a:468-469). Thus, a major question about the appropriate police service to develop and implement relates to the economic challenges bearing down upon Aboriginal communities which, because they are so severe, threaten to place unbearable strains upon any attempt at innovation and reform. Even under self government arrangements, either as a constitutional or legislative change, the pressure for cost-effective policing will be great and could force some Aboriginal governments to be co-opted into more formal, provincially or federally controlled policing institutions, policies and regulations. At the same time, if Aboriginal communities cannot allocate through their own initiatives the monies necessary for new community-based policing arrangements, it will over time jeopardize prospects for sustaining these new arrangements<sup>lxxv</sup>.

The other horn of the dilemma, of course, is how to bring public demands for police services into line with existing and projected police human resources. Virtually every study of Aboriginal policing has emphasized the shortage of police man/woman power which is complicated by economics, existing legislation and geographically distant or remote locality. These matters are

far from being resolved. In addition, a community-based policing strategy which involves the adoption of a multi-purpose role is likely to place increased demands on the police officer, perhaps similar to those currently experienced by some Aboriginal officers at the community level (e.g. Brodeur, 1991; LaPrairie, 1991). This raises questions of the practical limitations on police role performance.

From another perspective, the Aboriginal policing environment is unique in so far as the prevalence of kinship relationships in everyday life offers an opportunity for a more "holistic" approach to policing strategies which is characteristic of the community-based policing model. Yet, the "implementation" and practice of customary law which is fundamental to the 'social process' or holistic aspect of traditional, kinship-based methods of "policing" may be problematic as a result of erosion from historically-based, external political, economic and cultural forces and pressures and to other internal changes that have taken place in the social and cultural fabric of Aboriginal communities themselves. Some proposals to animate or activate customary law through codification and written rules may not only misunderstand the nature of customary law but carry the additional danger of a more legalistic, formalized and organizationally-driven police service which is, in many ways, antithetical to some of the more informal and socially-sensitive aspects of community-based or similar types of policing models (cf. Murphy, 1991:343). Ironically, codified customary law-as-rule would likely give additional support to conventional measures of police officer performance (e.g. law enforcement, arrests, charges etc.) that serve the needs of an external or formal justice system rather than the possibly quite different, variable and changing needs of Aboriginal communities (cf. Clark, 1990; Gordon and Meggitt, 1985; Moore, 1989). Finally, it is not always clear to what extent or degree customary law promises to be an appropriate and effective means of addressing and resolving contemporary policing problems in Aboriginal communities (Depew, 1992a:463, 474; McDonnell, 1992a:175).

Community-based policing in the Aboriginal context does not necessarily entail legal pluralism, especially in relation to the Criminal Code, although legal pluralism has received strong support from some writers (e.g. Jackson, 1988, 1992; Morse and Woodman, 1987; Rasing, 1988; cf. S. Clark, 1990; Depew, 1992a:474-475; Gordon and Meggitt, 1985). But it is often overlooked that the Aboriginal content of possible legal pluralism may be problematic. Research findings also indicate that the issue is less a cultural difference between Aboriginal and non-Aboriginal perceptions and definitions of serious and intolerable offences<sup>lxxvi</sup> and more a question of the appropriateness of criminal procedure in an Aboriginal context. Brodeur (1991:78-81, 108-109),

for example, found that the approach of Cree Constables "was not at all legalistic". Rather, their understanding of and approach to policing problems was influenced and shaped by the social circumstances of the communities they police. At the same time, however, community-based policing together with Aboriginal self government provide scope for (possibly community-specific) redefinitions of the Criminal Code (or options regarding discretionary latitude of the police), and perhaps also of provincial or territorial statutes that may play a part in the over-criminalization of Aboriginal "offences", especially those related to the excessive and hazardous use of alcohol. More importantly, they may provide an opportunity to assess the status of customary law and its applicability in contemporary Aboriginal communities.

Issues of which laws are to be enforced, who should enforce them and under whose direction inevitably lead to a consideration of police recruitment, training and governance. Most studies of Aboriginal policing have emphasized the ethno-centrism that can characterize these matters (Brodeur, 1991; Depew, 1986; Singer and Moyer, 1981; Task Force Report, 1990; Stenning, 1992:139, 193; Van Dyke and Jamont, 1980). Put in general terms, there is an assumption on the part of federal and provincial policing authorities that existing, non-Aboriginal institutional traditions are essential to the institutionalization process (cf. Stenning, 1992:193-195). This has led to an emphasis on non-Aboriginal standards and principles of police organization and operations, including (1) legal training and law enforcement at the expense of moral authority and community relations management, (2) impersonal police professionalism that overshadows the situational relevance (often interpersonal) and application of cultural values in police work, and (3) the paternalistic management of "special" recruits and Constables that undermine the overall status and image of Aboriginal police in the community<sup>lxxxvii</sup>.

These issues raise a number of crucial but as yet unanswered questions. How should Aboriginal Peoples define community-based policing in its variable and changing community contexts? Who will be the "police" and do the "policing"? What does pro-active policing mean in an Aboriginal context? What degrees of social or community relationship imply community assistance, responsibility, obligation duty or support as opposed to police intrusion and surveillance?

There seems to be little question that Aboriginal police and Aboriginal communities alike want a measured degree of trained police personnel, impartiality, effective deterrence and a more informal approach, where appropriate, to policing (Brodeur, 1991; Cawsey, 1991; Clairmont,

1992a; Clark, 1989; Hamilton and Sinclair, 1991; LaPrairie, 1992a; Van Dyke and Jamont, 1980). But at the same time, many Aboriginal communities do not wish to throw out the baby with the bathwater by attempting to professionalize or modernize the police in a way that simply mirrors institutional arrangements in many non-Aboriginal sectors of the Canadian population, especially where there are larger urban, provincial and federal police departments. At any rate, this would not even be possible in most Aboriginal communities for demographic and/or economic reasons.

More broadly, the issue boils down to a consideration of institutional capacity (including police infrastructures, human and financial resources) as the critical limiting factor for Aboriginal-specific police services and jurisdiction at the community level. Considerable attention, therefore, has been devoted to the ability and, more often than not, inability of Aboriginal communities, which are generally resource- and infrastructure-poor, to mount institutional arrangements comparable to those provided by large municipal police forces, provincial police or the RCMP. Yet, in a community-based context, this may not be the central or most pressing issue. As Marchant (1985:19-21) has provocatively argued, the limitations on institutional capacity characteristic of Aboriginal communities may, in some cases, be less important than the nature and appropriateness of the institutional arrangements. Despite their smaller scale, community-based institutions may be far more relevant and effective where the policing circumstances are very different from those in non-Aboriginal communities. Moreover, deficiencies in institutional capacity can be supplemented through cooperative sharing of, say, specialized forensic services of larger scale police departments, Aboriginal or non-Aboriginal. In terms of the frequently poor institutional standing<sup>lxxviii</sup> and questionable moral authority of conventional police programs and services for many Aboriginal Peoples, a shift towards some form of more culturally and socially relevant community-based options which draw on innovative developments, of variable scale, at the community level seems inevitable for some Aboriginal communities (see, for example, Brodeur, 1991:136-139; Dickson-Gilmore, 1992a, 1992b; LaPrairie, 1992a:80-103; Mohawk Council of Kahnawake, 1989:15-17; Stenning, 1992:140-147).

Prospects for community-based policing in the Aboriginal context highlight the need for much broader involvement of the community in policing. At one level, broader involvement may mean an integrated approach to community policing, depending on the ways in which communities are organized and function in relation to a wide range of issues, including policing. For example, a coalition of community institutions or groups involving the police, social and health services, education and so on could function as the local "policing system". While variation is to be

expected in the extent to which such a system is structurally differentiated (i.e. with more or less discrete policing institutions), a common feature, at another level, is the need to identify the nature and scope of community influence and direction in the establishment of policing policy and priorities.

In all Canadian communities, the public already plays a practical role in influencing police services. In terms of a direct public role, calls for service provide working parameters for police decision-making and responses. More indirectly and more formally, the public exercises influence over the allocation of police resources through relevant government departments. Yet under conventional models of policing, there is a marked tendency to centralize police decision-making at the levels of policy and operations, and to insulate these from the general public. These characteristics of police organization are more commonly understood and referred to as "police independence" and "non-interference" from political bodies.

In the Aboriginal context, these issues take on special importance. On the one hand, current police programs and services are frequently perceived by community members as too far removed from local concerns and priorities (e.g. Cawsey, 1991; Clark, 1989; Hamilton and Sinclair, 1991). That is to say, the police appear to be too independent of the Aboriginal public. On the other hand, many Aboriginal communities, particularly Indian reserves, already exercise considerable influence and control over the police by limiting their functions on a de facto basis and by ambiguously defining their roles and responsibilities in ways that are more in line with the constraints of kin and community organization (Auger et al, 1992; Brodeur, 1991; LaPrairie, 1991; Van Dyke and Jamont, 1980). In other words, the community directs, if not "interferes" with, the exercise of police discretion, authority and power on a daily and often contingent basis.

This seemingly paradoxical situation points to the necessity to structure and coordinate community policing needs and police role definitions and responsibilities. The underlying principle is to give the directive relationship between the community and the police (as well as within the police organization itself) greater visibility, permanence and legitimacy (Marenin, 1989:74). The mechanisms through which this may be achieved are the institutions of Aboriginal police governance.

For the most part, Aboriginal Peoples of Canada lack clearly defined and localized institutions of police governance. Consistent with the "RIC" model of policing, Aboriginal Peoples have been

subjected to policing models that centralize police control, authority and accountability in non-Aboriginal police institutions and political organization (Stenning, 1992:36). Apart from the historical development of Aboriginal policing in Canada as discussed earlier, this appears to stem from a number of environmental constraints and processes, including non-Aboriginal political ideologies and rhetoric.

The federal Indian policing policy, for example, states that "police services on reserves must be independent of band by-law making authority, yet be accountable to the communities they serve" (Government of Canada, 1991; Task Force Report, 1990:17). As Brodeur (1991:9-10) and Stenning (1992:26-33, 190-191) have argued, this principle is not only contradictory<sup>lxxxix</sup> and historically unachievable in the non-Aboriginal context, but appears to be at odds with Aboriginal traditional practices wherein community leadership is directly involved in the policing process and associated institutions. It is claimed that for some Aboriginal communities, existing political leadership and linked accountability mechanisms may be as democratic, if not more so, as their non-Aboriginal counterparts (McInnes and Billingsley, 1992) and, therefore, approach but never quite realize politically unbiased policing. It should also be recognized, however, that political authority and accountability in other Aboriginal communities is inconsistent with democratic practice (e.g. Dyck, 1993) and would seem to require restructuring in order to minimize political bias. At any rate, the research literature indicates more concern in Aboriginal communities over the status of the directive relationship within the police organization, and especially between the police and the community, than concern over notions of inappropriate political interference in police activity by local political leadership (Brodeur, 1991; Clairmont, 1992a:67,69,75; Singer and Moyer, 1981; Social Policy Research Associates, 1983; Stenning, 1992; Woods Gordon, 1982)<sup>lxxx</sup>.

