Issues in Native policing: A critical examination (Native Canadians).

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ISSUES IN NATIVE POLICING: A CRITICAL EXAMINATION

by

Tonio Sadik

A Thesis
Submitted to the Faculty of Graduate Studies and Research
Through the Department of Sociology and Anthropology
in Partial Fulfilment
of the Requirements for the Degree of
Master of Arts
at the University of Windsor

Windsor, Ontario, Canada
1993

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ABSTRACT

This thesis examines the development of Native policing in Canada. Through a combination of archival and field research, it: (1) demonstrates the degree to which Native communities have been obliged to rely on the "crime control" model of policing; and (2) underscores the need for such communities to find alternatives to this model which does not adequately meet their needs. A critique of the contemporary model of policing (termed "crime-control"), and an examination of the four primary models used in regard to Native policing, provides the foundation for a specific inquiry into one Native community’s struggle towards autonomy in policing. Indeed, a focus on the Walpole Island First Nation, located in Southern Ontario, yields important insights into the processes which have compelled Native communities to adopt this less than adequate model of policing. However, in an effort to reduce the tendency for these findings to be interpreted as a call for more "traditional" forms of law enforcement, this research also examines Euro-Canadian conceptions of "Nativeness", and how they have served to obfuscate this issue.
This thesis
is dedicated to my beloved fiancée
and all the years that we still have together
ACKNOWLEDGEMENTS

This research would not have been possible had it not been for the support and assistance of many people.

In particular, I would like to thank the members of my Thesis Committee, Max Hedley, Vito Signorile, Leigh West, and Dean Jacobs, for their generous time and support.

Also, I would like to express my appreciation to Sue McGilveary, for her kindness and assistance, and to Perry Pittao, for keeping me in touch.

There are also some friends whom I wish to thank, Peter Silverwood, for getting me here and keeping me going, and Leona Leveque, for her unmistakable thoughtfulness and support.

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As well, thanks is due to the staff of the Heritage Centre, the Band Office, and the Walpole Island Police Department. Additional thanks goes to the Chief and Band Council, and in particular, Joseph Gilbert.

Finally, I am indebted to my mother and father. My mother, for keeping me informed, and my father, for his generous financial support.

I would also like to give special mention to Victoria Powell, for being their all along...
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1.0 - INTRODUCTION

This research examines the development of Native policing. It explores the relationship which has existed between Native peoples and the policing institutions utilized to achieve social order in their communities. By combining an examination of Native policing at the national level with field research in one specific Native community, this inquiry provides an overview of national issues with a sensitivity to the micro context. Hence, a focus on the Walpole Island First Nation serves to highlight one community's struggle towards autonomy and self-sufficiency in this regard. While several models exist which can be used to further an understanding of "Native policing", Native policing is not itself a "model" but, more generally, refers to an effort on the part of Native peoples to enhance their autonomy in policing. In this respect, Native policing has been characterized as a significant facet of the struggle for Native autonomy on the whole. In the final analysis, however, the most significant achievement in Native policing has been the replacement of "regular" police officers with those chosen by a Band Council. Although this had been one of the primary objectives sought by many Native communities, it was hardly envisioned as the only one.

There is little evidence to support the supposition that Native peoples have been struggling to re-assert their autonomy merely in an effort to replicate the policies and
institutions which they have attempted to shed in the first place. More conceivably, this finding suggests that years of assimilatory policies on the part of the government, coupled with a sense of futility and mistrust on the part of Natives, have made more creative endeavour seem too far out of reach. Indeed, there is considerable evidence to suggest that the earlier aspirations of some Native communities may have been more ambitious. In effect, Natives have been empowered only to the degree that they have been willing to establish institutions which correspond to those which already exist in the wider society. This has prevented them from assuming a more active and creative role in the establishment of an autonomous policing structure, let alone a system of self-governance. Moreover, contemporary policing practices have increasingly been criticized, both in Canada and the United States, for their high cost and relative ineffectiveness. Hence, it may not only be in their interest, but rather prudent of Native communities to examine, and actively pursue, alternatives which offer more tenable results.

This research cannot hope to discern, or even review, such alternatives. For the most part, such a task would be best carried out by each community itself; since the needs of each community tend to differ, so too do the initiatives meant to meet those needs. Rather, this research attempts, first, to illustrate the degree to which autonomy in Native
policing has only been achieved through replication, and second, to underscore the need for Native communities to find alternatives to the contemporary policing model which, in many respects, does not adequately meet their needs. In no way is this research meant to appear as an indictment of police officers in general or specific police departments. Indeed, many of the deficiencies in the policing model which I explore have been identified by police officers and administrators themselves. Hence, while this research does challenge some aspects of contemporary policing, it does so with constructive intent.

Finally, while it is my deepest desire for this research to have some value beyond that which I personally derive, I have no guarantee that its readers will take favourably to its findings and conclusions. Particularly because my approach is a critical one, challenging notions which represent the status quo, I am concerned that some readers may balk at my premise, interpreting it as too radical and, in the case of policing personnel, a disapproval of their work. Nothing could be further from the truth. My criticisms are not aimed at them, but, on the contrary, flow directly from their observations and are intended to provide – if not "solutions" – a means with which to find solutions. The goal of this research is not so much to initiate a new debate, as it is to re-kindle an old one.
2.0 - METHODOLOGY

The Walpole Island First Nation, the Native community examined in this research, is an "Indian Reserve" located in south-western Ontario, near the town of Wallaceburg. Comprising five islands, the largest of which is "Walpole", this community consists of two-hundred square kilometres of land, water, and marsh, and has a population of seventeen-hundred (Van Wyck 1992:2).\(^1\) By virtue of being an island, Walpole has enjoyed a relatively high degree of geographic independence.\(^2\) However, because of its location in what has become both an agricultural and industrial mecca,\(^3\) the Walpole Island community has a long and intensive history of interaction with its surroundings. It lies between the Canadian/American border and has its "front" on one of North America's busiest international shipping lanes. Indeed, it is useful to recognize at the outset that this community cannot be distinguished from those which surround it on the basis of oversimplified notions of "Indian country".

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\(^1\) Utilizing 1986 figures.

\(^2\) Walpole Island has the distinction of existing on land which has never been ceded (Van Wyck 1992:2).

\(^3\) The region which surrounds Walpole Island is extensively devoted to agriculture. However, it also has Sarnia and the "chemical valley" to the north, and Windsor and Detroit, North America's two automotive capitals, to the south.
Having been the first Native community in all of Canada to achieve a form of self-governance, this community has experienced significant development under the guidance of an active Band Council. For example, it has maintained a research facility on the Island since the mid-1970s, and this has facilitated the development of a cooperative research program between Walpole Island and the University of Windsor (Nin.da.waab.jig 1986:8). This program, called Nin.da.waab.jig ("those who seek to find"), arose as a reflection of complementary interests between these two parties, and provides Walpole Island with an alternate source of research to those of the provincial and federal governments (Hedley 1986:93). It is through this program that this research has been made possible. In order to enter into this program it was necessary to travel to Walpole Island several times in an effort to develop a mutually suitable project (see Appendix 1). My first contact with Walpole Island came in November, 1991, and it was in June, 1992, that a project had been sufficiently agreed upon to begin to conduct interviews.

4 Although Walpole Island achieved a form of self-governance in 1965, this arrangement has been defined, more accurately, as an arrangement of "delegated authority"; a point examined in more detail in chapter 6.0.

5 Walpole Island has put a significant emphasis on to the development of its own resources. Among other things, this has included the establishment of a local school, a senior's centre, local health services, a library, and a large Band-owned farming enterprise.
A total of fifteen formal, and three informal, interviews were conducted (see Appendix 2); all but one of which were with male respondents (see Appendix 3). With regard to the formal interviews, respondents were contacted by phone and asked if they would agree to an interview. If so, a time, date, and location was arranged. Interviews were conducted in a semi-structured fashion whereby respondents were asked to provide answers and opinions to a series of questions. Depending on who was being interviewed, questions were asked from one of four prepared interview schedules⁶ (see Appendix 4). Although interview schedules were designed to correspond to one another, the casual character of all interviews has severely inhibited their comparability. Moreover, time constraints, in every case, required that a significant portion of the questions in each schedule remain unanswered. Furthermore, because I felt that it was important for each respondent to emphasize the features of an answer which they felt were most significant, the same question was often interpreted in a variety of ways. The result has rendered these interviews virtually incomparable with one another, and has eliminated the possibility of applying a statistical analysis in their regard.

⁶ Initially only three interview schedules had been developed. However, when the opportunity arose to interview Walpole Island's only Justice of the Peace, one of these schedules was modified for this purpose (see: schedule "Bx").
Each interview began with an introduction and an explanation of the purpose of this research. After I recorded basic demographic data (summarized in Appendix J), respondents were asked to provide answers to my questions while I made point form notes on their respective interview schedules. I would indicate early on that it was not necessary for them to maintain a strict "question" and "answer" procedure, and suggested that they elaborate wherever they thought it necessary. I also indicated that they were not required to answer my questions, although I assured them of their anonymity and/or confidentiality. At the completion of each interview, which ranged from forty-five minutes to four hours, respondents were given a one page letter which thanked them for participating, reiterated the purpose of my research, and contained a short note on how and when it could be accessed (see Appendix 5). Furthermore, the name, address and/or phone number of myself, and the Chair of my thesis committee, were provided in the event that they wished to contact either of us.

With regard to the informal interviews, the structure described above was altered significantly. Only one of the respondents had been contacted by phone previously, and then, no specific meeting had been arranged. Typically, a chance meeting would take place whereby I would indicate that I was conducting research on the Island, and a conversation would ensue. I would not take any notes until
after the interview, but would always make it clear that their comments were of more than a casual interest to me. One of the respondents was, and continues to be, at the centre of a controversy which has recently shifted into the judicial arena; for this reason I have chosen to exclude his commentary.

With only one exception, the rapport in all interviews was very good; in some cases leading to a dinner invitation or a game of "horse shoes". However, apart from those persons whom I did interview, several further persons whom I attempted to interview either refused, or made it very difficult for me to meet them (which in some cases had the same effect). Although this was to be expected, I was somewhat surprised by the common reason given for this refusal, namely, fear of reprisal from the Walpole Island community or some unidentified "group". Only one person reconsidered after having initially refused, and then, only after I went to great lengths to re-assure their confidentiality. Although I had hoped to tape record most of the interviews, all but four respondents indicated that they would rather I did not. I found, however, that once an interview had been initiated, most respondents were quite willing to volunteer their specific concerns and opinions; so much so that it often became difficult to interject specific questions. This, in most cases, was not a problem as, generally, the information they provided was relevant
and would not have been obtained had I insisted on a strict response to my questions.

In some cases, respondents have contradicted one another, or were contradicted by materials found in print. However, this did not pose a problem as these contradictions could usually be attributed to differences of opinion or simply a lapse of memory. Indeed, such contradictions often provided valuable insight into how specific issues were truly perceived. In addition to the total of eighteen interviews conducted, a significant amount of archival and academic research has been carried out. As a result, the interviews do not provide a focal point for this research but have become an implicit part of the dialogue contained herein. Nevertheless, they have had a profound influence on the shape and content of this research.

A variety of sources were drawn upon for the completion of this research. Initially, research was conducted at the University of Windsor's libraries and on Walpole Island (e.g. the Heritage Centre, the Band Office). This was followed by an extensive review of materials published by several of the local newspapers. These papers included the Wallaceburg News and Wallaceburg Courier,7 the Windsor Star, and the Chatham Daily News. The Chatham Daily News, in particular, was very beneficial as its Wallaceburg office contained some

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7 Both the Wallaceburg News and the Wallaceburg Courier are only published weekly.
thirteen-thousand pages of scrapbooks with all materials published in regard to this region since 1960. Through the kindness of the reporter staffing this office, I was able to examine these scrapbooks over an extended period of time. Further research was conducted at the Wallaceburg Museum, the Wallaceburg Public Library, and the Chatham Public Library.