In a similar vein, development of the principles and institutions of Aboriginal police governance have been guided largely by non-Aboriginal requirements and standards of comparison. This problem has been compounded by the fact that the criteria and processes for evaluating and negotiating Aboriginal police governance options either have their origin and context in non-Aboriginal policing traditions and institutions that have more in common with the "RIC" model of policing or, what amounts to the same thing, rely on Aboriginal preferences that usually flow from a practical familiarity with non-Aboriginal models rather than considered assessment of Aboriginal alternatives. Beyond these considerations, in current negotiations of policing agreements in Ontario which include governance,

...there is a strong pressure on First Nations negotiators to accept any program which will bring money and employment to their communities, even if the program may not be the most suitable for the community. The pressure increases when other First Nations are seen to already have such programs...responding to these pressures can sometimes lead communities to rush into programs without the research, preparation and planning which is necessary to make them successful (Stenning, 1992:196-197).

This issue is brought into sharp relief when one considers the diversity of Aboriginal populations. Geographic and demographic differences, for example, have important implications for the type and scale of police governance institutions or processes to be developed and implemented. Some urban Aboriginal groups with or without a land base may see advantages in a provincial-scale arrangement that approximates in whole or in part non-Aboriginal models. Geographically remote and small scale Aboriginal communities may, on the other hand, have different aspirations, needs and requirements that render localized, community-based arrangements more desirable and plausible. For some communities, the decisive factor may well turn out to be the nature and scope of self government arrangements, for these would provide the structures and procedures of government that underlay the architecture of new police governance institutions and determine the distribution of policing authorities and powers, as well as the nature of responsibility and accountability for policing.

## **Summary**

Discussion of the "RIC" and "London Met" models of policing indicates that most Aboriginal policing arrangements today are designed in terms of a policing model - the "RIC" and "crime control" model - whose historical antecedents and contemporary characteristics are more consistent with colonial practices and State control, including responsibility and accountability for policing at the ministerial level, than with the nature of many Aboriginal communities and their policing needs. The "London Met" model, on the other hand, locates responsibility and accountability for policing at the local or community level. In addition, rural or small-scale variants of the "London Met" model are oriented towards peace-keeping rather than crime control per se and tend to reflect the characteristics, relations, structures and processes of the community of which it is a part and to some extent a product. These principles are remarkably similar to features of some desired but as yet undetermined Aboriginal policing models. More importantly,

these types of alternative approaches to Aboriginal policing have a potential to establish socially based links with customary law.

What is especially relevant for comparative purposes are the principles and characteristics of police organization and interaction with the community that promote different policing objectives, intervention styles and the like. The research evidence strongly suggests that there are significant and perhaps insurmountable problems of a social and psychological origin to be overcome when limiting policing options for Aboriginal Peoples to indigenization or cross-cultural training of the police. Furthermore, existing police programs have not, as they were initially expected to do, significantly reduced Aboriginal involvement in the criminal justice system, reasonably improved the quality of life in Aboriginal communities nor noticeably enhanced the quality of police/community relationships. This introduces scope for possibly new approaches to Aboriginal policing that respect the community circumstances, problems, needs and realities of Aboriginal Peoples.

In response to political pressures for change, the practical necessity of change and philosophical views on the role of Canadian communities in policing structures and processes, considerable emphasis has recently been placed on models of community-based policing for Aboriginal Peoples.

As a concept and philosophy, community-based policing is an organization and service delivery initiative that is designed to address and solve underlying community problems rather than rely exclusively on reactive responses to specific incidents or calls for service. Accordingly, it focuses on a number of key principles of organization and service delivery that involve a more broadly defined mandate that highlights a multi-purpose role oriented to pro-active policing and related community crime prevention strategies. This is intended to facilitate a partnership and interdependency with the community which rely on local mechanisms of responsibility and accountability for the police and policing.

While the model seems promising in theory, there are only limited opportunities to observe how in fact it works (in non-Aboriginal communities) or whether it might work well enough to merit application in an Aboriginal context. There are, however, a number of factors that would appear to favour the development of community-based policing for Aboriginal Peoples. Geographic, demographic and cultural diversity necessitate a level of flexibility in police services, suggested by



community-based policing, that can balance variation and change in policing needs and demands for service with alternative police response options. Furthermore, demands for service that are intended to address problems of social disorder are consistent with some of the more successful community-based policing strategies. In this context, balancing formal and informal intervention styles may serve not only to animate or activate customary law, where appropriate, but also to legitimately enforce a wider range of laws, including band by-laws, provincial and federal laws, again where appropriate. This strategy can only enhance the credibility of the police from the point of view of the community, other levels of government and the police themselves. No less important, and perhaps a precondition of community-based policing, many Aboriginal Peoples live in settled, homogeneous communities with identifiable boundaries and, therefore, satisfy, in a relatively unambiguous way, crucial incidents of police jurisdiction.

Territorial integrity and demographic homogeneity, however, are no guarantee of success. There are also significant constraints to be carefully considered. Indeed, neither factor implies consensus regarding the type of order and values to be maintained or what the police should do in this regard. In fact, there is considerable uncertainty or important differences - that are often articulated in practice or in terms of demands for service - over public definitions of the police, including the nature and scope of the police mandate and individual police roles, in many Aboriginal communities. Differences in this context may be augmented by differences in age, gender, family or class, some of which may be at odds with traditional values and customary practices. These issues may in turn be complicated by the uneven distribution and exercise of power and other resources at the community level and the need for appropriate political structures and processes to resolve community differences over policing. Similarly, identification of the appropriate structures and processes of police governance where principles and mechanisms of responsibility and accountability for the police are nested, tend to be obscured by political and financial pressures on Aboriginal Peoples to adopt non-Aboriginal models of police governance which may or may not be consistent with community-based approaches to policing in an Aboriginal context. Finally, there is no guarantee that the financial and human resources required to implement and sustain community-based policing at levels of adequate functioning will always be forthcoming.



### **3.0 A FRAMEWORK FOR FUTURE RESEARCH AND POLICY DEVELOPMENT**

In the area of Aboriginal policing, it is apparent that program and policy strategies designed to improve police services to Aboriginal Peoples and their communities have not lived up to initial expectations. In general, the development and evolution of Aboriginal policing policy and programs have been in response to political demands for action which in turn have been informed by limited conceptualizations of the nature and scope of Aboriginal policing problems. The result has been continuing Aboriginal dissatisfaction and frustration with current police programs which, in general, do not appear to be meeting their policing needs.

More often than not, program and policy strategies have been put in place in relation to perceptions, beliefs and anecdotal evidence rather than on the basis of systematic documentation of policing problems, needs and requirements. No less important, there has been little in the way of systematic monitoring and evaluation of existing programs. With limited findings of this sort, it is difficult to determine with any precision the nature of the constraints on police program effectiveness or efficiency. What we do know are some of the general constraints on their operation and some of the conditions of their failure. These are often overlooked or unrecognized by policy-makers and program planners who continue to cling to untested assumptions and unfounded beliefs about Aboriginal policing.

What this report has suggested is that policy and program objectives and strategies need to be reformulated in view of the new complexities that are emerging in the area of Aboriginal police studies. Universal models of indigenized policing or cross-cultural training for the police cannot hope to address and accommodate this complexity. Above all else, policy and program development need to seriously take into account the considerable diversity of Aboriginal Peoples and their communities which appears on many dimensions. It is only on this basis that the appropriate and relevant distinctions for purposes of policy development and programming can be made.

## **A Proposed Agenda for Research and Policy Development**

Any agenda intended to guide research and policy development in the area of Aboriginal policing must take into account the information needs of both management and applied research as well as the research priorities, strategies and methods designed to meet these needs.

For management, policy-related research must be general enough to accommodate present information needs and anticipate future directions and initiatives in the field. Indeed, what is related to policy depends on what policy is and this can change over time. This dynamic will also affect research priorities and corresponding timeframes. Short-term policy-related research will feed into longer term research and developmental activities. For example, while management need not be committed to any particular political agenda promoting Aboriginal self government and autonomous policing, it should be prepared to consult with Aboriginal Peoples in an informed and rational way. Short-term policy research can provide focus and clarity in defining community policing problems, needs, priorities and preferences, and shape future discussions and activities in the direction of new policing arrangements. Longer-term research which is aimed at remedial action can build on a more comprehensive consideration of the issues to determine what is desirable, achievable and sustainable in the area of policing. A more incremental approach under this timeframe may be recommended given current and projected fiscal restraint among all levels of government. In this way, management can also serve to further clarify, articulate and advance Aboriginal self government interests in the area of policing.

From a management perspective, the setting of research priorities, the appraisal of research activities and the measurement of research results will, in the first instance, be given general guidance by the constitutional principles identified earlier for the involvement of Aboriginal Peoples in policing initiatives and developments. More specifically, these will be given focus in terms of a number of clearly articulated policing objectives that might fall under the following broader considerations:

- 1) reduction of Aboriginal Peoples' involvement in the criminal justice system, including positive change in Aboriginal incarceration rates;

- 2) improvement in the quality and safety of Aboriginal community life, especially for victims of crime such as Aboriginal women, children and the elderly, which takes into consideration the social, economic and political development of Aboriginal communities;
- 3) community-based solutions to policing problems that acknowledge the primary role of Aboriginal Peoples in their identification, development, implementation and management; and
- 4) greater Aboriginal control and autonomy over policing institutions and processes.

The process of deciding upon which research activities receive what priority will depend on a number of factors. These include:

- consultations with Aboriginal Peoples, their communities and representative political organizations at local, regional and national levels; and
- the level of inter-governmental cooperation, coordination and support for new Aboriginal policing initiatives and arrangements.

In a research environment, the insights provided by short-term policy research will feed into later long-term policy research in terms of both substantive knowledge and possible re-ordering of priorities. In a broader policy environment that necessarily includes the orientations and positions of other levels of government, priorities will have to be routinely addressed and re-examined particularly as the knowledge base in the area expands and better information on which to base research policy and development activities is elicited. Other contingencies and external influences, such as the level of funding, scope of the exercise, previous experience with policing institutions etc, will change as well and these have to be taken into account on a regular basis as part of the priority setting exercise. Similarly, monitoring of specific research, development and evaluation activities will be required to determine their effectiveness in better meeting the stated policing objectives and related constitutional principles (LaPrairie, 1987b:45).

Of course, Aboriginal policing policy will be woefully inadequate at best and useless at worst if it is not based on sound, relevant research. One of the arguments of the present report is that Aboriginal over-representation in correctional institutions, while a disturbing and unacceptable

consequence of interaction between Aboriginal Peoples and the criminal justice system, does not provide a fruitful approach to understanding policing issues or how they can be handled in more effective and efficient ways. Similarly, focusing solely on the police (or any other component of the criminal justice system) for answers bypasses the crucial dimension of interaction between the police and Aboriginal communities as an aspect of wider social and cultural processes and structures. Shifting the research focus onto this dimension promises a more comprehensive and solid knowledge base.

The importance of developing more reliable and valid data bases and sources of information on Aboriginal policing, as well as disseminating them among Aboriginal groups and government should not be underestimated. Well-informed policy-makers and program planners are in a better position to minimize the risks of program failure. Similarly, wide dissemination of more complete and accurate information on Aboriginal policing problems, exploratory initiatives and remedial actions can contribute to the cost-effective and -efficient allocation of scarce financial resources and the avoidance of unnecessary duplication of costs. No less important, access to such information can facilitate the development of Aboriginal policing initiatives and models by building upon the experience of other communities in similar situations.

As indicated throughout this report, the objective of community-focused research is to develop an analytic framework which reveals relationships and conditions that have been previously unrecognized or simply taken for granted in many studies of Aboriginal policing and by those responsible for policy and program development. Indeed, the main reason for describing the Aboriginal policing environment in terms of geographic, demographic, economic, social and cultural differences is to make more appropriate and relevant distinctions for the purposes of policy and program development, especially at the community level. In addition, it suggests parameters for further research on the causes of Aboriginal over-representation which appear far more relevant than views that postulate a vague and empirically and theoretically weak notion of culture conflict between Aboriginal Peoples and a non-Aboriginal justice system as the major area of concern.

Yet, from a research perspective, one cannot simply dismiss Aboriginal allegations of police racism and discrimination on the grounds that existing evidence is mainly anecdotal and replete with perceptions, beliefs and untested assumptions about this important issue. In order to confidently substantiate claims of police mistreatment of Aboriginal Peoples as a reason behind Aboriginal over-representation in correctional institutions, more complete and reliable

documentation of possible differential treatment of Aboriginal Peoples by the police is required. Specifically, there is a need for controlled comparisons between, first, police jurisdictions in order to pinpoint possible differential charging and arrests of Aboriginal Peoples, and second, Aboriginal and non-Aboriginal offenders, victims and complainants in order to determine if there are disparities in police treatment of Aboriginal Peoples which may be traced to racial bias or discriminatory practices.

A number of research questions that provide an investigative focus on contact between the police and Aboriginal Peoples are conveniently summarized by LaPrairie (1990:431):

Police decision-making in criminal justice processing remains the most critical information gap in accounting for the disproportionate presence of aboriginal people in the system. It is essential to know if aboriginal people receive different police treatment from non-aboriginals. For example, are they being differentially arrested and charged? Are they over-policed (i.e. the "more police more crime" syndrome)? Are they investigated differently (i.e. more or less comprehensively)? Are there differences between and among types of police forces (e.g., urban/rural) in their contacts with aboriginal people? And is there geographic variation in police response to aboriginal people?

To date, only a limited number of research studies have been conducted in few jurisdictions with a view to providing information that is relevant to answering some of these questions.

As indicated previously, one of the goals of existing policing policy is to reduce culture conflict through two specific strategies: (1) the addition of Aboriginal Peoples to the police; and (2) cross-cultural training for non-Aboriginal police. Both strategies raise important research questions concerning the effects of police sub-cultures on police role performance. For example, do socialization of the police during training or on the job, professional peer pressures, loyalty to the police organization, the structure of job guidelines or job demands have any effect on reducing or increasing culture conflict<sup>lxxxix</sup>? One of the difficulties in answering these types of questions is that there has not been systematic monitoring and evaluation of the various affirmative action initiatives that are now in place.

It is also unclear what the short-term and long-term effects of exposure to information about Aboriginal culture are at the level of police decision-making and conduct (i.e. does it promote

positive attitude change?), or what is the most appropriate way in which to provide such information to police personnel (e.g. Ungerleider and McGregor, 1991:560; 1993). Another important issue that remains largely unexplored is the place of age, gender and socio-economic class differences in police recruitment and decision-making processes and the effects they may have on Aboriginal and non-Aboriginal police contact with Aboriginal Peoples (e.g. Brass, 1979; Ungerleider and McGregor, 1991:561).

Only very recently have research studies turned to in-depth examination of the nature and extent of policing problems, the current use and effectiveness of existing policing services, and policing needs at the community level, as a basis for identifying Aboriginal policing requirements. Of particular importance is the documentation of formal and informal responses by the police and Aboriginal communities to policing problems and how these relate to community needs, preferences and priorities.

As LaPrairie (1991:29-35) notes, policing research strategies have traditionally relied on standard data sources such as police occurrence records and youth and adult court files. However, the inclusion of police daily reports and community interviews in the array of information sources not only enhances the completeness of the relevant information to be recorded and analysed<sup>lxxxii</sup>, they also reveal a number of important but previously unrecognized or unexplored research issues, including:

- the extent to which standard data sources may inaccurately portray the nature and extent of Aboriginal policing problems;
- how and under what circumstances the police exercise discretion as an aspect of both formal and informal approaches to police decision-making;
- how the exercise of police discretion and decision-making is related to community cultural values and concepts of order, as well as to gender, age, status, class and other constraints on the treatment of victims;
- the kind and style of intervention preferred by communities, including those problems that should be handled by the community and those that should be dealt with by external agencies; and



- the factors that produce and reproduce continuity, variation and change in community crime and disorder.

Consideration of these issues together with other related issues identified in this report suggest the development of a more focused research framework for Aboriginal policing that would ask the following questions:

- when, how, to what extent and with what effect are policing problems currently being dealt with by the formal, non-Aboriginal justice system or by Aboriginal communities?
- when, how and to what extent should policing problems be dealt with by formal or external policing institutions, informal Aboriginal institutions (families, clans, elders, social and other service agencies, local committees etc.) or by customary practices?
- who should exercise what level of authority in responding to which community policing problems and for what purposes?
- how do current capacities of Aboriginal communities limit or facilitate their potential to handle local policing issues?
- what institutional supports and training requirements are needed for capacity building or to ensure institutional and service delivery appropriateness in the policing process?
- what program and service delivery options need to be considered in the event that certain preferred responses to community policing problems prove unsuccessful?;
- how and for what purposes would community policing institutions, programs and service delivery mechanisms interface with provincial and federal justice systems?; and, similarly,
- how would community-level jurisdiction be defined?

Obviously, not all Aboriginal populations or communities will be the subject of research given the constraints of available funding and time or, perhaps, differences in local interests and

commitment to the research process. However, all Aboriginal Peoples may potentially derive benefits from more limited research activity that flows from a knowledge of the Aboriginal policing environment. This could include research on community typologies and how certain types of communities may be linked to certain types of policing problems (e.g. Gerber, 1979; LaPrairie, 1988), investigation of critical sectoral issues (e.g. Aboriginal women as victims, crime prevention and the situation of Aboriginal youth), or examination of the implications of customary law for policing responses in selected geographic locations or culture areas.

Conceptualized, in part, as an Aboriginal policing needs assessment, the research framework can be further developed by including the appropriate follow-up measures on both an interim basis and over the longer term future. Thus, the results of the needs assessment<sup>lxxxiii</sup> can be taken a step further by relating them to police service alternatives and options that entail improvements to existing arrangements for some Aboriginal Peoples or the development of innovative ones for others.

Innovative developments, such as community-based policing pilot projects, would, in particular, require the necessary planning, implementation, monitoring and evaluation steps as aspects of long-term research. The appropriate management and administrative structures/processes, as well as community consultation and approval mechanisms would also need to be put in place in order to deal with key issues such as:

- identifying which police pilot projects will be developed and implemented at local or regional levels;
- determining what instruments and criteria will be used to monitor and evaluate the use and effectiveness of the pilot projects;
- identifying the level of Aboriginal authority and control to be phased in over what timeframe; and
- identifying the human and financial resources required to sustain the operation and possible further development of the pilot project.

As a final component of this evolving research and policy development framework, collaboration with and support of federal and provincial governments would be required in order to:

- determine the appropriate terms of reference for the development and implementation of selected policing initiatives or pilot projects;
- develop and obtain a budget to sustain the operation of the initiative;
- monitor and evaluate the initiative in a systematic way and over a reasonable trial and testing time period; and
- meet any other operational or policy considerations and requirements.

One of the major weaknesses of current Aboriginal police program management and research is the general failure to systematically monitor and evaluate how well the various initiatives have in fact met their objectives, whether these be the reduction of culture conflict or Aboriginal involvement in the criminal justice system, increased community satisfaction with police services or with the security and quality of life, or the level of real authority and control over police services by Aboriginal Peoples. This failure in turn has limited the dissemination of information among Aboriginal communities and provincial and federal government officials which may otherwise have a potential to be transferred to and used by other Aboriginal communities with similar policing problems, needs and aspirations. No less important, how well existing policing and related services have addressed the need for information about the criminal justice system and how it operates is largely unexplored. These and related deficiencies can be addressed through long-term research and development initiatives which target information gaps. They may also be corrected by an approach that ensures program or project objectives are met through:

- systematic dissemination of legal information and the establishment of forums at the community level for the discussion of and debate over policing needs and concerns;
- periodic review and evaluation of progress against program/project objectives and workplans in selected communities in various geographical locations;
- adjustments and amendments to the research and policy development process/activities as required; and
- coordinating program/project outputs including reports and discussion documents.

It should be emphasized at this point that the research and policy development framework suggested here is not limited to a consideration of discrete Aboriginal communities, such as Indian reserves, with either homogeneous or majority Aboriginal populations. The distinctions drawn earlier among Aboriginal populations are intended to direct attention to the many different issues faced by research and policy development. This is particularly important in the context of the urban and rural/remote contrast since the issue of Aboriginal crime and disorder in urban areas and corresponding police responses have not been adequately researched in the past<sup>lxxxiv</sup>. However, the need for research and policy development in this area may be especially urgent when it is recalled that Aboriginal Peoples (and in particular status Indians) living in the cities appear to be more exposed to formal police processing and incarceration than other Aboriginal populations in rural and remote locations. Therefore, research that examines the policing needs of Aboriginal populations in selected urban environments would seem to be a policy priority.

The available research identifies the need for different approaches to policing, particularly in communities where there is a desire to reassert Aboriginal authority and control in a manner that reflects traditional and customary responses to crime and disorder. The research challenge in this relatively unexplored area of Aboriginal culture and social organization is both theoretical and methodological. Theoretically, researchers must re-evaluate the definition of 'customary law' by placing it within a more socially, politically and historically informed context (Gordon and Meggitt, 1985; McDonnell, 1992b; Moore, 1989; Strathern, 1985). Methodologically, researchers must be aware of the limitations of language- or discourse-oriented field methods which in the Canadian context have overshadowed the importance and unique potential of participant observation to reveal the processes, practices and knowledge base of Aboriginal customary law (Bloch, 1991; Bourdieu, 1990; LiPuma, 1983; McDonnell, 1992a). In the final analysis, however, customary law and customary responses to policing problems will be what Aboriginal Peoples and their communities define them to be (e.g. Duiven, 1986; McDonnell, 1992a:97).