In late August, 1992, my focus shifted from sources in the Walpole Island region to those elsewhere. In Ottawa, two sources, in particular, held materials relevant to Walpole Island: the Treaties and Historical Research Centre (a branch of the Department of Indian Affairs) and the Public Archives of Canada. Moreover, the Federal Solicitor General's Office contained a "Policing Library" and provided a large quantity of more general (Native) policing literature. In addition to these three major sources, several further departments and institutions were contacted, in Ottawa and elsewhere, with varying degrees of success. They included the R.C.M.P. Law Enforcement Reference Centre, the R.C.M.P. Historical Archives, the R.C.M.P. Aboriginal Policing Branch, the Indian Commission of Ontario, and Ontario First Nations Policing/First Nations Contract Policing. Furthermore, a formal search was initiated under the Access to Information Act with regard to materials held

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8 The difficulty was not in contacting these departments but in actually receiving access and/or materials from them.
by the R.C.M.P., while another was conducted under the Freedom of Information and Privacy Act regarding materials held at the Archives of Ontario.

Undoubtedly, there exist many further sources which might have been utilized in this research. For example, had I obtained a Band Council Resolution\(^9\) authorizing me to conduct research on the Council's behalf, I would have been able to review several further files contained at the Public Archives of Canada. However, further files would not necessarily have proved beneficial; particularly because materials which have already been gathered have proved to be more than can adequately be incorporated into this body of work. Hence, it is necessary to state the limitations of this research. Although this research purports to examine the development of Native policing, it cannot realistically encompass all Native and policing issues. Indeed, for reasons of clarity, an effort has been made to maintain a relatively narrow focus. In most cases, however, references are given for readings which relate to this research, but are beyond the scope of this specific work. The predominant focus of this research is on Native policing, and hence, discussions with regard to many related issues (e.g. crime, self-government, Native culture, etc.) remain peripheral to it. In addition, it is necessary to note that the use of

\(^9\) A Band Council Resolution is a formal declaration of a Band Council's opinion or intention, and is utilized to initiate various formal/legal proceedings.
the term "Native" in this work can only be construed as applying to Natives who live on "Reserves" and come under the jurisdiction of the Indian Act. As such, it does not examine the issue of the policing of Natives who have left their communities to live in cities, etc., nor does it apply to Métis and Inuit peoples.

With regard to Walpole Island: although I have attempted to chronicle many of the more significant events which relate to policing, I found that an elaborate description of specific issues usually added little to my overall discussion of Native policing. Hence, rather than provide a singular focus for this research, my use of Walpole Island is as a case study. For readers who may be interested in a more detailed examination of Walpole Island's history, a book produced by the Heritage Centre, entitled Walpole Island: The Soul of Indian Territory (1989), is recommended. For a more detailed examination of Walpole Island's quest for self-governance, see John

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10 The Indian Act is a comprehensive piece of legislation, enacted in 1876, which imposed a (foreign) structure of control and organization over Native peoples. Initially, it applied to all indigenous peoples of Canada defined as "status" Indians pursuant to this Act. Inuit peoples were later excluded from it, and, in 1985, the "status/non-status" distinction was also removed. Prior to 1985, an Indian could be "enfranchised" and would lose his/her "Indian status", and hence, would no longer be subject to the Indian Act. The Indian Act continues to apply to all Natives who are recognized members of a specific Native Band in Canada (via a "Band List"). Although several amendments have been made to this Act since 1876, most notably in 1951, it continues to be the main piece of legislation in regard to Natives.
3.0 - THEORETICAL FRAMEWORK AND REVIEW OF LITERATURE

3.1 - INTRODUCTION

The development of clear policies in regard to Native policing have been doubly inhibited through the withering of a Native self-identity, and a parallel growth of policing institutions. As will be described more explicitly in chapter 5.0, policies with regard to Native policing have been haphazardly applied, and have been implemented with few clear objectives. Among other things, pronounced advancements in transportation and telecommunication, throughout this century, have had a profound impact on the ability of Native communities to maintain culturally specific and cohesive community structures. Moreover, an ideological shift in the strategy used to inhibit criminal activity in the 1970s, termed "crime-control", has spurred a fantastic growth in North American policing institutions (Williams and McShane 1988:109). These two trends can be seen to have merged in recent decades whereby Native communities have come, increasingly, to rely upon the contemporary model of policing to curb crime and maintain social order.

This conclusion, in itself, is relatively unproblematic as there is no explicit reason to suggest that Natives should not have come to rely on the contemporary policing model. However, with hindsight, several matters come to
light which suggest that there may have been other, possibly better, alternatives available to Native peoples. This observation is particularly relevant in the present context for two reasons; not only has there been a recent resurgence of what can be called Native "pride" or "awareness," but governments and researchers alike have been finding that recent developments in policing are falling short of their mark (see, e.g. Solicitor General 1991 and 1990; Normandeau and Leighton 1991). These findings suggest that Natives may be prudent to pursue alternative strategies for the resolution of community problems which the police have not been able to resolve (e.g. youth crime, alcoholism, drug abuse, etc.). Moreover, by taking this lead, Natives may find this to be a prime opportunity to assert solutions which are more "community" and/or "culturally" specific.

The difficulty in this regard comes in the form of idyllic clichés which are asserted and provide oversimplified "traditional" solutions to the contemporary Native context. This misrepresentation of contemporary Native life, which is characterized by an array of deeply ingrained stereotypes, is a problem which has inhibited the development of many facets of contemporary Native existence (see, e.g., Turpel 1990). That is to say, because

11 Similar in intent to the Afro-American movement of earlier decades which utilized the phrase "Black is beautiful", some Native groups have been attempting to re-instill a positive self-identity in their peoples.
government initiatives have vacillated between policies of assimilation at the one extreme,\textsuperscript{12} and the rhetoric of "traditionalism" at the other;\textsuperscript{13} and because Natives have had very little opportunity to say anything at all; when the outcome has not been utter neglect (e.g. the Davis Inlet scandal), it has been the development of structures which parallel those found in non-Native communities. More recently, Native groups have been able to enter into mainstream political debates (e.g. Meech Lake) in an effort to define for themselves their futures. Nevertheless, they continue to be constrained by the Indian Act, and are left with the arduous task of re-defining their roles within the contemporary context. In the ensuing section I will review the development of Euro-Canadian conceptions of "Nativeness", which will be followed by an examination of how these conceptions have shaped the development of Native policing.

3.2 - "NATIVENESS" UNDERSTOOD HISTORICALLY

Within Western culture, the concept of "progress" has long been thought to be directly related to the passage of

\textsuperscript{12} For example, in 1969, the Minister of Indian Affairs introduced the so called "White Paper" which rejected all Native rights and declared a policy of assimilation for Native peoples.

\textsuperscript{13} The most obvious examples of traditional rhetoric are found where the government attempts to define Native peoples in the context of multiculturalism.
time. With the development of Christianity, and culminating during the "Enlightenment", there arose a perception which identified the passage of time as linear rather than cyclical. From this grew the notion that all cultures would evolve through the same stages of a linear trajectory, and that cultures differed only because they existed at a different point on this trajectory. This was to have a profound impact on how colonists were to view those peoples whom they were attempting to conquer. Indeed, this perception has served to justify the practise of assimilation as it was perceived to be a means of advancing the more "primitive" status of other cultures. As a consequence, the rhetoric of "progress" and "development" emerged as recurring themes in the justifications used to rationalize the devastating tactics of European settlers in North America (see, Stevenson 1992; Sachs 1992).

Only recently have social scientists become sensitive to the cultural hegemony practised by colonists and their descendants. From this sensitivity there has emerged a reluctant acknowledgment that Western industrial society may not in fact be the most "advanced" culture in existence; although this does remain the dominant perception. Essential to opinions in this regard, however, is an evaluation of what (we may think) it means to be "Native". Euro-Canadian conceptions of "Nativeness" have been fed primarily through stereotypes, most of which have been
explicitly negative (e.g. the lazy Indian, the drunken Indian, etc.). However, many further stereotypes feign to accentuate what are considered, superficially, to be positive characteristics of Native peoples (e.g. the Indian maiden, the noble savage, etc.), but with the same negative implications. Regardless of their apparent intent, these stereotypes serve to underscore Native characteristics in ways which discount cultural, social, and individual variations and abilities, replacing these with explanations which are derived purely from a racial basis. Apart from the profound impact which this has had on Native peoples themselves, such oversimplifications have served to diminish, rather than accentuate, an understanding of Native peoples and their cultures.

In this regard, Berkhofer (1978) argues that colonial and post-colonial conceptions of Natives are a White manifestation. A poignant example of this is the continued use of the term "Indian" - which arose from Columbus’s mistaken belief that he had arrived in the East Indies. In an effort to address this problem, several social scientists have explored the possible sources of these misconceptions. For example, Wolf (1982:4) observed a tendency for sociological and anthropological inquiries to isolate their foci, severing connections and interrelationships in an effort to simplify the task at hand. And Geertz (1973:17) contends that this attempt at detaching a people from a
cultural locality bleaches human behaviour of the very properties that are of interest in the first place. Indeed, he stresses that an analysis of culture should not resemble that of an experimental science in search of laws, but that of interpretation in search of meaning (Geertz 1973:5). Furthermore, Wolf (1982:6) provides insightful commentary asserting that it is crucial that such inquiries avoid positing a nation, society, or culture in isolation—falsely endowing them with internal homogeneity and external distinctiveness.

Coming to terms with the general sources of these problems facilitates their understanding in a specific inquiry. For example, in the examination of Native issues, most common is the construal of Native "culture" in the singular. This basic error underscores a profound lack of understanding in regard to the diversity contained both between and within Native cultures and communities (see, e.g., Gerber 1979). While there is a tendency for Native cultures to be conceptualized in an "us" and "them" context (Berkhofer 1978:xv), this oversimplification grossly underestimates the degree of diversity in Canada's more than six-hundred distinct Native Bands.\(^{14}\) The Indian Act has had a significant role in this oversimplification. Among

\(^{14}\) At the time of the Canadian National Referendum on the Charlottetown Accord, the Assembly of First Nations' membership was made up of some six-hundred and sixty-three Bands (The Ottawa Citizen, October 28, 1992).
other things, it instituted a structure of control and organization into Native communities which, first, took no account of the community structures which were already in place, and second, applied one undifferentiated model to all of these communities. This has led to the misperception that all Natives communities are in fact quite similar.\textsuperscript{15}

Admittedly, even after having identified this crude "Native/non-Native" dichotomy, it is one which is inadvertently maintained in research of this sort. Although I have attempted to minimize the effect of this oversimplification by emphasizing the diversity which is not commonly acknowledged in the use of the term "Native", perhaps even more of a misnomer is the use of the term "Euro-Canadian". Indeed, it is hoped that readers will take note of this difficulty in an effort to prevent oversimplifications which are often derived from the use of these terms.\textsuperscript{16} The justification for the continued use of this dichotomy is derived from a recognition of at least one feature which all "Natives" do share, and which can not be applied to "Euro-Canadians" - their indigenous heritage on the North American continent. This is the feature which

\textsuperscript{15} For example, most (non-Native) people learn at a young age that every "Indian tribe" has a "Chief" - falsely assuming that this is a feature which Natives have maintained from their indigenous heritage.

\textsuperscript{16} Knight (1978:8) suggests that the common usage of such terms as "Indians", "Native people", "whites", and "Euro-Canadians" tend to categorize perceived racial groups into interest groups, which, as he points out, is quite mistaken.
provides the framework for a discussion of Native issues as apart from non-Native issues.

3.3 - THE NATIVE/NON-NATIVE DICHTOMY

A dilemma which surfaces regularly in an examination of contemporary Native issues pertains to an appropriate definition, or characterization, of "Nativeness". On the contrary, however, some Native groups argue that such a definition is moot; Nativeness is a fact as embodied in Native peoples themselves, and hence, need not be established. The difficulty which emerges, however, is in the degree to which conditions and features in contemporary Native communities can be attributed directly to some discernable facet of that which may be deemed to be authentically "Native". For example, Carstens (1991:274) suggests that the behaviourial patterns, values, and ideologies of the Okanagan Natives in British Columbia are different from those of other British Columbians for reasons unrelated to their Nativeness per se. Similarly, Mooney (1979:401) found that the "collective ethic" which Natives appear to share was due, in part, to the pervasive economic depression which they experience, rather than to a simplified notion of what is believed to be Native. However, both Carstens (1991) and Mooney (1979) make their observations underscorong the emergent, rather than traditional or obsolete, character of Native cultures.
Wolf (1982:6) stresses that concepts such as "culture" threaten to turn names into things, and that only by recognizing that these names are in fact bundles of relationships can misleading inferences be avoided. It is through such a misconception that a polemic has formed in regard to an accurate characterization of Nativeness. Rather than acknowledge the dynamic nature of "culture" - which is created, internalized, and reproduced by people themselves - the common conceptualization of Native life appears contradictory: embodying that which is pure and in harmony with nature while, at the same time, replicating the vices of Euro-Canadian society (Berkhofer 1978:28-31). Possibly the most contentious issue to arise from this polemic pertains to the accommodation of contemporary needs and aspirations with the maintenance of culturally specific customs and values. The solution is found in neither complete assimilation nor a return to what is typically misperceived as "traditional Native life". However, with regard to Native policing, this polemic, which commonly manifests itself as an "either/or" issue, presents itself as two specific problems. Both of these problems revolve around what is meant by the term "Native", when used in the context of Native policing, and will be discussed separately in the following sub-sections.
3.3.1 - Why "Native" Policing?

The first of these problems is situated at the one extreme, challenging the notion that Natives have a legitimate claim to autonomy. McDonnell (1992:3) points out that much of what is unfolding in Canadian Native communities is simply another manifestation of sub-state nationalism; noting that this is the most turbulent and globally pervasive social phenomenon of our time. In effect, he is equating the Native Canadian movement with not only that of other indigenous peoples, but all ethnic groups making similar claims of sovereignty. He does so not in an attempt to minimize the legitimacy of such claims, but to emphasize the basis from which such claims are typically made. The rhetoric of "traditionalism" is not unique to the claims of Native peoples and should not, in their case, take on an unrealistic or enigmatic significance. For it is in this respect that Native claims are most often challenged - that if Natives are not going to wear feathers and live in teepees, as Nativeness is stereotypically portrayed, on what features could their claims possibly be based?

One of the most significant characteristics used to define Native existence has been the formation of "Reserves". While Reserve living has become a profound and explicit feature to be associated with Native life, paradoxically, it is also one entirely foreign to it. Moreover, when one recognizes that Reserves are
characterized more by poverty than by anything which is stereotypically believed to be "Native" (see, Mooney 1979), they cease to support a claim of distinctiveness, and begin to challenge it. This dilemma calls into question the rationale used to justify "Native policing" as opposed to "Reserve policing". Moreover, it establishes grounds for a determination of why Native policing can be singled out from, for example, policing in other culturally segregated localities (e.g. China Town, Little Italy, ghettos, etc.).

Unlike other culturally segregated communities, Reserves were initially created and maintained by the Canadian government. Although such a distinction is easily overlooked, it has had implications which Native peoples have turned in their own favour. For example, Natives have begun to use their historical confinement to Reserves (which were intended as an interim measure prior to complete assimilation) as an implicit acknowledgement of their right to a land base. Moreover, government policies of assimilation, such as the White Paper, have lent credence to Native claims in that such policies have underscored the assumption that there is something to assimilate in the first place. Hence, "Reserve living", initially taken as something which may have jeopardized Native claims of

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17 The distinction being made is an attempt to determine why the policing of Reserves is defined as a "Native" issue, rather than a "policing" issue.
autonomy, is replaced by an acknowledgement that this unique status in fact supports their claims.

It is on these fundamental grounds that Native policing can be justified. The indigenous status of Canadian Natives has made their experience as "Canadians" different from the remainder of the Canadian population. Indeed, self-determination is a problem unique only to peoples who have been colonized (Harding 1991:369). It is, of course, ironic that this unique status has been maintained most explicitly by the Canadian government itself (e.g. through the establishment of Reserves). Nevertheless, this has helped to preserve the ability of Natives to assert their rights as a distinct peoples,¹⁸ and, in turn, provides support for their more active assertion of this right in recent decades.

3.3.2 - Limits in a definition of "Nativeness"

The second problem is situated at the other extreme, and attempts to assert idyllic clichés about Nativeness which are in direct contrast to the reality of the Native situation. Brodeur condemns this extreme as much as the

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¹⁸ In the past, Native peoples may not have asserted their sovereignty as explicitly as in the present because it was not, in fact, being challenged. For example, pre-Confederation treaties did not stipulate that aboriginal nations were self-governing because, at the time, such a point wold have been redundant - not only were they self-governing, but both parties assumed that they would continue to be so. Moreover, on Walpole Island, Taylor (1984:4) notes that efforts toward self-sufficiency, earlier in the century, were directed towards its recovery, rather than its establishment.
other, stating that:

"We believe that the imperialism of uninformed fantasies is as noxious as the cultural authoritarianism to which Aboriginals have been and still are submitted. Even though such fantasies are often grounded in good intentions by well-wishers, they should not escape criticism. In giving reform a bad name, they are a powerful hindrance to changes that are urgently needed" (1991:152).

McDonnell (1992) describes how such oversimplifications typically occur. He begins by defining the limits of "ethnographic ambition" as the division between "us" and the "other" and the difficulties inherent in the move between the two (McDonnell 1992:4). The problem arises, he suggests, in regard to the development of a cross-cultural understanding, and the degree to which this is achieved in the idea of "universal institutions" (McDonnell 1992:5). It is in this context that McDonnell (1992) asserts that the significance of the transcontextual view is established whereby the existence of universal institutions is most consistently challenged. He writes:

"A case in point is obviously the notion of law for it is within this zone that we ask whether comparisons are being made on the basis of substantive criteria or analogous functions. Is the law revealed most prominently, for instance, as codified retribution in one society and as rehabilitative process in another, as constraining rule here and regularized practice there, as institutionalized coercions or as conciliatory process and so forth?" (McDonnell 1992:5).

This dilemma surfaces frequently in legal anthropological
literature and has been dealt with, for the most part, in
generalities. For example, Malinowski wrote:

"In such primitive communities... law ought to be
defined by function and not by form, that is we
ought to see what are the arrangements, the
sociological realities, the cultural mechanisms
which act for the enforcement of law"
(1934:lxiii).

Although Malinowski's assertions were insightful in as far
as they acknowledged that all societies have some form of
established social structure, Moore (1969:258) makes a
valid point suggesting that this conception is so broad that
it obscures any distinction between law and social control
in general. This is problematic in that such a conception
overlooks all of the other mechanisms which operate to
provide, and maintain, social cohesion.

This dialogue provides the basis for a discussion which
is focused more closely on Native "legal" institutions, and
which highlights two further problems in their regard. The
first pertains to an acceptable determination of what can
actually be characterized as "Native", while the second
relates to the appropriation of a definition of "law" or
"social control" which corresponds to this "Native"
characterization. While the latter problem is relatively
self-explanatory, the former, I will argue, has only
developed as a result of a misconception on our part; the

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19 Apparently, even this was debatable earlier in the
century.
belief that something can be characterized as "Native" in the first place. This should not suggest that nothing can be defined as "Native" per se, but only that the search for "Nativeness" itself, as if it were a universal "thing", provides the basis for an ill-conceived and meaningless inquiry. Typically, such an inquiry attempts to emphasize those features from the past which appear to have been virtuous and harmonious in comparison to the present. However, it is misleading to suggest that cultural attributes can be extracted from some greater whole, then to be dissected for scrutinization. This position implies that these past customs can, or should, be imported to the present, ignoring the contexts which permitted these features to be useful in the first place.

This should not suggest that any examination of traditional forms of Native dispute resolution are without value. Rather, the problem is that oversimplified solutions misrepresent the significance and depth of such customs, and put into jeopardy the establishment of more comprehensive ones. For example, Brodeur (1991:29) observed that one of the main tenets of this growing misrepresentation depicts Native justice as completely without adversarial aspects. While he acknowledges that Native customary justice was much less adversarial than those systems adopted from Europe, he asserts that it is unlikely that Native justice was as co-operatively oriented as many purport. In support of this
assertion, he provides a short review of literature which highlights some of the more punitive elements of "traditional" Native justice (Brodeur 1991:29-31). While it is not my intent to review this literature, his point is that "criminal justice" is inextricably linked to a degree of coercion, and that it would be a disservice to insist on the contrary (Brodeur 1991:31).

Brodeur's assertions are not directly relevant to this research, but are included in an attempt to move this discussion beyond that which envisages the only "authentic" form of Native justice and policing as that which is derived from "tradition". Although tradition may have a great role to play in justice reform, it is too simplistic to assume that traditional forms of justice can simply be imported to deal with the problems faced by contemporary Native communities. Hence, the development of a definitive characterization of "Nativeness" is found to be unsuitable in the present context which, as a consequence, eliminates the need to appropriate a corresponding (re)definition of "law" or "social control". The concept of "Native justice" need not be based on features which may appear to have been

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20 Brodeur (1991) acknowledges that Native customs varied greatly and attempts only to make a general point about the unavoidability of applying some physical force.

21 It should be clear that Brodeur (1991) is not advocating the use of coercion, but that, in his view, a system completely devoid of any coercion is too "utopian" to be realistically pursued.
in a more "authentic" form in the past to legitimate that which may be deemed appropriate in the present. More accurately, such a scheme must only be sensitive to, and be able to acknowledge, those features which make a community "distinct" in the first place.

3.4 - CONCLUSIONS

In this chapter, I have reviewed the development of Euro-Canadian conceptions of Nativeness and have described the two main perspectives which have emerged from them. I began with an overview of some of the difficulties which have traditionally existed in research of this sort, introducing the perspectives of various social scientists in an effort to reconcile my position. This was followed by an examination of how Euro-Canadian perspectives have shaped the development of Native policing. I described how, on the one hand, some of these perspectives have challenged the rights of Natives to assert control over policing while, on the other hand, others have attempted to assert idyllic clichés which are in contrast to the reality of the Native situation. These conflicting perspectives were introduced in an effort to establish a position in this research which adequately takes account of the contemporary Native context, without either diminishing, or mystifying, it. In the following chapter my focus shifts from the Native context,
to an examination of policing in contemporary Canadian society.
4.0 - THE POLICE: A CRITICAL PROFILE

4.1 - INTRODUCTION

In the previous chapter I reviewed the two perspectives around which much of the Native policing debate has developed. Regrettably, this debate has had little opportunity to evolve, having its focus maintained on either the contemporary policing model, or on romantic notions of "traditional" means of achieving the same thing. Over the long-run, tradition has been relegated to the side lines, and has given way to the development of "modern" institutions. I also expressed the view that Native communities should not feel compelled to pursue only traditional solutions to their problems, but that they should search for the most effective solutions. Unfortunately, the quest for more effective solutions has been constrained by the strength of the messages which suggest that the contemporary policing model is the only means of achieving social order (in any community). In this section I will examine contemporary policing, drawing out many of the difficulties associated with this institution and which, inevitably, have been reproduced in Native communities.
4.2 - CONTEMPORARY DEVELOPMENTS

There are currently three levels of policing in Canada: federal, provincial, and municipal.\textsuperscript{22} Only two provinces have their own provincial police forces, Ontario (O.P.P.) and Quebec (Q.P.P.), while the remaining provinces contract out to the R.C.M.P. for provincial policing services. In addition, many municipalities contract out for municipal policing services, to a provincial police force if they have one, and to the R.C.M.P. otherwise. In the Yukon and Northwest Territories, the R.C.M.P. are the only police force. In the midst of this arrangement, we tend to forget that policing, as it is practised today, has only been in existence since 1829 (see, e.g., Reiner 1985). Prior to this time, policing and crime-control were primarily the responsibility of the private sector (Reiner 1985:11; Ericson 1982:3). This new system of policing, introduced by Sir Robert Peel in London, was not accepted overnight; Ericson notes that:

"...uniformed officers only gained acceptance via 'tacit contracts' with local populations whereby they used their discretion in law enforcement in exchange for the co-operation of citizens..." (1982:3).

However, as police forces "professionalised", it became

\textsuperscript{22} Although "private policing" (a possible fourth level of policing) has already outstripped public police in numbers, its current status in Canada remains ambiguous, and is beyond the scope of this research.
necessary for them to stake out their area of "expertise", an area which has increasingly been defined as "crime-control". This is where Ericson (1982:2) indicates the police entered into "legitimation work".