## **Summary**

The main reason for pursuing a research and policy development agenda in the area of Aboriginal policing is that our knowledge base is quite limited when it comes to identifying and understanding the variable and changing meanings which Aboriginal Peoples assign to 'order', 'control', the "police" and "policing", or what policing needs, priorities and preferences exist at the community level.

The framework for research and policy development focuses on the development of Aboriginal policing models that may include community-based forms of policing or other models, either of Aboriginal or non-Aboriginal origin. Indeed, one expectation is that the results of research, consultations and decision-making will likely reflect both differences and similarities across groups and communities with regard to a wide range of policing models and alternatives. In this sense, the framework is oriented to Aboriginal Peoples developing their own ideas and decisions on policing - a 'bottom-up' approach - that avoids the ethnocentric presumption that policy and program development can resolve problems associated with Aboriginal policing without or prior to a 'bottom-up' approach.

By providing discussion points and questions for the development of alternatives or for the monitoring and evaluation of what is currently in place, the framework does not endorse any particular policing model for Aboriginal Peoples. Rather, it sets the stage for a creative process in which new definitions of policing and the identification and construction of appropriate policing objectives may emerge. Thus, it is the task of research, consultations and decision-making to adjudicate on how such crucial factors as age, gender, status, other resources, customary law and the existing criminal justice system will figure in future Aboriginal policing models and arrangements.

#### **4. CONCLUSIONS**

Over the last two decades, Canada has witnessed the re-emergence of Aboriginal Peoples and their communities as protagonists of history. This development has not only forced all Canadians to come to grips with the rightful place of Aboriginal Peoples in Canadian society and, in particular, the constitution; it has presented a challenge to the criminal justice system to recognize and respond in appropriate and meaningful ways to Aboriginal diversity. As gatekeepers of the criminal justice system, the police have found this challenge to be especially daunting. The criminal justice statistics, including the facts of over-representation, together with other indicators of police contact with Aboriginal Peoples would seem to suggest that police treatment of Aboriginal Peoples is, generally, neither appropriate to their cultural and community circumstances nor effective in mediating their relationship with criminal or social justice.

It now seems clear that the policing problems of many Aboriginal Peoples are not being adequately dealt with by the formal system of policing in Canada. For some observers, this situation calls for a wholesale rejection of the procedures, institutions and even concepts that underpin current, non-Aboriginal police service. Articulated as a political agenda, it embraces a language with the message of cultural bias and discrimination in the exercise of police discretion and decision-making, and develops a certain mystique around the related issues that requires the repudiation of non-Aboriginal and the adoption of Aboriginal components. Furthermore, this agenda has entered discussion and debate in the guise of an established theoretical framework that threatens to be overwhelming in its aims and in its rhetorical excesses.

Predictably, in an attempt to maintain the status quo, federal and provincial governments have responded to political demands for change with "culturally sensitive" versions of non-Aboriginal policing. With race and culture providing the basis and rationale for policy and program development, indigenization, cross-cultural training and related programs have provided the main response to the need for more appropriate and effective Aboriginal policing initiatives and arrangements.

The results of recent research suggest that for many Aboriginal communities, neither position is tenable. There is growing evidence that the wholesale rejection of the non-Aboriginal justice system and its replacement by exclusively Aboriginal "justice systems" is not supported by community members (Auger et al, 1992; Brodeur, 1991; LaPrairie, 1991, 1992a). Indeed, as Clairmont (1992a) has clearly demonstrated, a wide variety of sociological variables and environmental factors can affect the views, attitudes and positions of Aboriginal Peoples on this issue. Yet, existing policing arrangements for Aboriginal Peoples in diverse community settings

may not be conducive to a satisfactory allocation of responsibility and accountability for policing problems. We have seen that members of some Aboriginal communities do not want all crime and disorder problems to be dealt with by a formal, external policing system. At the same time, Aboriginal Peoples are realistic and do not necessarily think that all of their policing problems should or can be handled by and within the community. The available research evidence strongly indicates that Aboriginal communities may want a formal system to deal with some policing problems some of the time, and at other times to deal exclusively with certain problems themselves, at least under certain circumstances. Indeed, the extent to which problems are brought to the attention of the police seems to vary by community and over time. Thus, as LaPrairie and Diamond (1992) have argued, not all the problems requiring solution lie or will lie with the criminal justice system.

This is an extremely important point to grasp. Given their familial and social basis, it is not surprising that crime and disorder are largely contained by Aboriginal community life - especially on Indian reserves - and are reproduced within its boundaries. It is in this sense that Aboriginal crime and disorder are a social product of community life, as Marenin (1992:357) has emphasized. Thus, reforming the police in particular or the criminal justice system in general through indigenization, cultural sensitivity training etc., does not and cannot alter the nature of community life and interaction. These social phenomena are shaped and constrained by the various factors of the Aboriginal policing environment which is beyond the police or the criminal justice system to change or effectively control. It is hardly appropriate then, under these circumstances, to argue that the police or the criminal justice system have "failed" Aboriginal Peoples.

It is also in this environmental context where the difference between Aboriginal criminality and social disorder can become indistinct. Therefore, reform in Aboriginal police policy and programming must have a much broader vision than it currently possesses. Indeed, the future of policing in many Aboriginal communities would appear to rest on broad based community development, including self government, in which the police and/or their functional equivalents are key players (Depew, 1992a:474-475).

As suggested in this report, the development of community-based policing including, perhaps, variants of existing rural models of police service (i.e. variants of the "London Met" model), or Aboriginal-inspired alternatives, promises certain advantages over conventional urban and state

police organizations (i.e. the "RIC" or crime control model). First of all, community-based policing appears more consistent with the more common offences of social disorder in Aboriginal communities. Second, community-based policing appears to be essential to improving the frequently unsatisfactory police/community relationship and promoting crucial police collaboration with and involvement in the community (e.g. Clairmont, 1992a:69,75). Third, Aboriginal forms of community-based policing may be in a better position, structurally, to make a commitment to community development. As a structural feature of Aboriginal communities, community-based policing may achieve a better balance between law enforcement and crime prevention, and be able to participate as a legitimate community institution or agency in wider social and cultural processes that are fundamental to order, security and the quality of life in Aboriginal communities.

For policing research, the challenge is to critically examine the policing circumstances of Aboriginal Peoples especially at the community level. An alternative research focus, therefore, would take as its primary object of study the various geographic, demographic, social, economic, political and cultural linkages to the policing process that are otherwise in danger of being obscured by a priori and fictional cultural grids. Bringing factors of the Aboriginal policing environment together under the microscope for policy and program considerations, may lead to a redefinition of policing problems and police targets, and a corresponding expansion of the ability of police service organizations to accommodate a much wider range of differences and variation within and among communities. These differences and variation may also invite more thorough consideration of Aboriginal customary law and its place in innovative models of community-based policing. The practical, everyday relevance of customary law in some Aboriginal communities may provide valuable insight into how community-based models of policing might be applied, and applied more meaningfully. It may also indicate how the allocation of responsibility and accountability for policing problems might be structured more appropriately and effectively. The general thrust of community-based policing, of course, goes hand in hand with the development and supply of adequate policing resources - human, financial and material.

How open Aboriginal communities may be to new kinds and styles of formal or informal intervention is, perhaps, the most difficult issue for policy and program development to address. There is no question that Aboriginal Peoples wish to participate in and assume a measure of responsibility and accountability for policing. Nor, politically, can more direct Aboriginal control over the shaping and operation of police services and related arrangements be denied. But, as



demonstrated by community-focused studies in different jurisdictions, there is a range of intervention types and styles to consider, and not everyone is in agreement as to the most appropriate or effective in addressing and resolving community policing problems. Indeed, there is seldom consensus on who should handle what types of policing problems (e.g. Auger et al, 1992:336) or how they should be handled in general - e.g. on the basis of social or justice institutions? (Auger et al, 1992:336; LaPrairie, 1991). Thus, there is an urgent need for community consultation and planning processes as advocated, for example, by McDonnell (1992a; 1992b), and as more broadly characterized by Elias (1991:190-220) so that approaches to policing can be discussed, debated and, hopefully, agreed upon. Only direct community involvement can legitimize and sustain any new approaches to Aboriginal policing. It would appear that many Aboriginal communities are prepared to take up and meet these challenges.

## ENDNOTES

- i. The following summary of these issues draws upon LaPrairie (1987b:29-45).
- ii. Despite recognition of the Metis by section 35 of the Constitution Act, 1982 as one of Canada's Aboriginal Peoples, the federal government does not acknowledge any specific jurisdiction in relation to them. Nevertheless, the federal government may become involved with the Metis-as-Canadian citizens as a matter of policy and practice (see, for example, Martin, 1989).
- iii. Under section 81 of the Indian Act, Indian Band Councils may pass by-laws for the "observance of law and order" on the reserve and may appoint persons to enforce those by-laws. Some authors (e.g. Bartlett, 1985) have argued that the possible subjects for by-laws under section 81 provide a basis to establish a police force empowered to enforce federal, provincial or territorial laws. However, this seems unlikely on two grounds: (1) the Supreme Court of Canada decision in Nolan v. the Queen (1987) 34 C.C.C.(3d) 289, concludes that the Indian Act does not give Indian Band Councils legal authority to establish, administer or regulate police forces or empower anyone to enforce federal, provincial or territorial law; (2) no provision of the Indian Act provides the explicit parliamentary authority to appoint police officers. However, "...the federal government does have the option of amending the Indian Act, Section 81, to give bands the authority to appoint police officers in relation to the policing of band by-laws" (Task Force Report, 1990:10). As Brodeur (1991:109-110) implies, perhaps looking to the Indian Act as a source of appropriate federal authority for peace officer status is looking in the wrong direction. He argues that the Supreme Court of Canada decision in Bisaillon v. Keable (1983) 2 S.C.R., shows that the issue of peace officer status falls under the criminal law and, therefore, within the exclusive jurisdictional competence of the federal government. "In the last analysis, it could be inferred that the accreditation of persons as peace officers (as police) can be granted by the federal government, regardless of what may be provided by a provincial Police Act".
- iv. For example, in Alberta, section 4 of the Police Act requires that any municipality with a population over 2500 should provide for its own police service (Cawsey, 1991:2-2). In contrast, the Saskatchewan Police Act sets the population limit at 500 or more (FSIN Study, 1984:67).
- v. Bruce Clark (1990), for example, has argued that the right of Aboriginal self government exists at law which means that Aboriginal People already have (politically unacknowledged) legislative jurisdiction with respect to policing. Other scholars, such as Stenning (1992:16-17), have drawn attention to the independent but poorly defined constitutional status of Aboriginal Peoples and its possible implications for claiming or negotiating policing arrangements. For its part, current federal Aboriginal policing policy recognizes the primary responsibility of the provinces for the administration of justice and Aboriginal policing (cf. Task Force Report, 1990:20). Aboriginal leaders, on the other hand, continue to question the applicability of sections 91(24) and 92(14) to Aboriginal Peoples and also argue that these constitutional provisions are inconsistent with the terms of treaties and their inherent Aboriginal rights of sovereignty and self government (Cassidy, 1992; Morse, 1992:55; Stenning, 1992:62-67).
- vi. Historically, Indian bands evolved from a variety of traditional forms of kinship and community organization, including clan-based societies, into political and administrative units under the Indian

Act which often bear little resemblance to traditional organizational forms (but see Woodward, 1989:152). Today, Indian bands recognized under the Indian Act and its regulations generally prefer to be recognized as First Nations, a designation that more accurately reflects the historical, cultural and political integrity of Indian groups. In this report, the term "band" is used for literary convenience and to some extent for its consistency with existing legislative vocabulary, including the Indian Act, and the vocabulary of land claim agreements, including the Nunavut Settlement Area Agreement, 1993.).

vii. Between 1981 and 1986, the average annual rate of growth among the registered Indian population was almost five times that of the general Canadian population. In 1985, amendments to the Indian Act under Bill C-31 restored status to people who had lost it through gender and other forms of discrimination under the pre-1985 Indian Act. Since 1985, over 84,000 people have had their status restored. Even without Bill C-31, the natural growth rate is still almost three times the rate for the general Canadian population (Indian and Northern Affairs Canada, 1991:11).

viii. Between 1966 and 1989, the number of status Indians on-reserve and Crown lands increased by 55%. In future years, the on-reserve/Crown land population may grow at an even faster pace as more Bill C-31 registrants seek to move back to reserves. According to DIAND's recent C-31 survey, it appears that up to 18% of those registered under C-31 may wish to return to reserves by 1996 (Indian and Northern Affairs Canada, 1991:13)

ix. Depew and Rocan (1992:1), for example, conclude that, nationally, the average (mode) on-reserve population is under 500 persons. Similarly, Stenning (1992:111) reports that 69% of the reserves in the province of Ontario have populations of less than 500. Gerber (1979, 1990) and LaPrairie (1988, 1991) have documented at national and regional levels the general situation of limited or scarce resources in Indian reserve communities.

x. "Band groups" include Indian Bands that remain undifferentiated or that have subdivided for administrative or political purposes (Darrell Buffalo, personal communication).

xi. Other types of community-level associations may be considerably larger or reflect amalgamations of a different nature. For example, the Nishnawbe-Aski Nation represents 46 First Nations (bands) in northern Ontario for a variety of purposes, including participation in the Ontario First Nations Policing Agreement (Stenning, 1992:73). Elsewhere, tribal councils, usually based on the membership of bands, have been replaced by more traditional forms of organization, such as the Office of the Hereditary Chiefs of the Gitksan and Wet'suwet'en People of northern British Columbia which unites traditional kinship-based "Houses" into a more inclusive association. Reorganization of this nature, however, may also entail political tensions between groups over the legitimacy of representation or between those individuals and groups with vested interests in the direction of the political evolution of their communities (see, for example, Nahanee, 1993:374; Stenning, 1992:7). In addition to these types of associations, Indian bands may be grouped together in systems of regional government under land claims agreements and related legislation, such as the 9 Cree bands of east James Bay (Peters, 1989)

xii. In 1939, the Supreme Court of Canada assigned exclusive legislative jurisdiction over Inuit to the federal government. However, the federal government has not passed special legislation over the Inuit comparable to the Indian Act (Wonders, 1987: 663).

xiii. Rasing (1988) comments that Igloolik ranks among the 5 highest per-capita birthrates in Canada.

xiv. Stenning (1992:2-3) comments that in one remote northern Ontario reserve community, the police (Ontario Provincial Police) had made only three or four investigative visits over the last 10 years! He adds, "...the community's leadership has consistently taken the view that the kind of policing provided by the Force is generally not appropriate or desirable for this community".

xv. Controlling for region, data on crime and disorder in Saskatchewan's Aboriginal communities illustrate the differences. Offence rates on Indian reserves are 5 times greater than those for Aboriginal People living off reserve. The proportion of violent offences reported for Indian reserves are 2 1/2 times greater than those reported for other, mainly urban Aboriginal communities. However, 85% of Aboriginal people incarcerated in 1989 were urban based compared to 15% who were reserve based (Canadian Centre for Justice Statistics, 1991a; Elliot, 1989).

xvi. Giokas (1993:193) suggests that Aboriginal migration to and from cities is on a seasonal basis but no data are presented to support this statement. Stenning (1992, personal communication), on the other hand, observes that among reserve communities in Ontario, populations swell during the summer months due largely to recreational activities, student summer holidays, etc.

xvii. Despite disruptions in kin and community relationships in rural and remote Aboriginal communities, recent community-based research indicates that family and other types of kin relationships retain value in inhibiting to a significant degree formal police responses to community justice problems (Auger et al, 1992; LaPrairie, 1987, 1991; cf. Marenin, 1992). This may not hold to the same degree or with the same effect in urban areas where the collapse of family structures may be more severe than in rural and remote areas (LaPrairie, 1994; Harding, 1991:374). In a wide-ranging theoretical essay that anticipates many of the difficulties encountered by Aboriginal Peoples who are unequally caught up in the processes of social, political and economic change, Crook (1970:81) recognizes the critical role of the "communication revolution" in widening the "generation gap" and disrupting kin relationships when he writes,

"Mass media have ensured access to information of a different order (quantitatively and qualitatively) than to previous generations and also provided reference groups on an international scale. The reference group is able, in its lifestyle, to provide a focal point for identification...."

Crook goes on to point out that this introduced internationalism reaches young people who define their situation similarly in different national societies, indeed far more similar than the situation of older members in their own society whose creations and styles are increasingly devalued from within. These themes have been reiterated and elaborated by more recent commentary on the increasingly significant role that processes of modernization, including social stratification, class differentiation and bureaucratization play in the differentiation and reinterpretation of social and cultural values between the generations, the sexes and between other diverse interest groups

(e.g. Clairmont, 1992b:544; Harding, 1991:372-373; McDonnell, 1992a; Nagata, 1987; Nahanee, 1993).

xviii. It is an established fact throughout the Canadian and international criminological literature that most acts of crime and disorder are committed by males, roughly between the ages of 15-24 (Brodeur, 1991:54; Clairmont, 1992a:20; Clifford, 1978:73,76; Cove, 1992:160-162; Jefferson, 1988).

xix. On the basis of her analysis of 1986 Canadian census data, Gerber (1990:72) concludes that the Inuit population is generally the youngest of all Aboriginal Peoples.

xx. 1986 figures for the Yukon show that 29% of the Aboriginal population aged 15 years and over had less than grade 9 education (LaPrairie, 1992b:19-20).

xxi. For Indians and Metis, male unemployment rates were negligibly higher than the female rate. The male Inuit rate was somewhat higher (42.7%) than that for female Inuit (34.9%).

xxii. A notable exception are the Cree communities of James Bay whose incomes, which are relatively higher than comparable non-Aboriginal incomes, are guaranteed pursuant to their land claim agreement (Brodeur, 1991:55; Peters, 1989). However, unemployment in the sense of being without work or lacking the skills to fill the few jobs that are available is a problem among these Cree communities (see LaPrairie, 1991:11-14) for details). With regard to the situation of Aboriginal women, Gerber (1990:78) adds, "While female incomes are lower than those for males, native females are actually better off than males relative to their Canadian counterparts. One suspects that various social and welfare benefits account for this relatively even income dispersion".

xxiii. As conventionally understood, these language families include Algonquin, Iroquois, Sioux, Athabaskan, Kootenay, Salish, Wakashan, Tsimshian, Haida, Tlingt and Inuktituk. However, recent debate in historical linguistics suggests that the classification of North American Aboriginal language families is far from settled (e.g. Lewin, 1990).

xxiv. At the most general level, Aboriginal Peoples are divided among seven major culture areas including Algonquin, Iroquois, Plains, Plateau, Northwest or Pacific Coast, Mackenzie River Delta and the Arctic. However, these distinctions are cross-cut by regional and local variations in social and cultural organization.

xxv. McDonnell's (1992a) study of customary beliefs and practices among the Cree of Quebec presents one of the best discussions in the literature on Canadian Aboriginal social life without "rules". LiPuma (1983) provides a particularly lucid study of cultural practices in the area of kinship and marriage and how they differ from the notion of marriage rules in a traditional society of Papua New Guinea. Bourdieu (1990:162-199) provides a similar but technically more challenging analysis of patrilateral parallel cousin marriage in Arab society. For an alternative, phenomenological analysis of the cultural organization of practice in modernizing societies, see Crook (1967, 1970) and Swidler (1986).

xxvi. Strathern (1985:112) makes a similar point when she draws a distinction between a 'rule-centred paradigm', which is the language of Western law (Bourdieu, 1990:163) and a 'processual paradigm' which proposes "the dynamics of order in the social process itself". As LiPuma (1983:778-783) and Moore (1989) have demonstrated, a "language of rules" approach to customary or traditional law and the methodology it presupposes can raise significant problems for understanding and describing Aboriginal custom and tradition as means of social regulation and control (cf. McDonnell, 1992a:56-57; 1992b:305, 312-313, 314, note 2; Swidler, 1986).

xxvii. It is clear from the survey that the phrase "never spoke an Aboriginal language" means that the respondents cannot speak or did not learn to speak an Aboriginal language.

xxviii. These statistics are certainly at odds with claims by some commentators that Aboriginal People (usually not specified by group, but including Metis and off-reserve Indians) are linguistically set apart from non-Aboriginals (Monture-Okanee and Turpel, 1992:256).

xxix. Bloch (1991:185) reminds us that not all concepts are expressed in words and that concepts can and do exist independently of language. These relationships point to underlying problems that may be encountered in the act of translation. The futility of trying to map differences in thought on a "word-for-word" basis and the methodological pitfalls that lead to erroneous conclusions about "alien modes of thought" in other cultures are best expressed by Campbell (1989:62-63):

"Searching for lexical equivalents with questions of the form 'Do they have a word for X' are really disguised questions about what X means in the questioner's language...and having recognized that, the question to ask is how adequate are our translations between that language and our own when we are dealing with such expressions."

Reflecting on the process by which he unmasked the illusion of difference between English and Wayapi (nomads of the Brazilian rainforest) concepts of 'causation', Campbell (1989:56) adds,

"When I read an account of a collection of beliefs and cosmological notions, a few curiosities about space and time, perhaps, or an odd taxonomy, am I to take this as an alien mode of thought? What exactly do these details illustrate of a difference between us and them? Surely if there were such a thing as an isolated, singular, self-contained, alien mode of thought, there would be no conditions for us to know anything about it."