In this regard, it became necessary for the police to secure their monopoly over "crime". A variety of strategies were utilized to this end, these included: the institution of a uniform and insignia, the establishment of a code of conduct, the introduction of specialized technology, the use of official statistics, and the development of a nomenclature. However, the professionalization of policing has not altogether made policing more effective. Indeed, there exists considerable debate as to whether police can, or should, be considered "professionals" at all (see, e.g., Manning 1971; Reiss 1971). In this regard, Baker, Meyer, and Rudoni assert that:

"To some analysts, police professionalism is seen as a primary way of upgrading police personnel and police operations. Others view the professionalism as a political strategy used by the police to further their own occupational and economic ends" (1979:99).

Professionalism is an attribute which the police have struggled to acquire; the "disengaged" and "impartial" practitioner, autonomy, and the exercise of professional discretion, all serve to re-affirm the police’s monopoly over "crime-control". This has become vital in light of growing concern over the definition of crime (see, e.g.,
Burtch 1991: especially 139–59; Quinney 1971), and the methods used for its prevention (see, e.g., Currie 1985; Gould 1971).

Manning (1971:151) argues that the police's self-proclaimed area of expertise (over crime) is inherently vast and unmanageable and, as a result, that the police have resorted to the "manipulation of appearances". There is significant irony in the use of "crime-control" as the criterion to not only assess, but "sell", this institution to the public (Ericson 1982:3 and 195). Only a fraction of the time an officer spends on "patrol" actually relates to anything "criminal" (e.g. criminals, criminal law). For example, McCabe and Sutcliffe (1978:9) found that the time spent on incidents defined as "criminal" were, on average, 6 percent of a patrol officer's work, while Reiss (1971:96) found this figure to be only 3 percent. This leads one to question the rationale which justifies the assessment of police work in this way. Corresponding to the conception of "police work" as relating primarily to crime is the emphasis which these institutions put on requiring more resources in an effort to adequately inhibit criminal activities. This element of police work was emphasized to such a high degree, beginning in the 1970s, that we saw a fantastic increase in the resources used to "fight crime" (Williams and McShane 1988:109). Statistics from 1962 to 1977 show that the number of police personnel (includes civilians) per one-
thousand increased by more than 60 percent during this period,\textsuperscript{23} and that spending on policing over a similar period increased by more than a factor of ten.\textsuperscript{24} More recent data, from 1986, suggests that the number of police officers has levelled off,\textsuperscript{25} while costs have continued to skyrocket.\textsuperscript{26} While these figures tend to speak for themselves, they do not show what effect, if any, these changes have had on the level of crime.

It is important to recognize at the outset that "crime" is not so much an activity as it is a definition (see, e.g., Christie 1993; Douglas 1971). For example, persons who consumed alcohol while it was prohibited earlier in this century were regarded as "criminals", while those who consume alcohol today are not; the activity has remained the same, only its definition (as a crime) has been altered. The recognition of this facilitates an understanding of: what police do in their work; what are perceived as crimes; and how crime rates can be made to increase and decrease.

\textsuperscript{23} This corresponds to 1.7 police personnel per one-thousand population in 1962 to 2.8 in 1977 (Ericson 1982:195).

\textsuperscript{24} From 1961 to 1978, provincial spending on policing increased from $34 million to $404 million, while federal spending increased from $49 million to $556 million (Ericson 1982:195).


\textsuperscript{26} The annual budget for police services in Canada in 1986 was approximately $5 billion (Normandeau and Leighton 1991:251).
Because the primary and most significant occupation of the police is perceived to be crime-control, it is critical for them to have control over the public's perception of criminal activity (e.g. through the media, public relations, etc.) (see, e.g., Ericson, Baranek and Chan 1991). A specific focus on particularly devious or heinous crimes, on violent crimes, on organized or gang crimes, on apparently senseless crimes, or on specific crimes which are apparently flourishing (e.g. rape, burglary, etc.) all serve to heighten the public's fear of crime. The sense that there is a "crime wave" makes us all uneasy, and tends to heighten our resolve to capture and deal with those persons who commit crimes. Hence, when the police need more resources, the most effective way for them to be assured that they will receive them is to heighten our fear of crime. Conversely, when the police perceive that their resources are in jeopardy (e.g. the use of firearms27), the same tactics tend to provide them with support.

The question arises, however, as to whether more officers, more cruisers, more sophisticated equipment, and more access to firearms in fact reduces the level of crime.

27 In the fall of 1992, the Ontario Provincial Government began to introduce legislation which was to have Toronto's police officers fill out a form each time they removed their sidearm from its holster. In response, police officers from across Ontario engaged in mass protest, arguing that such legislation would inhibit the ability of Toronto's officers to control crime, and that it would further jeopardize their safety.
Although the public has been led to believe that there is an inverse correlation between these resources/procedures and the level of crime, the connection is, in fact, much more tenuous (see, e.g., Stahura and Huff 1979). As Ericson suggests, the police

"...present their problems as technical, related to the control of crime, rather than as ideological: they have difficulty controlling crime because the laws are inadequate; they do not have the communications systems necessary to reduce response time; they do not have sufficient manpower..." (1982:8).

Nevertheless, we have seen that the resources given to the police have increased manyfold in recent decades and, still, conventional wisdom seems to suggest that crime is flourishing. How can this apparent contradiction be reconciled in arguments given by the police? Is crime so rampant that tenfold increases in police spending can still not keep up with the rate of crime, or, perhaps, the problem is being tackled in the wrong way?

4.3 - POLICING AS PANACEA

Police in contemporary society are expected to respond to a wide variety situations; from the fraudulent use of a cable "de-scrambler" to the suicide of a youth at home. This situation, however, begs the question of how well the same officer can deal with both of these circumstances. In an effort to address this problem, the police have become
more specialized. Although it is still the police who respond to such calls, there now exist a variety of specialized units within a department, each of which focuses on more specific types of problems. For example, many urban police forces now have a special unit to respond to calls of male to female violence. 28 Such units have arisen from the recognition that, in many cases, the police were responding to calls, but were entirely inept in dealing with the ensuing situations; in some cases leading to a perpetuation of the problem. 29 Nevertheless, there is growing concern over the suitability of a police response to many of the problems which afflict the contemporary setting. The primary difficulty relates to the overall organization of this institution. For example, with regard to recruitment, personnel are enlisted into this institution for what is defined as a more or less common purpose (Griffiths and Verdun-Jones 1989:160-2). This would seem to jeopardize measures taken to increase the police's sensitivity to a heterogeneous population. Although greater training and

28 Other examples include: a race relations unit, a special investigations unit, a tactical unit, a forensic unit, etc.

29 Male to female violence is a good example. Often, when police responded to such calls, rather than pursue the problem criminally (which was also problematic), they would attempt to "cool down" the situation by, for example, making the male go for a walk. The police would then leave without filing a report (leading to an underestimation of the prevalence of this problem), and the male would return, often brutalizing the female even more for having called the police in the first place.
higher levels of education are becoming more common, persons who are drawn to policing are enlisting themselves into what is defined as a "para-military" organization (Solicitor General 1991:9); almost none of them enter with the intent of becoming specialists in, for example, male to female violence. Rather, some other criteria, once they have already joined and have been trained, will determine the specialized branch in which they will work.\(^\text{30}\) This does not mean that such persons would necessarily be incompetent, but only that other people more suited for this sort of work may have never been drawn to this institution in the first place.\(^\text{31}\) Indeed, the fact that the most conspicuous mark of a police officer is that he/she carries a gun is indicative of this situation, and likely has a significant impact on who does, and who does not, attempt to enlist themselves into this institution.

There is no doubt that the police do provide a valuable and essential service to our society. The more significant point to be drawn out, however, pertains to which services the police are most suited to provide. In this regard, it must be determined whether there are services currently

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\(^{30}\) These criteria may be unrelated to the needs of such a unit, and have more to do with "promotion" or the desirability of various units (e.g. traffic v. vice squad).

\(^{31}\) The point being that, demographically, only a relatively narrow cross-section of the population attempts to enter policing, and that this group is not representative of the population at large.
provided by the police which may be more effectively addressed in other ways, or through other institutions. While it is not my intention to undertake an evaluation of the various services provided by the police, it is essential to underscore the inherent unsuitability of a traditional police response - which is concerned with being fast and potentially forceful (Solicitor General 1991:8) - to situations which require more sensitive and extended care. The inappropriateness of organizing an entire police force on this basis is demonstrated most clearly by the finding that less than 4 percent of calls for service pertain to life-threatening incidents or events in progress (Solicitor General 1991:3).

I have already illustrated how "crime-control" is used as a measuring stick for the evaluation of police effectiveness, and why this criterion is flawed for this purpose. Moreover, we have seen that policing institutions have already received fantastic increases in funding, and that conventional wisdom seems to suggest that crime is not only still a problem, but that it is flourishing. Hence, we can conclude one of two things: that either the police are unable to control crime; or, that the conception that crime is flourishing is, in fact, unsubstantiated. In any case, we can recognize that there exists an incongruity between what we are expected to believe, and the actual situation. However, a significant variable which is generally
overlooked in this problem pertains to our definition of "crime". Indeed, the public's perception of "crime" is often significantly different from its formal definition (e.g. in the Criminal Code).

Crime, in a practical sense, refers to those activities which we abhor the most. So, for example, violent crimes are of the sort with which we are most concerned (see, Wanner and Caputo 1987). Yet, what proportion of crimes fall into this category? Police statistics indicate that violent offenses represent only 5.8 percent of all the crimes reported in Canada (Griffiths and Verdun-Jones 1989:25). Hence, if we establish, rather conservatively, that 20 percent of all crimes reported to the police are of both a "serious" and "criminal" nature; that leaves 80 percent of all other "crimes" to be potentially defined in another way. This leads us to question what these other

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32 Typically, the proportion of violent crimes is greatly over-estimated (see, Wanner and Caputo 1987).

33 Shearing (1984:20-2), conducting research in Toronto, found that calls to the police broke down as follows:
   - 23.6% - internal police business
   - 16.3% - accidents, collapses, illness
   - 8.9% - suspicious circumstances
   - 8.7% - traffic problems
   - 7.4% - public nuisance
   - 7.3% - other calls
   - 7.2% - services
   - 6.7% - reports of theft
   - 5.5% - disputes
   - 3.4% - response to fire or ambulance service
   - 2.5% - report of injury to person or property
   - 2.2% - return calls
   - 0.3% - robbery or hold-up
crimes are, and how apt the police are, not only to focus on them, but to resolve them. Do we really expect the police to solve a person's drug problem (e.g. possession)? Are the police actually going to resolve alcohol-related offenses (e.g. under age drinking)? Can we really expect the police to eliminate homelessness (e.g. loitering) and poverty (e.g. theft)? Or, are these problems which relate more closely to socio-economic conditions, and which keep the "crime rate" ever-inflated? The definition of these problems as "crimes" has made the police's task an insurmountable one, while at the same time it has allowed these problems to persist.

4.4 - POLICE DISCRIMINATION

In addition to the numerous killings and maimings of Black youth by Montreal and Toronto police officers, the Rodney King scandal, in Los Angeles, has drawn considerable public attention to the issue of police discrimination. A significant point to be drawn out, however, is whether this level of discrimination is unique to policing groups, or, if it is only more visible within this institution. Skolnick (1969:241-92) describes how, in the United States, police attitudes led to an escalation of conflict and violence in regard to student protesters, anti-war demonstrators, and Black militants during the 1960s. Indeed, Manning
(1971:167) summarized a profile of the American policeman\textsuperscript{34} as conservative, perhaps reactionary, of lower or lower-middle-class background, often prejudiced, and extremely ambivalent about the rights of others. Moreover, in research conducted by Sniderman, Fletcher, Russell, and Tetlock (1987), Fletcher (1987) found that the police generally have less respect for individual legal rights than does the general population, and that they have more conservative attitudes toward Native and immigrant issues than do the "decision-making elite".\textsuperscript{35} What some scholars have found, however, is that police actions may represent an implicit mandate to exercise discretion \textit{in accordance} with dominant community attitudes and that, as a consequence, their actions may contradict the formal mandate of the police\textsuperscript{36} (see, Apostle and Stenning 1988:122; Ericson 1982:26-7).