There are, indeed, a variety of contexts in which acts of translation, designed to interpret or "decode" cultural meanings, may occur. These contexts may be 'scientific' or 'humanistic', procedural or pragmatic. Ridington (1987), for example, suggests that the "alien" world of Aboriginal Peoples may be constituted and understood through the metaphorical, tropic and poetic character or use of Aboriginal languages (see also Gumperz and Levinson, 1991:614, 619). But these are also features shared by the English or French language and may be drawn upon in the act of translating the distinctions, say, of Aboriginal poetic imagery. This conceptual and experiential shift in emphasis from syntax to semantics (or from "literal" scientific language to "figurative" humanistic language) in understanding both Aboriginal world views and, as Ridington (1987) proposes, the "Sapir-Whorf hypothesis" itself, is captured by the English poet, Dylan Thomas, who muses,

When logics die,  
 The secret of the soil grows through the eye,  
 And blood jumps in the sun.

("Light breaks where no sun shines")

xxx. Smith (1975:60) makes a similar point about the Aboriginal Peoples of the Mackenzie River Delta:

"Outsiders are almost universally critical of the apparent incapacity of Native people to keep appointments and to report for work on time. The explanation usually offered (and indeed by some Native people) is that Native people have an obscure cultural perception of time which is believed to be a manifestation of the aboriginal residue of exotic characteristics latent in contemporary Native people. We do not deny the possibility of culturally unique definitions of time among Delta Native people but we suggest that it is not necessary to invoke these to explain the behaviour of Native people with respect to keeping appointments or reporting for work on time. We suggest that conceptions of self-determination are much more proximally implicated. To allow another to specify when, where, and how one will perform an act is to surrender a degree of one's valued autonomy."

xxxi. Monture-Okanee and Turpel (1992:256) seem to think that certain characteristics such as extended kinship networks, sets of responsibilities (instead of rights) among individuals, within the collectivity and toward the resource base (land) are peculiar to Aboriginal societies. Yet if one were to simply substitute reverence for the land with reverence for the sea, these characteristics apply equally well to non-Aboriginal people living in outport fishing communities in Newfoundland, Scotland and Norway or, for that matter, to Aboriginal fishermen (Prattis, 1980; cf, LaPrairie, 1992b:432; McDonnell, 1992b:306-309). Herzfeld (1986, 1987) has criticized "essentialism" in the context of Mediterranean studies while Mars (1982) has shown how reciprocal social relationships of trust, support and mutual obligation structure credit relationships between shop keepers and their customers in urban England. Similarly, Dore (1983) describes social relations underpinned by a moral quality and sense of fairness in Western manufacturing firms while Halle (1984) highlights the kin and affinal ties that structure interaction among American blue-collar chemical workers. These examples, as Carrier (1992:203) points out, reflect aspects of "gift relations" (Mauss, 1990) which are also characteristic of Aboriginal societies. Gordon and Meggitt (1985:197-198) provide an example of "overlap" in their discussion of criminal indictments and dispute resolution in Papua New Guinea. Finally, the principle of binary opposition at the levels of cognition and valuation which has been attributed exclusively to Western society by some authors (e.g. Cawsey, 1991:9-2) is also operative in Aboriginal societies at, for example, the levels of myth and cosmos (Levi-Strauss, 1968, 1971), art and artifacts (Duff, 1975:14; Levi-Strauss, 1975).

xxxii. Presented in terms of the overall context of "culture conflict" between Aboriginal and non-Aboriginal Canadians, Hamilton and Sinclair (1991) identify the following cultural denotata: language and cognition (pp.38, 44 and throughout the text), world view (throughout the text), customary law (throughout the text), justice systems (throughout the text), rules of behaviour (p.30), concepts of time (pp.33, 42, 605), values (throughout the text), stress (p.95), institutions

(p.96), socio-economic class (pp.107- 109), political economy (p.110), social, political and economic rights (p.264), structural and role differentiation (p.551), marxist politics (p.597), alcohol abuse (p.617) and etiquette (p.605).

xxxiii. This view of natural process provides additional insight into the oft-quoted phrase that, "Aboriginal peoples live with a basic connection to the natural order, which we see as the natural law" (Monture-Okanee and Turpel, 1992:256; cf. Cawsey, 1991:chapter 9; Hamilton and Sinclair, 1991:20-22; Ross, 1992).

xxxiv. The implication of Murphy's critique of the functional model of conflict is that many Canadian commentators have been lulled into an uncritical acceptance of a Durkheimian interpretation of moral consensus as characteristic of traditional, small-scale societies in contrast to the fractious individualism of modern (non-Aboriginal) societies. As Cornell and Kalt (1993:41-48) note, traditional society among the Sioux, for example, was characterized by a high degree of individualism, often in conflict or tension with notions, ideas and ideologies of conformity and moral consensus.

xxxv. Turpel (1993:165-166) has suggested that ethnographic writing (by non-Aboriginals) has been tainted by positivistic science which generally ignores Aboriginal experience and its relationship to the natural and supernatural environment. Yet this conclusion overlooks a long-established tradition of humanism in anthropological thought and analysis, including phenomenology, hermeneutics and, more recently, poetics, which are much closer than she thinks to the holistic approaches she describes for Aboriginal Peoples (e.g. Ridington, 1988). It is interesting to note then that it is the legal profession, not the social sciences, which has been the main inheritor of Aristotelian logic, Cartesian dualism and the logical positivism of the Vienna Circle (cf. CBC, 1990). A close examination of the Honourable Justice Allan McEachern's (1991) decision in Delgamukw v. the Queen and his assessment of the anthropological evidence would seem to reflect this point (see also Cassidy 1992, Elias 1991:183-184, Miller 1992:57, and Waldram et al, 1992, for anthropological and historical commentary on this court case).

xxxvi. Smith (1975:19) provides an apt illustration of the point when he notes,

"...when Native people today (in the Mackenzie River Delta) nostalgically refer to the "old Eskimo (or Indian) way of life", they do not mean the pre-contact aboriginal cultures, but rather the "good old days" of the fur trade. Few, if any, have any recollection of what the aboriginal ways were like or any sense of identity with them."

Eric Wolf (1982:194) adds from a more global perspective that

"...many of the Indian "nations" or "tribes" later recognized as distinct ethnic entities by government agents or by anthropologists took shape in response to the fur trade itself... Thus the history of these supposedly history-less peoples is in fact a part of the history of European expansion itself."

xxxvii. Aboriginal People who were once in small groups or hunting societies are now encapsulated in year-round, sedentary communities where the options to create social and



physical distances are few, but without the advantage of resources commonplace to non-Aboriginal communities (Hamilton and Sinclair, 1991; LaPrairie, 1991; Marenin, 1992; McDonnell, 1992a). As LaPrairie (1991) points out, immobility may result not only from geographic isolation but also by eligibility for benefits that flow, for example, from land claim settlements.

xxxviii. The existing system of land allotments under the Indian Act, including Certificates of Possession, and the practice of buckshee leases have introduced concepts of private property at a structural level. These concepts and practices may have little in common with traditional concepts of property in some Aboriginal communities when compared to other Aboriginal communities (see McDonnell, 1992a, 1992b:304-306). Nahanee (1993:360-361) suggests that Aboriginal women and children themselves are seen as "property" of Aboriginal males or the general community but it is not entirely clear in what sense this term is being used and no data are presented that specifically support her position.

xxxix. It should be noted, however, that the reserve system has not always effectively suppressed all aspects of traditional Aboriginal political organization. Many Indian reserve communities maintain certain customs, such as leadership selection, under the terms of the Indian Act or practice other customs in spite of it.

xl. The range of commentary on the mixing, articulation or integration of Aboriginal social and cultural "systems" with non-Aboriginal "systems" (Prattis, 1980:310-317; Wax, 1993:108) and the appropriation of non-Aboriginal justice "systems" by many Aboriginal communities (e.g. LaPrairie, 1993; Merry, 1992) makes it difficult to sustain views that Aboriginal Peoples are separate from non-Aboriginal Canadians (e.g. Monture-Okanee and Turpel, 1992).

xli. All of these observations suggest that the issue of impartiality in contemporary and traditional Aboriginal social and cultural systems is far more complex than some commentators seem to think (e.g. Jackson, 1988; Monture-Okanee and Turpel, 1992:246).

41. Jackson (1988:2-3), for example, shows that although Aboriginal People make up only approximately 2% of the general population, they comprise around 10% of the federal correctional institutional population. The level of over-representation is even higher at provincial and territorial levels and, in particular, in the Prairie provinces and northwestern Ontario (cf. Depew, 1986:8-13; Hamilton and Sinclair, 1991:87-88). Jackson also notes that for certain Aboriginal groups such as women and treaty Indians, the rates and risk of incarceration are even more dramatic, a finding confirmed by other criminological research (Barkwell and Corrigan, 1991; Depew, 1986:12-13; LaPrairie, 1987; Smith, 1975:84-86). Levels of over-representation may also reflect other significant local and regional variations (e.g. Depew, 1986:11-12). More recent analysis of over-representation suggests incarceration of Aboriginal Peoples is greatest west of the Ontario/Manitoba border and generally involves mostly registered or status Indians in urban (core) areas (LaPrairie, 1992c).

xl.iii. A similar view is expressed by Nahanee (1993:361, 363) who argues that certain Aboriginal kinship values and customs, as well as Christian ideology and practice, effectively inhibit or prohibit the reporting of violent crimes against Aboriginal women and children. Significantly,

LaPrairie (1991:68) observes that the Inuit of Great Whale River in northern Quebec report more interpersonal violence, including assault, sexual assault and family disturbances, than the neighbouring Cree community of Whapmagoostui which in turn is an Aboriginal community characterized by high assault relative to other Cree communities in the study area (cf. Benson, 1991:14).

xliv. The importance of the research strategy in this study will be dealt with in section 3 of the present report.

xlv. At the national level, the federal Task Force Report (1990) on Indian policing claims that violent offences on reserves are 3 to 5 times higher than elsewhere in the country.

xlvi. According to 1989 statistics for Saskatchewan,

"The nature of crime on reserve differs markedly from that which characterizes other rural communities and urban centres. Most striking is the higher proportion of violent offences reported on reserve... violent offences account for about one-quarter of all Criminal Code offences on reserve, compared to less than 10% in other rural and urban areas...Offence rates per 100 population are considerably higher on reserve (5.1) than in other rural areas (0.6) and urban areas (1.0) (Canadian Centre for Justice Statistics, 1991a:22)."

xlvii. Hyde and LaPrairie (1987) found a close family relationship between victim and offender in 85% of the interpersonal reports where a relationship could be traced in another study of 25 Montagnais communities in northern Quebec. These findings are similar to those of other research results (e.g. Marenin, 1992:348; Moyer, 1992:391).

xlviii. Nevertheless, many Aboriginal women seem to report a minimum of violent interpersonal offences against them, their children or other Aboriginal women to the police or fail to follow through with police arrests and charges (see Clairmont, 1992a:48,51). The apparent reasons behind this under-reporting are graphically illustrated by LaPrairie (1992a:129-130) for Aboriginal women in the Yukon:

"The issues and responses to family violence are played out on a number of levels and agendas. At the Aboriginal community level, one explanation for the low reporting rate of family violence and sexual assaults incidents is the greater need to preserve social and family relations because of their smallness, closeness and kinship in communities. A social worker related the case of two young women who were sexually assaulted and reported the incident. As a result, community leaders supported the abuser and members of the offender's family assaulted the victims in their own homes. The worker claimed that "all hell breaks loose in the community if victims report sexual abuse". Aboriginal women fear being ostracized in communities if they report. Victim reluctance to report is also related to fears of attending court and exposing oneself to gossip and accusations of inadequacy from the community. There are suggestions that women victims attempt to protect families by not disclosing abuse and by their silence, play the role of community and family "protector". Because the offence and the lack of disclosure are generally well known in communities, the women and children involved (in cases of sexual assault) are rendered more vulnerable to further victimization." (see also Clairmont, 1992a:50-51; Fiske, 1993:24).

xlix. These issues reflect the struggle of Aboriginal women to redefine their relationship not only to the administration of justice but also to society in general, including marriage, family, the labour force and politics (Billson, 1990; Depew, 1986:109; Fiske, 1993:25-28; Gerber, 1990; Monture-Okanee, 1993; Nahanee, 1993; Sugar and Fox, 1989/90; Thomsen, 1988; Turpel, 1993).

i. This is especially the case where the regulation and use of land and resources are circumscribed by broader land claims, self government and treaty issues. From a somewhat different perspective, some Indian bands in the Yukon who are parties to the "Umbrella Self Government Agreement" see the protection of land and resources and the enforcement of related regulations as the first priority in, or crucial component of, policing (LaPrairie, 1992a:88, 97, 134, note 1). Nevertheless, land and resources issues are among the most frequently litigated matters in Canadian courts.

ii. The dysfunctional or inappropriate status of traditional, neo-traditional or other informal mechanisms of social control are revealed when the police rather than, say, elders are used as third parties to advise or adjudicate on interpersonal conflicts and disputes and to re-order or regulate family and social relationships. Yet, as Clairmont (1992a:51) points out, informal social control mechanisms sometimes work, at least in the short-run.

iii. Brodeur (1991) and LaPrairie (1991) found in their study of the Cree of east James Bay that in 1989, 60% of the calls for service had a law enforcement component. The majority of calls (40%) concerned interpersonal offences. Brodeur (1991:61) also notes that over 80% of Cree police work is reactive, an observation that parallels research results elsewhere in the country (e.g. Finkler, 1976; FSIN Study, 1984).

iiii. This problem can become particularly acute when the police officer is an Aboriginal person policing his or her home community or linguistically, culturally and politically related communities (see, for example, Van Dyke and Jamont, 1980).

lv. Nahanee (1993) makes an impassioned argument for this principle when she locates her discussion in the uneven distribution of power between Aboriginal men and women at community, regional and national levels. Notwithstanding her courageous and important observations on the subjugation of Aboriginal women (and children) by Aboriginal men in society, she nevertheless reconstitutes her object of study - the reorientation of Aboriginal women in the administration of justice - by replacing "male bias" in the legal system with a "female bias" which is, apparently, closer to reality and justice. This approach, inspired by feminist writings, has been forcefully criticized by Marilyn Strathern (1981, 1988). At the same time, there is a pressing need for women's perspectives on justice administration in general and women's involvement in policing in particular (e.g. Clairmont, 1992a:161).

lv. Systemic discrimination here suggests that the marginal position of Aboriginal People in Canadian society affects decision-making at various points of criminal justice processing because treating unequals equally means that the same standards are systematically applied and the more deprived Aboriginal group is less likely to meet the standards. The result of this may be police charges rather than diversion, incarceration rather than probation and lower parole release rates. However, LaPrairie (1990:435) argues that there is some evidence that the criminal justice

system "treats unequals unequally" and in favour of Aboriginal Peoples. She goes on to point out that disproportionate sentencing of Aboriginal Peoples to periods of incarceration may occur simply as a result of no other sentencing options available. Other recent studies, as Clairmont (1992a:151, note 5) notes, also have found no apparent discrimination in sentencing.

Ivi. Aboriginal autonomy in policing is usually more apparent than real. In cases where the Aboriginal police appear to be autonomous, such as the police of the Dakota Ojibway Tribal Council in Manitoba or the James Bay Cree of Quebec, non-Aboriginal police exercise at least distant and irregular supervision. Furthermore, Aboriginal police are not usually free to make their own decisions, within the context of Aboriginal governments, about the quality and quantity of police services to the community. Generally speaking, Aboriginal police lack an organizational context that is distinctively Aboriginal since the structure of current arrangements entail ultimate non-Aboriginal authority and management (see Brodeur, 1991:102-103).

Ivii. In 1987/88, 189 Aboriginal R.C.M.P. officers operated as an aspect of the provincial (R.C.M.P.) police service and policed Aboriginal (i.e. status Indian) communities. An additional 55 Aboriginal Supernumerary Constables also operated as an aspect of the R.C.M.P. with over 50% of these officers employed to police non-status Indians, Metis and Inuit communities and the remainder to police Indian reserves. Nationally, there were approximately 380 Indian Constables who performed the full range of police duties and have police officer powers comparable to those of non-Aboriginal officers in the same police force. In the province of Quebec, all of the approximately 32 Aboriginal Constables employed by the S.Q. serve the Cree, Naskapi and Montagnais regions. In the case of Aboriginal contingents of the O.P.P and the S.Q., most Aboriginal police units are located within Aboriginal communities. In contrast, most Aboriginal contingents within the R.C.M.P. are located in detachments outside Aboriginal communities (Auger et al, 1992; Brodeur, 1991; FSIN Study, 1984; Loree, 1984; Task Force Report, 1990).

Iviii. In 1987/88, there were a total of 236 Band Constables employed across the country. In some cases, Band Constable powers which are usually limited to the enforcement of band by-laws are augmented through federal and/or provincial appointments as "special constables". Under these circumstances, they are considered to be "peace officers" empowered to enforce federal and/or provincial laws in addition to band by-laws. Accordingly, some disciplinary and supervisory control rests with the conferring authority (usually a provincial police commission), although they appear to operate primarily under the control of the Indian Band Council (Stenning, 1992:149; Task Force Report, 1990).

lix. Initially implemented as Circular No. 55 Band Constables, they have evolved into more comprehensive police services that have displaced the non-Aboriginal police of local jurisdiction but have not necessarily excluded provincial or federal police force back-up, especially for more serious Criminal Code offences. Police officers under these programs usually have full police powers pursuant to provincial authority (e.g. Louis Bull Indian police appointed under an amendment to the Alberta Police Act). However, some Indian communities claiming sovereign status have not chosen to authorize their police officers under provincial police Acts. In the case of Kahnawake in Quebec, its Constables or "Peacekeepers" are sworn by a Justice of the Peace under the Indian Act. However, the Government of Kahnawake claims that "...the legality of this

peace and security force was confirmed by the "Fortier Decision" in the Sessions Court of Longueuil in 1982" (Mohawk Council of Kahnawake, 1989:15).

Ix. These police services are sometimes purchased by urban Indian bands located within or adjacent to the city limits of the police service. Examples include the Musquem Band in Vancouver and Membertou in Sydney, Nova Scotia.

Ixi. As indicated above, the provincial and territorial police departments of the R.C.M.P, O.P.P and S.Q. provide police services to Indian reserves, Inuit settlements and other Aboriginal communities located within their respective detachment boundaries. These services include full policing, back-up assistance, and jurisdiction especially in serious Criminal Code cases.

Ixii. Jarvis (1992:8, 12) states that there has been a decrease in the incarceration rates of Aboriginal Peoples in Ontario but provides no source nor timeframe in order to put her comment in context. Similarly, she states that there has been "less violence, less damage to property and less crime" on the Eskasoni Reserve in Nova Scotia but provides no source or temporal context. While not addressing incarceration rates, Auger et al (1992) do point to the significance of community differences which can be obscured by general incarceration statistics when they describe the alternation and fluctuation of high and low crime rates among selected reserve communities in Ontario. Jarvis' comments regarding the Eskasoni Reserve would also appear difficult to reconcile with the results of Clark's (1989:30) study.

Ixiii. As Clairmont (1992a) has shown, Aboriginal perceptions are linked to a variety of sociological variables. It should not be forgotten, however, that Aboriginal perceptions are not always consistent with reality (e.g. Cawsey, 1991:2-57; Clairmont, 1992a:100, note 13). Or, Aboriginal perceptions of the police may be highly charged with complex symbolic meanings that transcend the specifics of contemporary Aboriginal/police contact and reflect more general and unresolved historical grievances over treaties, lands and Aboriginal rights, other aspects of Aboriginal and non-Aboriginal contact and, in some cases, positive associations with the police (Clairmont, 1992a:81-86; Depew, 1986:30-32; Ungerleider and McGregor, 1991:556). Indeed, Aboriginal perceptions of and attitudes towards the police may be divided (Auger et al, 1992:333-334) or mixed (Brodeur, 1991; LaPrairie, 1991, 1992a; see also Clairmont, 1992a:59-61; Van Dyke and Jamont, 1980). On the other hand, studies that conclude the criminal justice system is racially prejudiced and discriminates against Aboriginal Peoples often fail to include the views and life histories of comparable non-Aboriginal groups also caught up in the criminal justice system (e.g. Morse and Lock, 1988; Sugar and Fox, 1989/90). Although the information provided is often shocking and rightly carries with it demands for immediate remedial action, one is left wondering to what extent the research results may also apply to the non-Aboriginal group (cf. Clairmont, 1992a:151, note 1).

Ixiv. Even the policing needs of the criminal justice system are unlikely to be met by the strategies of language and interaction skills training. As Bloch (1991) and McDonnell (1992a:49-50; see also Mills, 1988:406) argue, much of Aboriginal cultural knowledge is non-linguistic (cf. Gumperz and Levinson, 1991) and subject to variation and creativity over space and time (cf. Barth, 1975, 1987). Similarly, interaction skills training which usually takes place outside the Aboriginal community to be policed, cannot hope to reproduce the basis of much Aboriginal knowledge and

understandings which underlay actions, namely, the implicit networks of concepts and meanings that are formed through everyday non-linguistic practice and experience in the community. This issue becomes even more complex when one considers the range of community variation within Aboriginal linguistic/culture areas.

Ixv. Ungerleider and McGregor (1991, 1993) found almost negligible improvement in attitudes and behaviour for police officers towards minority populations in controlled experimental studies and have indicated the need to improve training programs and the conditions affecting their implementation. However, they add,

"Developing and implementing race relations training is a response to a social prejudice explanation of poor relations between members of minority groups and the police. The attribution of poor police-minority relations in Canada to the negative attitudes of individual police officers is not very satisfactory...The social prejudice explanation fails to recognize the economic and political context of policing... While race relations training may equip police officers with the knowledge, skills and attitudes they need to address issues and situations over which they exert control or influence (e.g. the delivery of a service), it is not capable of solving problems which originate from sources beyond police control (Ungerleider and McGregor, 1991:560-561)."