Because dominant Euro-Canadian attitudes for the most part exclude those of minorities, the \textit{implicit} mandate of the police may include discrimination based on race. While

\textsuperscript{34} Although Manning (1971) makes no intentional reference to gender, it is likely that all police officers at this time were male. The O.P.P., for example, only allowed women to join the force in 1974 (O.P.P. 1987a:15).

\textsuperscript{35} These researchers used the phrase "decision-making elite" to refer to legislators, lawyers, and legal administrators in the context of a survey which sampled five groups of people vis-a-vis their opinions on civil liberties issues.

\textsuperscript{36} Which, presumably, does not include explicit instructions to exercise discretion on the basis of race.
racism on the part of the police has been well documented (see, e.g., Aboriginal Justice Inquiry, Vol. 1, 1991; Reiner 1985; Skolnick 1969), one need only follow the news media for a confirmation of this fact. One asks oneself, "how can it be that the police, who are supposed to defend the civilian population from crime and aggravation, are responsible for so much violence?", and finds that this question is difficult to answer. This is so because it has, in fact, been phrased incorrectly - obscuring the more cogent reality that racism is flourishing in our society and that the police are a reflection of this. While it may be futile to attempt to locate the "root source" of racism, any attempt at addressing racism in its various manifestations (e.g. in the police) must acknowledge the greater context from which it originates. This was identified as a major shortcoming of the voluminous Royal Commission on the Donald Marshal, Jr., Prosecution (1989). It is criticized for failing to make the greater connection between the

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37 The prosecution of Donald Marshall, Jr., represents the most thoroughly examined case in Canadian legal history (Turpel 1991:30). The case entailed the 1971 murder of a Black youth in a park in Sydney, Nova Scotia. Convicted for his murder was a Mi'kmag youth, Donald Marshall, Jr., one of three (further) individuals in the park at that time. What is of particular significance in this case is how it was that Marshall was found guilty of this offence and wrongfully imprisoned for a period of eleven years. The Commission found that this case represented a blatant miscarriage of justice, in which the justice system failed to provide justice to Marshall at virtually every turn from his arrest in 1971, up to and beyond his acquittal in 1983 (Royal Commission, Vol. 1, 1989:15).
historical legacy of racism against Natives, and what in fact happened to Donald Marshall, Jr. (see, Turpel 1991).

Apostle and Stenning (1988:119), conducting research on behalf of the Royal Commission on the Donald Marshall, Jr., Prosecution (1989), suggest that the responsibility of the police to maintain public order routinely places them in opposition to the poor and some racial minorities, as well as organized labour and the political left; all of whom challenge the present order of things, and thus, may be regarded as a potential threat to dominant interests. Indeed, the police’s fundamental role as mediator between the public and the legal system has created a sub-culture of its own, and it is in this respect that the police regard themselves as a "thin blue line" responsible for "law and order" in a community (Reiss 1971:1).38 It is at this level that police violence may be considered particularly problematic: it becomes increasingly likely that the police are not responding to an escalation of racial violence in the "street", but, more likely, share in the responsibility for it. Their response to "crime" has consistently been a reactionary one, and has included calls for harsher and more punitive penalties, an enhancement of their powers of search

38 The implication being that the police see themselves as carrying out a "dirty", "dangerous", and "thankless" job for the good of society (Griffiths and Verdun-Jones 1989:62).
and seizure, and the appropriation of more powerful and sophisticated weaponry.\textsuperscript{39}

It is from this perspective that Apostle and Stenning assert that "...it comes as little surprise that one finds political and social conservatism typical of police groups..." (1988:119). However they continue, stating that "police methodologies routinely emphasize the need to pay attention to special circumstances or inconsistencies in expected patterns of behaviour", concluding that, "to the extent that they are based in social reality, stereotypes may prove helpful in doing effective work" (Apostle and Stenning 1988:119). Even though the reality may substantiate their assertions, it is hardly acceptable to rationalize the system in a way which has the end justifying the means. Moreover, Reiner's (1985:125) suggestion that the police may be more likely to use their powers against racial minorities simply because these minorities are more highly represented among the social strata which receive police attention, while plausible, is hardly acceptable. This observation ignores the relationship which exists been class and race, and seems to imply that police (in)discretion has little to do with why minorities may receive more police attention in the first place. As a

\textsuperscript{39} Christie (1993) argues that the trend in the (American) criminal justice system has consistently been towards more punitive measures, and that this is problematic in that there exists no mechanism to inhibit, let alone halt, this escalation.
consequence, this position would seem to approve of the practice whereby the police stop a Black male because he is running,\(^{40}\) but not a White male.

Nevertheless, such perceptions continue to be supported by leading scholars in the field. Apostle and Stenning, who utilize this argument, suggest that, "the major problem here is to remove the racist elements from the conceptual keys and cognitive shorthand which exist in police culture" (1988:119). In effect, they are suggesting that the police are catching the right criminals, but for the wrong reasons—hence, a Black male may now be stopped not because he is Black, but because, statistically, he is representative of a (disproportionately Black) social strata which is perceived to have a high involvement in crime (and hence, the racist element has been removed). Harding (1991:371) suggests that it is likely that the majority of visible minority persons arrested actually were involved in some criminal activity. Nevertheless, limiting this discussion only to issues which relate to "why" people are arrested, fails to address the greater context of this problem, and fails to explain why visible minorities, particularly Natives, are so massively over-represented in the criminal justice system in the first place.

\(^{40}\) The implication being that, if a Black male is running, he must be running from something; and it is the police's discretion to determine if he may be running from the scene of a crime.
The error which is made in failing to acknowledge the greater context of discrimination is quickly revealed in an examination of criminal justice statistics. Keeping in mind that Natives make up between 2 and 4 percent\(^1\) of the national population, they constitute approximately 10 percent of the federal penitentiary population (Canadian Bar Association 1988:12), including 15 percent for incarcerated women (Department of Justice 1991:62). For Native males over the age of fifteen and considered to be "status" Indians, compared to their non-Native counterparts, they are thirty seven times more likely to be incarcerated (Hylon 1981:62). And for Native women this figure is a staggering one hundred and thirty one times more likely. In Saskatchewan, a Native male turning sixteen has a 70 percent chance of at least one stay in prison before he turned twenty-five (Hylon 1981:64). Figures this high indicate that in such places as Manitoba and Saskatchewan, where Natives represent 7 percent of the population but make up 46 and 60 percent of prison admissions respectively, that for young Native males, prison may have become the equivalent of what high school is for non-Natives (Jackson 1989:255). Hence, it becomes quite apparent that - contrary to the

\(^{1}\) There appears to be some disagreement with regard to the actual proportion of Natives in the Canadian population. For example, Griffiths and Verdun-Jones (1989:545) indicate that Natives make up 2 percent of the population, while the Canadian Bar Association (1988:12) indicates that they make up 4 percent. Rather than make an arbitrary choice in this regard, I will use the figure 2-4 percent.
position of Apostle and Stenning (1988), and Reiner (1985) - regardless of which "conceptual keys" or "cognitive shorthand" the police are utilizing in the arrest of Natives, be they racist or not, they are the wrong ones. Even a staunch conservative would be hard pressed to suggest that a Native woman, for example, is one hundred and thirty one times more likely to commit a criminal offence than a non-Native woman simply because she is Native.

4.5 - PURSUING A BETTER ALTERNATIVE

There are many problems which arise in an attempt to pursue an alternative to "policing". In some respects, this institution has become so ingrained in our society that such a quest seems formidable. Yet, developments in recent years have lent support to such a position. This is reflected most clearly in the development of "community policing"; a strategy which is attempting to shift the focus of policing from "reacting" to crime to a "proactive" approach.\footnote{\textit{\textsuperscript{42}} "Reactive policing" refers to a model of policing which is based on "enforcement", whereas "proactive policing" is grounded in "prevention".}

There is a growing body of literature in regard to "community policing", and while it is beyond the scope of this research to deal with it comprehensively, a brief overview is worthwhile.\footnote{\textit{\textsuperscript{43}} For a more thorough review of community policing see: (Solicitor General 1990 and 1991; Clairmont 1991).} This revised method of policing
arose during the last decade, and is currently being implemented (by the Solicitor General) throughout Canada in an attempt to address problems which have arisen in the "crime-control" model of policing. Most generally, it involves two changes: a transition from a hierarchic paramilitary type of organization to one which is more civilian oriented, and, the development of a structure which is integrated into a broader context to form a social service network more apt to provide a long-term response to problems (Solicitor General 1991:8-9).

Most generally, this approach should be lauded for its identification of problems which exist in the crime-control model of policing. However, it has also been criticized, particularly in regard to its implementation as a panacea (see, e.g., Leighton 1991). Essentially, community policing attempts to counter those developments which have made policing increasingly technical," but have not made it any more effective. Some describe this as a "back to the future" approach to policing. This phrase refers to a growing awareness in regard to the illusory benefits of a technologically-oriented society. Although the achievement of this awareness is important, in the context of community policing, it has done little more than romanticize the past. It has attempted to import past practices into the present.

"Technical" in this context refers both to its specialization, and the advent of costly technology.
context with little regard to their current suitability.\footnote{An example of this has been the re-institution of "beat cops" (known traditionally as "bobbies"). While there is some evidence that they can help to reduce the fear of crime, research has shown that they do not in fact reduce the prevalence of crime (Ericson 1982:6).} Moreover, while community policing has allowed police officers to inquire into the nature of their roles in this institution (i.e. the distinction between what they are supposed to do, and what they actually do) without threatening the positions which they hold -- a significant point to be kept in mind -- it has also been threatened by officers who are unwilling, or perhaps unable, to make this broad transition. In addition, to the degree that the police operate with an implicit mandate to exercise discretion in a way which conforms with dominant community attitudes, and which may include discrimination based on race, community policing may, in fact, lead to a perpetuation of this problem. Hence, while community policing has initiated a debate which is been long over due, one should not be led to believe that it is a solution in itself.

\subsection{4.6 - Conclusions}

In this chapter, I have introduced a variety of statistics in order to help underscore many of the deficiencies of the crime-control model. Yet, even in the context of "community policing", crime-control is maintained...
as an integral component around which policing continues to be developed - the government continues to wage "wars" against its own citizens with its "war on crime", "war on drugs", etc.\textsuperscript{46} These deficiencies have been highlighted to demonstrate the ineffectiveness of this model, and to emphasize the undesirability of replicating this model within the contemporary Native context. Although the crime-control model has already, for the most part, been reproduced in the Native setting, there are a number of features specific to the Native context which may facilitate the development of alternatives to this model. This is a theme which is maintained throughout the remainder of this work, and is drawn out for discussion in the penultimate chapter. In the following chapter, I will focus on four models which have set Native policing apart from regular policing, and which have been implemented in an effort to improve relations between the police and Native peoples.

\textsuperscript{46} Although these phrases are more commonly associated with policies of the American government, similar policies exist in Canada.
5.0 - THE DEVELOPMENT OF NATIVE POLICING

5.1 - INTRODUCTION

Loree (1985:1) notes that relations between the police and Natives have been of concern since before Confederation. The North West Mounted Police (N.W.M.P.), the precursors of today's Royal Canadian Mounted Police (R.C.M.P.), were in fact established to control Native and Métis populations of North-Western Canada (Brown and Brown 1973:10). While there is an indication that some Native groups were grateful to the N.W.M.P. for suppressing the worst aspects of the whisky trade\(^7\) (Aboriginal Justice Inquiry, Vol. 1, 1991:592; Brown and Brown 1973:20), more commonly, the N.W.M.P. are recognized as the main instrument employed by the government to carry out its repressive policies (Brown and Brown 1973:18). This early period marks the beginning of a dilemma which is at the root of the Native struggle for autonomy in policing. On the one hand, the police are mandated to perform a protection function for civilian (including Native) communities, while on the other hand, they represent the coercive means with which the government

\(^7\) Native communities of the West were increasingly disrupted by the actions of whisky traders; so much so that Sir John A. Macdonald formed the N.W.M.P. two years earlier than planned. His greatest fear, however, related not to the traders but to the possibility that Natives might initiate an "Indian war" against all whites (Brown and Brown 1973:20).
was able to impose control over Native peoples in the first place.

It is as a result of this dilemma that four models have emerged which attempt to alleviate some of the friction which has developed between the police and Natives. The first two models include (1) providing legal education for Native peoples, and (2) emphasizing cross-cultural training programs for police forces. Both of these assume that enhanced (access to) information can help to address problems in the criminal justice system. While the latter two models, (3) the inclusion of Native constables in police forces, and (4) the establishment of tribal policing programs, attempt to address these problems at a more substantive level. Harding (1991:367) stresses, however, that none of these models were created in a way which complemented the notion of self-governance for Native peoples. Moreover, he points out that when they were first proposed they were implemented in a way which was to reinforce the underlying political assumptions of the day, which continued to maintain an ideology of assimilation (Harding 1991:367).\footnote{The federal government's intent to assimilate Native peoples into mainstream Canadian culture have by no means been secretive. In 1969, the government proposed (in what has become known as the "White Paper") that the Indian Act be abolished outright, and that Natives take their place as "normal" Canadian citizens. Although this proposal was rescinded after Native groups engaged in mass protest, some contend that it is only since then that such policies have become covert (see, e.g., Angus 1991; Comeau and Santin 1990).} In this respect, these models were
initiated with a cross-purpose: addressing problems with regard to policing Natives, but only to the degree that the status quo was not being significantly challenged. The dialectic which emerges from this situation underscores the inherent limits of each of these initiatives.

5.2 - CROSS-CULTURAL TRAINING AND LEGAL EDUCATION

Cross-cultural training is an initiative common in institutions which deal regularly with "minority" groups. Initially embraced as a panacea to conflicts which were perceived as having arisen as a result of Canada’s multi-ethnic population, it was touted as a self-evident solution to problems which had emerged in regard to policing Native peoples. Often linked to the notion of multiculturalism, cross-cultural training attempts to make people aware of the reasons for each other’s differences in the belief that this will reduce cultural conflict. Indeed, it is the context of multiculturalism that oversimplified representations of "Nativeness" are commonly produced. Such a strategy makes two assumptions; that discrimination begins and ends within each individual and, hence, that it can be treated at an individual level, and that discrimination is actually the result of ignorance, which can be remedied through education. Clearly, this is problematic. Not only does cross-cultural training ignore much broader problems associated with forms of discrimination which are systemic,
such as in the justice system, but it also denies the reality that discrimination is learned, and not only due to a lack of knowledge. This was made clear when scholars found that not only was cross-cultural training relatively ineffective (when used alone), but that such training, particularly when it was only marginally implemented, could worsen rather than improve the situation (Royal Commission, Vol. 1, 1989:261; Teahan 1975:52-5). ^49

Systemic discrimination remains a serious problem within the judicial system. Efforts towards resolving these problems at an individual level divert attention away from this area, inadvertently re-situating the onus of "conforming" on to the recipient of the respective services. Take, for example, a Native youth who has been involved in a fight with a group of his peers. He is accompanied to court by his parents, and is asked by the judge to plead "guilty" or "not guilty". Upon consulting with his parents, who tell him that he should take responsibility for his actions, he unwittingly answers "guilty" in the belief that this is the only honest way to acknowledge that he took part in the fight. ^50 The judge, presuming that the youth has accepted

^49 There is an indication that this arises from the belief that special programs challenge the interests of the groups who are not recipients of such programs (Teahan 1975:53).

^50 The point to be recognized is that a plea of "not guilty" pertains only to what one has been charged with (e.g. "assault"), and does not preclude involvement in a potentially criminal act (e.g. a fight).
responsibility for the incident, convicts and sentences him. Hence, a fundamental misunderstanding of the system unwittingly leads this youth to receive a harsher sentence than another youth who might have pleaded "not guilty". What this example illustrates is the method in which systemic discrimination - that is, discrimination which is an implicit part of the system - is reproduced, and hence, maintained, by the criminal justice system regardless of the intentions of the individuals involved. Although cross-cultural training can help to bridge the gap which exists between legal administrators and Native peoples (for example, by providing the judge with the resources necessary to recognize this youth's misperception of "justice"), its individual focus inhibits its ability to provide a far reaching solution to these problems. As such, cross-cultural training was implemented as a solution which did not require any fundamental changes to policing, nor to anything else (Harding 1991:367).

In many respects, the second model, legal education for Natives, is fraught with the same shortcomings as the first. Only, rather than attempt to sensitize legal administrators to Native peoples, this alternative emphasizes the need for Natives to become more aware of the system in which they continue to be processed. Once again, this initiative

51 Although similar examples can be generalized to a variety of different circumstances, this example is based upon the experience of one of the respondents whom I interviewed.
situates the onus of conforming on to the individual, tacitly affirming that it is the individual who is at fault for having been mistreated by the criminal justice system. In this way, the criminal justice system vindicates itself of any wrongdoing and, indeed, takes on an aura of benevolence by extending its paternalistic hand to those who are allegedly doing themselves harm. As a consequence, this model, too, ignores systemic discrimination assuming that if an individual knows what rights may be exercised (e.g. upon arrest), the problem of over-incarceration and discrimination will have been dealt with.

Apart from the practical difficulties associated with the implementation of these to models (e.g. attempting to sensitize/inform every legal administrator/Native person), there are further problems which relate to their ideological premise. Notably absent has been any initiative aimed at remedying these problems at the systemic level; rather than modify the justice system to suit its patrons, both of these models attempt to modify the patrons to suit the justice system. The justification for this comes in the form of rhetoric which juxtaposes the needs of the "dominant society" against those which are lumped together and considered "minority matters" (Turpel 1990:10). The effect of this ideological conglomeration is not only to create a greatly oversimplified conception of "Nativeness", but pools all "minority" cultures into a grouping which is now re-
defined as an "ethnic other"; as if those characteristics which are "lacking" vis-a-vis the dominant society are more significant than those characteristics which a culture or ethnic group may in fact have.\textsuperscript{52} Within this context, cross-cultural training and legal education do little more than obscure the differences between Native and immigrant peoples (Harding 1991:369). Rather than address problems of discrimination as they relate to the groups and individuals being discriminated against, these two approaches attempt to resolve these problems in a way which maintains the status quo.

5.3 - NATIVE CONSTABLES

Since before this century, Native males have been hired by Canadian police forces to supplement services provided to Native communities.\textsuperscript{53} Initially they were hired to assist the police, operating, in a sense, to provide non-Native officers with a means of entering into these communities. In the contemporary setting, however, the role of Native

\textsuperscript{52} An example of this would be the institution of a translator in court to give a Native person an understanding of the proceedings. Although this may be of some service, it mistakenly assumes that the barrier is language, and that multiculturalism can be exercised in the same manner with Native peoples as it can with, for example, French Canadians. As a consequence, the difficulties which Natives face are commonly reduced to ones of language.

\textsuperscript{53} For example, on Walpole Island, the Dominion Police were using Native Constables in the late 1800s (Nin.da.waab.jig 1989:70).
Constables has shifted. Rather than serve the interests of the police, the role of Native Constables is now envisioned as a service to the community. It is as a consequence of this shift that the use of Native Constables has been defined as a model for improving relations between Native peoples and the police. Although the focus of this initiative was specifically on policing, because all persons processed by the criminal justice system do so only after having come into contact with the police, it was assumed that byremedying this problem at its source all further initiatives would become unnecessary.

Native Constables first arose in the contemporary period in the latter half of the 1960s. The emergence of the Band Constable Program, known formally as "Circular 55", gave Native Bands the opportunity to submit names of Band members to the R.C.M.P. for appointment as "Supernumerary Constables". These Constables were given the authority of civilians hired by the Band to keep the peace, with their jurisdiction limited to the confines of their Reserve, and their powers subject to that of the R.C.M.P. Although this program was narrowly focused, it exemplified the government’s initial recognition of unmet policing needs in Native communities (Task Force 1990:24).

It was in 1973, with the advent of the Native Special Constable Program, that the use of Native Constables was formally introduced as an initiative to improve
Native/policing relations. This program arose in response to the continuing need to provide Native communities with more suitable policing services (Depew 1986:40), and entailed the recruitment of Native peoples into the R.C.M.P. in the capacity of "Special Constables" (constables with limited powers).\textsuperscript{54} Established by the R.C.M.P. in all provinces except New Brunswick, Ontario, and Quebec,\textsuperscript{55} this program was the result of a report produced by the Department of Indian Affairs and Northern Development, entitled the "Indian Affairs Task Force on Policing on Reserves". This report considered two options for the development of Native policing: the formation of autonomous tribal police forces (the fourth model), and the establishment of the Native Special Constable Program.\textsuperscript{56} While it strongly favoured the latter, it was later admitted by the task force which had produced this report that it had collaborated with the R.C.M.P. to ensure that the former, more radical, alternative was not pursued (Native Counselling Services 1980:3). In doing so, it ignored the position advocated by

\begin{itemize}
\item \textsuperscript{54} This program upgraded the formal status of Native Constables from that of "civilians" hired by a Band, to "Constables" hired by the federal/provincial government.
\item \textsuperscript{55} Because Ontario and Quebec have their own provincial police forces, this program did not come into effect under the R.C.M.P. With regard to New Brunswick, this province, apparently, chose to opt out of this program.
\item \textsuperscript{56} These two alternatives are commonly referred to as options "3(a)" and "3(b)" respectively.
\end{itemize}
many Native groups which favoured tribal policing over the use of Native Special Constables (Harding 1991:369).

With the implementation of the Native Special Constable program, Band Councils were supposed to receive some control over their Constables; but how much, and in which areas was never made clear. Moreover, Native Constables were accountable only to their local (non-Native) detachments,\textsuperscript{57} and all detachment decisions were ultimately subject to approval by the Native Policing Branch of the R.C.M.P. (Depew 1986:40-1). There were also problems which related to the recruitment of Natives into this program. Not only were many Native people reluctant to apply for admittance into it, reflected in the inability of the R.C.M.P. to maintain a set level of recruitment (Depew 1986:43), but Natives were subject to a lower level of training, which was also translated into a lower rate of pay. Moreover, there appeared to be a relation between Native perceptions of the police, and their reluctance to become police officers (Griffiths and Verdun-Jones 1989:556). When Native communities were first introduced to "Native Special Constables", not only did they continue to mistrust them, but these officers, who typically worked in their own communities, were often ostracized (Native Counselling Services 1980:6).

\textsuperscript{57} Although Native Constables were chosen by the Band, once they began their duties, they become a supplementary part of a nearby R.C.M.P. detachment.
Although, some initiatives were to continue to develop beyond the scope of this program (Griffiths 1988:155), the institution of the Native Special Constable Program had a profound impact on the shape and pace of all other initiatives. Some Native groups did initially recognize the Native Special Constable Program as a conceptually solid alternative, but it was later criticized for having become "politically defunct" (Native Counselling Services 1980:25). Rather than empower Native peoples to police themselves, the Native Special Constable Program established a hierarchy which situated Special Constables in neither their communities, nor with the police. As such, this program failed to provide Native communities (or Constables) with the means to resolve problems which were, primarily, systemic (e.g. over incarceration). In fact, one Ontario evaluation (Harris 1977) found that rates of incarceration often increased where this program was implemented.

The futility of this model can be narrowed down to two major difficulties. First, although this program was established in an effort to alleviate continuing problems in regard to policing Native communities, it failed to define which problems would be resolved, and in what ways. Rather, it assumed that by supplementing non-Native officers with Native Constables that problems would disappear on their own. Secondly, as a consequence of this shortsightedness, there existed no standards with which to measure its
effectiveness. As a result, it operated in such a way that it could not fail - since it had nothing concrete to achieve in the first place. In this respect, it had a powerful effect on the maintenance of the status quo. It was implemented on a grand enough scale and with a swift enough pace to give the impression that a significant step had been taken. At the same time, it served a political purpose in that it marginalized many of the initiatives which Natives had attempted to implement themselves.

It was so effective in its suppression of Native initiatives that, two years after the Native Special Constable Program had commenced, Ontario initiated its own Special Constable Program. Entitled the (Ontario) Indian Special Constable Program, this program was administered by the O.P.P., and was virtually identical to its federal counterpart. Not only was it very similar in the way it functioned, but politically too, it served to displace much of the discontent which had developed within Ontario’s First Nation communities. The one critical difference between this program and its federal counterpart was how it defined its Constables. While the federal program had neglected to clearly identify the role of its Native Constables, leading to confusion in how they were to be utilized, the Ontario

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58 This program is often mistakenly referred to as the "Indian Policing Program". While it is actually quite distinct, they are sometimes confused because they arose from related research. The latter program actually refers to one initiated in an effort to police Reserves in Northern Ontario.
program avoided this by designating Native Constables as liaisons, rather than replacements, of regular O.P.P. members (Griffiths 1988:157). As a consequence, the Ontario program made explicit the inferior status of Native Constables.