In the Aboriginal context, it is apparent that under current social, political, economic, demographic and geographic circumstances, the police exert very little in the way of influence or control over what is continuously reproduced as crime or social disorder, mainly because criminal justice issues and socio-economic issues become increasingly indistinct at the community level. Looked at from a slightly different angle, improving the individual police officer through cross-cultural or race relations training (see Ungerleider and McGregor, 1993) cannot be considered apart from the situations in which the "new" attitudes and motivations are expected to function (Depew, 1992b:541-542).

Ixvi. A total of 5 comprehensive land claims agreements have been signed since the federal government announced its first land claim policy in 1973. These agreements include the:

James Bay and Northern Quebec Agreement (1973)

Northeastern Quebec Agreement (1978)

Inuvialuit Final Agreement (NWT, 1984)

CYI Umbrella Final Agreement - and four related specific agreements - (Yukon, 1993 )

Nunavut Settlement Area Agreement (Arctic, 1993)

In some of these agreements, there are specific provisions for policing and other justice matters. Sections 18-20 of the JBNQA concern policing arrangements for the Cree while section 21 makes some provisions for Inuit policing. Similarly, section 13 of the Northeastern Quebec Agreement provides for aspects of Naskapi policing.

Ixvii. The Report of the Aboriginal Justice Inquiry of Manitoba (1991) and the Law Reform Commission of Canada (1991) have clearly endorsed community-based policing as an aspect of separate Aboriginal justice systems. Most of the reports, however, recommend reforms to the existing justice system including affirmative action and indigenization of the police, cross-cultural training and cultural liaison programs (see Cawsey, 1991; Hickman et al, 1989; Indian Justice Review Committee and Metis Justice Review Committee 1992). Significantly, the research report on The Mi'kmaq and Criminal Justice in Nova Scotia (Clark, 1989) prepared for the Royal Commission on the Donald Marshall, Jr., Prosecution, recommends community-based policing while the federal Task Force Report (1990) recommends greater participation by Indian communities in police governance and operations as well as policing as a negotiable element of self government agreements. The federal Solicitor General (now Minister of Public Security) and the Solicitor General of Ontario have, as a policy initiative, both encouraged the police in Canada and Ontario to begin the process of implementing community-based policing (Normandeau and Leighton, 1990; Solicitor General Canada, 1990; Solicitor General Ontario, 1989).

Ixviii. The general public in Canada also seems to support Aboriginal grievances in the area of justice. For example, a February 1990 Reid/Southam poll showed 57% of Canadians believe that Aboriginal People are not treated fairly by the justice system. Similarly, the 1991 Aboriginal Peoples Survey and the April 1994 Angus Reid poll indicate that policing and related justice concerns such as controlling and reducing alcohol and drug use, are community priorities. It is interesting to note, however, that only 2% of respondents in the Aboriginal Peoples Survey identified self government as a priority to overcome community problems.

Ixix. In line with the particular characteristics and principles of the "RIC" model of policing, the more general crime control model focuses on the detection of offences, apprehension of criminals and the laying of charges. The resultant policing style is frequently adversarial in its approach to intervention and investigation and is supported by a centralized para-military bureaucracy. The division of labour within the police force is specialized and distinguished by rank order and hierarchical authority. The performance of specialized police roles is based on rule-governed responsibilities and obedience to superiors in the police hierarchy (Depew, 1992a:462).

Ixx. Clark (1989:35), for example, reports that crime prevention and mediation techniques are practiced by the Eskasoni Reserve police, although more recent evidence indicates that the Eskasoni police, as well as the R.C.M.P. at Indian Brook reserve, provide a minimum of proactive policing and deliver services more consistent with conventional (non-Aboriginal) policing models (Don Clairmont, personal communication). The Dakota Ojibway Tribal Council Police of southern Manitoba appear to participate more in reserve community life, undertake more regular and innovative patrols and are more accountable to community representatives (Hamilton and Sinclair, 1991:615-616; Singer and Moyer, 1981). It is important, therefore, not to confuse aspects of police discretion (e.g. diversion as a result of mediation tactics), greater (often ad hoc) participation in community affairs, alternative patrol styles or greater administration of police services by Aboriginal communities with models of community-based policing.

Ixxi. This is not to overlook the federal powers of expropriation in relation to reserve lands nor the historical loss of reserve lands and shrinkage of their boundaries as a result of government and business activities. See, for example, Elias, 1991:82.

Ixxii. Murphy (1988:403) adds that in the non-Aboriginal context, even "...the identification of community problems by a significant proportion of community members cannot, without further clarification and qualification, be assumed to provide a mandate for a particular police response". Smith's (1975:61) description of Aboriginal "majority" voting patterns and their consequences in the Mackenzie Delta indicate that this point also has currency in the Aboriginal context.

Ixxiii. Brodeur (1991:83) found that among a number of Cree communities in Quebec, local knowledge of criminal law procedure, including police activity, was poor or simply lacking. Commenting on the general confusion about justice and the justice system among these same communities, and the corresponding public misperceptions of the police, LaPrairie (1991:128) vividly adds, "The lack of information about the criminal justice system in communities is so severe it is surprising the system retains any credibility". It is also important to note that misunderstandings of the police and their role in society are also linked to the cultural meanings and values which some Aboriginal Peoples attach to interpersonal relations and the status of (bureaucratic and hierarchical) institutions. According to Smith (1975:61), Aboriginal People of the Mackenzie Delta,

"...tend to personalize the actions of a person's authority. There is little recognition that a...policeman...acts in a certain way by virtue of the definition of his office. His actions are believed to be an expression of his personal like or dislike for specific individuals, Inuit, Indians, members of a certain clique and so on."

It is apparent from other research findings such as those of Brodeur (1991:81) and Van Dyke and Jamont (1980) that Smith's observations and conclusions regarding the personalization of offences and actions have general validity among many other Aboriginal Peoples of Canada.

Ixxiv. More specifically, these forms of intervention refer to such analytic oppositions as law enforcement and order maintenance, formal criminal justice processing and diversion/informal mediation, reactive and pro-active policing styles, etc.

Ixxv. As discussed in greater detail elsewhere (e.g. Depew, 1986; Stenning, 1992) problems in consistent and adequate funding for Aboriginal police services whether Aboriginal or non-Aboriginal administered, have been one of the biggest threats to their continued operation.

Ixxvi. Brodeur (1991:83) concludes that "Like all Aboriginals, the Cree know perfectly well that murder, rape and theft are wrong and they strive to behave accordingly". From a global perspective, Clifford (1978:77) points out that "...there are no great differences between customary and statutory conceptions of crime - however more precise and technical the modern laws have become. Such divergencies as these are related far more to the forms of treatment (e.g. compensation rather than imprisonment) than they are to the ways in which intolerable conduct is perceived". (see also Gordon and Meggitt, 1985:209, note 1).

Ixxvii. Although the R.C.M.P. have recently eliminated the "Native Special Constable Program", for example, Aboriginal police personnel continue to generally occupy subordinate status within "mainstream" police organizations in terms of their qualifications and positions (including lower education and technical training levels, lower salaries, poorer equipment and working conditions,



rank and file rather than leadership/management skills development and career opportunities), and in many police programs exercise limited powers when compared to those of non-Aboriginal police officers. The ensuing "inferior status" of Aboriginal police has a tendency to undermine Aboriginal police morale and self image. More importantly, it has been exploited for administrative and management purposes by non-Aboriginal authorities (e.g. Brodeur, 1991:ii-iii), and has fostered non-Aboriginal paternalistic attitudes towards Aboriginal police as well as negative reactions by Aboriginal communities, including hostility towards and rejection of Aboriginal police (Brodeur, 1991:11, 18, 32; Van Dyke and Jamont, 1980).

lxxviii. Marchant (1985:22-23) defines "institutional standing" as the

"..symbiotic relationship between an institution and its publics. If there is bad chemistry between an institution and the community or communities it is intended to serve, not only will there be friction, but institutional purpose and effectiveness will be undermined, and may increasingly depend on the use of force...Institutional standing might be described as the moral authority or "jurisdiction" voluntarily accorded to institutions by the communities they serve where the former are favourably perceived by the latter. Like legally-conferred jurisdiction, moral authority or institutional standing are guarded and ceded only unwillingly."

lxxix. Brodeur (1991:10) comments,

"Applied literally within the Canadian context, this principle is obviously absurd: it states that the police must be both independent of Parliament and accountable to the community. In other words, the police should be accountable to the community, but not to its elected representative."

lxxx. A notable exception to this pattern includes the alleged interference in aspects of policing on the Blood Indian Reserve by the local Tribal Council (Rolf, 1991). In stark contrast, Brodeur (1991) reports what appears to be general disinterest and non-involvement in policing among local Cree government authorities of east James Bay, Quebec.

lxxxi. Brodeur (1991:34-36) provides some evidence that Aboriginal police have more positive attitudes towards Aboriginal communities than do non-Aboriginal police (cf. Van Dyke and Jamont, 1980). Yet, in his study of Cree policing, Brodeur also notes a considerable degree of role ambiguity among Cree police officers which may be traced to the constraints of policing as a career in an indigenized police force. This ambiguity would appear to contribute significantly to culture and social conflict in the performance of police roles. Sugar and Fox (1989/90:478) also suggest that police role definitions attached to indigenized models of policing may constrain and limit culturally-oriented responses by female police officers.

lxxxii. The emphasis here is on enhancing the completeness of the data since, as Brodeur (1991:vii-viii) cautions, police daily reports do not necessarily capture the full magnitude of police discretion, at least some of which is not recorded by the police in any form. Nevertheless, community interviews may fill in some of the gaps in the written record. At the same time, they may reveal inconsistencies between community and police perceptions of local crime and disorder problems (see, for example, LaPrairie, 1991:43).

lxxxiii. Marenin's (1989) argument that surveys of community policing needs are of limited use in providing the police with direction or a community-approved mandate seems more relevant as a commentary on the need for methodological rigour in the design and application of the various components of needs assessments than a fatal indictment of needs surveys in particular or needs assessments in general. It may be assumed that a variety of data collection instruments would be used in order to complement and supplement one another in the research process. An excellent example of such research practice is Clairmont's (1992a) study of policing and court services for Aboriginal Peoples in Nova Scotia. As Brodeur (1991:viii) has noted in his study of Cree policing, no one data source can hope to provide an accurate picture of policing needs, nor can all sources combined necessarily offer a complete picture of this issue.

lxxxiv. It has been almost 20 years since Bienvenue and Latiff (1974) conducted their important study of contact between Aboriginal Peoples and the police in the city. Clairmont (1992a) provides useful information on urban Indians in Nova Scotia. Particularly insightful and comprehensive research on Aboriginal Peoples and criminal justice in four western and eastern Canadian cities has been recently completed by LaPrairie (1994).

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