Since the implementation of the Indian Constable Program, in 1975, policing in Ontario's Native communities has been defined only within the parameters of this program. Although Native communities had only had limited control over the development of these services in the first place, this program ensured that even this limited control would be subject to the authority of the province. Moreover, while the Ontario program has undergone several modifications, including a renewed cost sharing agreement,\(^{59}\) and the development of a tripartite negotiation process,\(^{60}\) it has inhibited the ability of Native communities to pursue strategies for policing which do not mirror those in the wider society. The (Ontario) Indian Special Constable Program continues to define the development of policing in most of Ontario's Native communities.

\(^{59}\) Initially, the federal government contributed sixty percent of the costs while the province contributed forty percent. This arrangement was later renewed to fifty-two and forty-eight percent respectively.

\(^{60}\) The tripartite negotiator is the Indian Commission of Ontario. Currently, Ontario First Nations Policing negotiates with the federal and provincial governments for limited policing resources.
After seventeen years of operation, in 1990, the R.C.M.P. officially announced that it was terminating the (federal) Native Special Constable Program. To justify the termination of this program, the R.C.M.P. suggested that it did so in order to give all new Native recruits the same status and opportunities as regular constables, and that current Native Constables would receive training to upgrade their status. Although this change was lauded by the Aboriginal Justice Inquiry (1991:613), it seems ironic that the R.C.M.P. should receive credit for the removal of a program which was supposedly created to benefit Native peoples in the first place.

5.4 - TRIBAL POLICING

Tribal policing, the final model to be reviewed here, can only be considered a viable initiative to the degree that the federal and provincial governments have been willing to tolerate it. Rejected by the Indian Affairs Task Force on Policing on Reserves in 1973, this model was to develop in an ad hoc way, and in spite of the implementation of the Special Constable Programs. Considered the key benefit of this model is the separation of an "indigenized" police force from federal, provincial, and municipal police

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61 A justification was necessary in order to prevent this action from being interpreted as the R.C.M.P. having "given up".

62 This was described in section 5.3.
forces (Depew 1986:55). This separation can include such matters as police administration, policing strategies, program planning, and management issues. However, tribal policing itself does not ensure that all aspects of police organization and operations are under full control of a Native community. Tribal policing is currently constrained to the degree that it must continue to rely on other policing agencies for training and back-up, as well as direct funding from the federal and provincial governments. Moreover, tribal police must continue to enforce the same laws, and operate within the same judicial system as non-tribal police. Hence, a distinction must be made between tribal policing per se, and truly autonomous tribal policing.

The former appears to have arisen as a result of the blending of the "Band Constable Program" (Circular 55), created by the Department of Indian and Northern Affairs in 1968, and the Native Special Constable Program (Native Counselling Services 1980:12). The Band Constable program provided a model for locally controlled policing on Native Reserves through the use of "Band Constables". These Band Constables were hired and supervised by Band Council, and were intended to supplement local police forces, but not supplant them (Aboriginal Justice Inquiry, Vol. 1, 1991:614). Since the establishment of the Band Constable Program (coupled with the development of the Native Special
Constable program), several specific tribal policing models have begun to operate in Canada (see Appendix 6). What is surprising, however, is that none of these models are identical, nor do any of them represent a clear model for autonomous tribal policing (Depew 1986:55). This latter finding may relate to an observation made by the Native Counselling Services (1980:11) which indicated that autonomous tribal policing could probably not be achieved until Native peoples had attained political autonomy. This was because such police forces would be so weak that they would, again, have to rely on non-tribal police. Hence, while the goal of establishing self-governance is related to achieving autonomy in policing, it is likely that complete autonomy will only be possible once self-governance has been achieved.

Although it was not the first tribal police force to develop, the Dakota Ojibway Tribal Council Police Force in Manitoba is currently considered to be one of the better established (Griffiths 1988:157; Depew 1986:61). Hence, a cursory examination of the Dakota Ojibway Tribal Council Police Program helps to elucidate many of the pertinent issues which arise from tribal policing generally. Formed in 1978 with nine officers, this policing program was established in conjunction with the federal and provincial governments as an experiment in delivering better police services to eight Sioux and Saulteaux communities (Singer
and Moyer 1981:ii). While it has had mixed success, in addition to its goal of addressing many of the problems which stem from traditional means of policing Native communities, the Dakota Ojibway Tribal Council Police Program was established specifically as a step towards greater self-governance (Aboriginal Justice Inquiry, Vol. 1, 1991:615).

Although this program has increased the independence of these communities, a considerable amount of control is retained by non-Native organizations (primarily the R.C.M.P.). For example, all Constables have to complete training with the R.C.M.P. (either in Regina or Brandon) which is very similar to that (which was) provided to Native Special Constables (Depew 1986:62). Hence, they receive only partial police officer status (termed "Peace Officer" status), with jurisdiction limited to their assigned communities. They have no control over serious Criminal Code offenses, and only partial control over minor Criminal Code offenses (Depew 1986:62). Service delivery is the responsibility of the Chief of Police who reports to a Police Commission. The Police Commission is made up of a Band member from each community (usually the Chief), and one representative, each from the R.C.M.P., the Department of Indian and Northern Development, and the Manitoba Attorney-General. It is responsible for all financial, policy and operational control matters. Singer and Moyer (1981:vi)
found that the effective functioning of the Commission was dependent upon the ability of its representatives to maintain a balance between individual Reserve interests and the program in general; noting that "political" interference had been particularly problematic.

Nevertheless, an evaluation in 1983 concluded that the program was preferable to regular policing by the R.C.M.P. (see, Social Policy Research Associates 1983). Indeed, this may have only been an indication of how poor R.C.M.P. services were in the first place, since there remained many serious problems in this program's organization and funding (Depew 1986:65). For example, the absence of a clearly defined division of responsibilities between the Police Commission and the Police Chief has resulted in considerable confusion in policy formulation. Moreover, at the level of police recruitment, recommendations on the part of the Commission are not always consistent with those of the Chief (Depew 1986:65). Hence, quality control with regard to efficiency and delivery of services has been low, which in turn has affected job satisfaction; leading to an employee turnover rate of 63 percent over a period of three years (Depew 1986:65).

Yet, even within these constraints, a number of innovations have been made in regard to policing these communities. For example, since its establishment, the Dakota Ojibway Tribal Council has described its officer(s)
as "...part social worker, taxi driver, alcohol worker, ambulance driver, peace keeper and dog catcher" (Harding 1991:372). This is a reflection of Band interests which have indicated that they would like a force which could provide "a great deal of public assistance, in matters that are unrelated to law enforcement per se" (Singer and Moyer 1981:v). Moreover, this program has been developed by Natives, and is led by Natives, and, as a result, has more independence than most other Native policing programs (Singer and Moyer 1981:v). Indeed, many of the difficulties in this program are unrelated to law enforcement per se: lack of funding and personnel, strenuous workload, and uncertainty over its future (Singer and Moyer 1981:v).

Consequently, this program, and the tribal policing model overall, represents the most innovative of models to be implemented thus far. It is within this context that the Aboriginal Justice Inquiry makes recommendations consistent with the development of autonomous tribal policing, stating that, "Aboriginal communities should be encouraged to form regional police forces and commissions... under Aboriginal control and management... and (should) gradually assume full responsibility for all law enforcement duties within (their) geographic region" (Vol. 1, 1991:616). Although the initial formation of a tribal police force typically resembles a regular police force (Aboriginal Justice Inquiry, Vol 1, 1991:616), it offers the greatest opportunity for
modification, and is the most ambitious model to have been implemented so far. As a result, autonomous tribal policing has been identified as the most effective model for the policing of Native communities (Aboriginal Justice Inquiry, Vol. 1, 1991:626), and is believed to be an important facet of self-governance (Russell 1992:2).

5.5 - CONCLUSIONS

This chapter has reviewed the four main initiatives used to address the conflict which has existed between police and Native communities. In exploring these models, I have shown how each of them is flawed, and how, at least the first three, have been implemented with a cross purpose. There is little evidence to suggest that the government’s concern lays directly with the interests of Native peoples themselves. Indeed, I described how cross-cultural training and legal education failed to address the problems faced by Natives in the criminal justice system, and, in fact, placed the onus of rectifying these problems on to the individuals being charged. The intentions of the governments, when not in direct opposition to the interests of Natives, seem to offer superficial remedies which attempt to vindicate them of their responsibility and/or neglect. This was made most obvious in the implementation of the Special Constable Program(s). Native communities were compelled to subscribe
to a package of reform which gave them some managerial power, but eliminated their substantive control.

Tribal policing, on the other hand, gives Native communities both a significant degree of managerial power and substantive control over the shape of the policing program itself. While this model is superior to the others, it is the alternative most reluctantly pursued by the governments, and, to this point, has been inclined to develop in a fashion similar to the contemporary policing model. It is in the recognition of this trend towards replication, not only in tribal policing, but in all of the models, that the further development of Native policing is put into jeopardy. Many Native communities have been able to exercise their rights as sovereign nations, and, as such, have had the opportunity to implement alternatives to being policed by "regular" police forces. In recognizing that this is a unique achievement in the Canadian context, one is compelled to ask: why is it that many Native communities have chosen to implement a policing model which is virtually identical to that from which they have recently emancipated themselves? In the following chapter I examine the development of policing in one Native community. By illustrating some of the opportunities and difficulties which this community faced, I attempt to establish the degree to which Native communities have only been provided
with autonomy in policing to the degree that they have been willing to replicate the contemporary model of policing.
6.0 - POLICING ON THE WALPOLE ISLAND FIRST NATION:
A CASE STUDY

6.1 - INTRODUCTION

It should be stressed that this chapter, which examines the development of policing on Walpole Island, does not begin in a period which can be characterized as either "traditional" or "contemporary". Rather, it is necessary to recognize that by 1900, this Native community had already undergone significant transformation, and that this period was characteristic of the ongoing adaption of these peoples to changing circumstances. It is inaccurate to conceive of the relationship between traditionalism and modernity as following a linear trajectory. Change is always mediated by those upon whom it is impacting, and it is in this respect that Native cultures are most accurately envisaged as "emergent". In this chapter I will chronicle the development of policing on Walpole Island, drawing attention to those policies and decisions which have come to define policing today.

6.2 - HISTORICALLY (1900 - 1960)

Little is known about policing on Walpole Island prior to the twentieth century. In part, this is due to a fire in a federal storage facility, in 1897, which destroyed many of the materials pertaining to this early period. Although
there had already been some police activity on Walpole Island prior to the turn of the century. Burton Jacobs, a highly respected Native Elder who has sat on Council for a period of almost forty years, suggests that policing did not become relevant on Walpole Island until the beginning of this century. This observation provides the starting point for this examination, and underscores the relatively recent arrival of policing in this community. Indeed, it should be kept in mind that, prior to the advent of regular policing services, this community must have relied on its own resources to maintain public order.

However, even before the police became significant on Walpole Island, it was customary for Agency Offices to maintain a prison cell; and this was indicative of the Indian Agent’s inherently authoritarian role (Hawthorn-  

63 A letter from the Deputy Superintendent General of Indian Affairs, in 1896, makes reference to "Indian Constables" on Walpole Island (Nin.da.waab.jig 1989:70).

64 "Council" refers to a group of up to twelve band members, and a Chief, who are either appointed by an Indian Agent or elected to serve on behalf of the local Native population. Because Walpole Island was home to two relatively distinct Bands until 1940, the Chippewa and the Potawatomi, there were two separate Band Councils (see, Nin.da.waab.jig 1989).


66 "Agency Office" refers to a structure, typical on most Reserves, which housed an office in which the "Indian Agent", a non-Native male appointed by Indian Affairs to take charge of a Reserve, would carry out his duties.

Tremblay 1967:59). The first explicit record of police activities on Walpole Island comes in 1910, and pertains to a Police Magistrate holding court in "Indian (Council) Hall".\textsuperscript{68} The case in question involved a school teacher who had brutally beaten a Native pupil, and Walpole Island's Indian Constable was given the responsibility of taking this teacher away the following day.\textsuperscript{69} At least two further "Indian Constables" worked on Walpole Island during the first two decades of this century, under what was known as the Dominion Police.\textsuperscript{70} However, in 1919, the Dominion Police was absorbed into what had become known as the Royal North West Mounted Police (R.N.W.M.P.), and the name of this newly formed conglomerate was changed to the Royal Canadian Mounted Police (R.C.M.P.). Hence, the R.C.M.P. received authority over Walpole Island in 1920.

At this time, R.C.M.P. officers did not live on the Island, and when a problem arose, if they were not already there, they would have to be summoned. This would have been one of the duties of the respective Indian Constable.\textsuperscript{71} There is an indication that such Constables may have had the authority to make arrests and to go to court,\textsuperscript{72} but even

\textsuperscript{68} The Wallaceburg News, September 16, 1910.

\textsuperscript{69} The Wallaceburg News, September 16, 1910.

\textsuperscript{70} Interview with Burton Jacobs, June 25, 1992.

\textsuperscript{71} The Windsor Star, February 13, 1960.

\textsuperscript{72} Interview with Frederick Soney, July 9, 1992.
then, their activities were limited by their dependence on the R.C.M.P. For example, in one case, in 1936, a Constable had attempted to close down a dance which, contrary to a local by-law, had gone on past midnight. However, the crowd threatened him and forced him to leave without accomplishing this goal. He responded by alerting the R.C.M.P., but was informed that they were unable to assist.\textsuperscript{73} Keeping in mind that there was no bridge at this time to connect Walpole Island to the mainland,\textsuperscript{74} it is likely that such Constables had had similar problems on other occasions, and that certain community members had learned to take advantage of this predicament. This situation is of interest in two ways: first, it is an indication of the differences which existed within this community, one segment of which was attempting to legislate "morality" (i.e. no parties after midnight); and, secondly, it typifies the problems which were created through the onslaught of institutional forms of domination whereby community control had shifted from within this community to control from without. Indeed, it is ironic that, although by-laws were enacted by Band Council and were a means through which they could exercise their

\textsuperscript{73} Source and date unknown. PAC, RG 10, Vol. 7152, file 471/3 - 10, pt. 2.

\textsuperscript{74} Although various individuals had considered building a bridge from Walpole Island to the mainland, not until 1970 was such a bridge completed, and in the meantime, a ferry had to be used.
limited independence, by-laws were rendered unenforceable by members of the community itself.

In 1938, the Inspector of Indian Agencies (reporting on Walpole Island) identified liquor as the single greatest cause of trouble on the Island. He reported that in the previous year sixty-two Indians had been convicted of liquor offenses and that, at the time of his visit, the two jail cells at the back of the Agent's office contained ten Indians. The stereotypical "drunken Indian" is one of the most pervasive images with which Euro-Canadian's have viewed Native peoples, and has had a profound impact on the development of law enforcement in Native communities.

Similar to the criminalization of opium in regard to Chinese migrants, the prohibition of alcohol in the Indian Act serve to "legitimate" the government's assertion of control over Native peoples. This legislation, which had made the possession and/or consumption of intoxicants by all persons

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76 This figure is relatively high when one recognizes that Walpole Island's population was little over one thousand at this time (i.e. more than 6 percent of the population had been convicted of liquor offenses in one year).

77 Chinese labourers had been allowed to immigrate to Canada as a cheap source of labour beginning in 1858. They brought with them opium, and prior to 1908, no legal restrictions existed on its sale or consumption. However, as Chinese labourers began to organize, the criminalization of opium served to "legitimate" the infiltration of these groups by Canadian authorities (see, e.g., Comack 1986).
on a Reserve, and by *Natives* off a Reserve,\textsuperscript{78} guilty of a summary offence, provided the police with sufficient authority to conduct raids, break down doors, etc. Hence, while the arrest of Natives for liquor offenses had been common since the enactment of the *Indian Act* in 1876, such offenses became increasingly popular after the First World War when alcohol had been temporarily prohibited for all people in Canada (Smart and Ogborne 1986:43).\textsuperscript{79} Rather than significantly curb people's drinking habits, this legislation compelled people to acquire alcohol through illegal means which, in turn, made their alcohol problem a more complex one (Smart and Ogborne 1986:106). Although alcohol was, and continues to be, a significant problem in many Native communities, the perception that alcoholism is the cause of problems, rather than a symptom, continues to inhibit the development of an effective solution, and has maintained the negative stereotypes which are associated with this problem.

Beginning in the 1950s, legislative overlap was creating contradictions in the jurisdictions of the police.

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\textsuperscript{78} In *R. v. Drybones* (1970), the Supreme Court of Canada struck down section 95(b) of the *Indian Act* which had made the possession and consumption of intoxicants off a Reserve illegal for Natives. The court held that the racial classification contained in this section contravened the guarantee of equality before the law contained in the *Canadian Bill of Rights*. However, because the legislation which deals with intoxicants on a Reserve applies to all people, Native or not, these sections remain in effect.

\textsuperscript{79} Prohibition was in effect in Ontario from 1916 to 1923.
Increasingly, the O.P.P. from Sombra, and even Wallaceburg,\textsuperscript{80} were being called upon to come to Walpole Island, and it is likely that this was creating internal problems for the R.C.M.P. Although the O.P.P.'s jurisdiction in Native communities was ambiguous at this time, they would still have been obliged to respond to calls when the R.C.M.P. were not available.\textsuperscript{81} Under such circumstances, they would take charge of a case until such a time that the R.C.M.P. could take over. This was likely one of the reasons leading to the establishment of an R.C.M.P. detachment on Walpole Island in 1953.\textsuperscript{82} Although an informal relationship of cooperation had begun to develop between the O.P.P. and R.C.M.P., it broke down with the development of further jurisdictional complications (O.P.P. 1987b:1). The main problem which was to emerge related to the three levels of government which had developed: federal, provincial, and Band. The Indian Act, which was federal, was enforced by the K.C.M.P., while provincial laws were enforced by the O.P.P. But with the growth of Band by-laws,

\textsuperscript{80} Although Wallaceburg is closer to Walpole Island than Sombra, Walpole Island is in the same county (Lambton) as Sombra, and not Wallaceburg (Kent). So, although it would be more practical for the Wallaceburg O.P.P. to service Walpole Island, Sombra, even today, has the official responsibility.

\textsuperscript{81} This is a courtesy reciprocated by most police departments even today.

\textsuperscript{82} Personal correspondence with the R.C.M.P., dated November 5, 1992.
a new controversy began to arise. Because the power to enact by-laws stemmed from a provision in the Indian Act, and because by-laws, when properly enacted, superseded all provincial legislation, it was the R.C.M.P.'s responsibility to enforce them. However, as the number of by-laws began to grow, so too did the R.C.M.P.'s reluctance to provide such resources to these communities.

For this reason, Indian Constables were hired to carry out the leg-work involved in by-law enforcement and, more generally, keeping the peace. Although their authority to keep the peace extended beyond the enforcement of by-laws, the exercise of formal power was always carried out by, or in conjunction with, the R.C.M.P. Hence, in the event that an Indian Constable wanted to issue a fine, he would always have to get assistance from the R.C.M.P. In this respect, an Indian Constable's authority was largely symbolic, and relied upon his ability to make people believe that he in fact did possess sufficient powers. Indeed, their success was contingent upon a violator's perception of an Indian Constable's actions as opposed to those of the R.C.M.P. (which were typically harsher). However, an

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83 Indeed, much of an Indian Constable's time was spent attempting to control public drunkenness, and would include sending a "drunk" home, or even placing him/her in the local jail overnight.

84 Interview with Frederick Soney, July 9, 1992.

85 Interview with Frederick Soney, July 9, 1992.
Indian Constable’s role continued to be hampered by one of two circumstances. Either he was increasingly forced to call upon the R.C.M.P. to process a charge, or, there simply were not enough by-laws to warrant the cost of appointing an Indian Constable in the first place. Initially, in an attempt to resolve this problem, Indian Constables were hired at a more productive level, full-time. In 1950, Walpole Island hired a full-time Indian Constable, who was described as "the first of his race to hold that office in several years".

Even with the establishment of a local R.C.M.P. detachment and a full-time Indian Constable, Walpole Island’s Indian Agent complained to Indian Affairs that by-laws were not being enforced, and that Band Council was about to give up trying. Part of the problem at this time pertained to the 1951 revision of the Indian Act. This revision required that all by-laws be revised to correspond to its new mandate. Coupled with the original problems of by-law enforcement, this proved to bring their enforcement to a standstill. By 1960, not much had changed, and

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86 This could reflect an increase in the denial of an Indian Constable’s authority, or an increase in the severity of offenses committed.

87 Although this was not the case on Walpole Island.


Councillors were becoming anxious for solutions. It is during this period that a transformation begins to take place on Walpole Island. In 1959, Walpole Island became only the second "Indian Reservation" in Canada to handle its own revenue funds, and the election of Burton Jacobs as Chief in June, 1960, becomes the turning point for Walpole Island's shift into a new political era.

6.3 - ESTABLISHING A BASIS FOR DEVELOPMENT (THE 1960S)

This period is characterized by an increase in the political self-reliance of the Walpole Island Band. This is reflected in the growing number of initiatives which this community attempts to undertake. However, rather than pursue conventional avenues for the resolution of community problems, Walpole Island's Council begins to exercise some of its powers vis-a-vis the Indian Act. The Indian Act has played an ambiguous role in the history of Native peoples; most Natives would characterize this role as a negative one, while, at times, it has also been used by Bands in the pursuit of their own interests. In this regard, the 1951 revision of the Indian Act altered the status of Natives from that of "virtual dis-empowerment" to that of limited re-empowerment. Although many revisions had been made to the Indian Act of 1951, opinions differed as to the degree

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90 Under the pre-1951 Indian Act, Natives were defined as "wards" of the State (Holmes 1982:ii).
of real improvement which had been achieved
(Nin.da.waab.jig. 1989:91; Holmes 1982:5). Indeed, there
was little doubt that assimilation remained the primary goal
of this legislation and, more recently, its insidious
undertones have become more fully recognized. While the new
Indian Act did give Native Bands more powers, it did so
within a framework which necessitated that they establish
themselves in a way which paralleled the wider society.
This is in contrast to more recent actions taken by Native
groups which have challenged the government’s right to
assert authority over them in the first place (e.g. vis-a-
vis the Indian Act). 91

However, in the early 1960s, with the complete
breakdown of a means to enforce Band by-laws, Council’s
actions were geared towards finding new ways to resolve this
long standing problem. Ironically, a new provision
contained within the Indian Act 92 had given Native Bands
the opportunity to hold a referendum on the issue of alcohol
in their communities, and, in 1959, the Walpole Island Band
voted in favour of acquiring on-Reserve liquor privileges

91 There are several examples which typify this resistance
to the government’s authority. The 1990 stand-off at Oka,
Quebec, is one example of such actions on the part of Natives,
but more poignant was the "Gathering of Nations" in 1992. The
"Gathering of Nations" was an event organized by Ontario’s
First Nations whereby thousands of Native peoples exercised
their right under the Jay Treaty to freely cross the waterways
between Ontario and the United States.

92 Under section 98 of the Indian Act.
and full off-Reserve liquor privileges in accordance with provincial law.\textsuperscript{93} This change did not altogether remove the jurisdiction of the \textit{Indian Act} in regard to liquor, so much as it made those sections which continued to apply redundant under the (Ontario) \textit{Liquor Control Act}. Hence, the inadvertent affect of this referendum was to preclude the R.C.M.P. from enforcing liquor and liquor-related offenses. Although the consumption of liquor by an adult on the Reserve was no longer an offence under the \textit{Indian Act}, the tendency for any criminal act to be defined as "involving liquor"\textsuperscript{94} necessitated that "liquor-related" offenses be enforced by the O.P.P. Hence, the R.C.M.P.'s jurisdiction on Walpole Island was severely constrained, which, in turn, served to further complicate the by-law issue.

In addition, although the R.C.M.P. had, for the most part, already abandoned by-law enforcement on Walpole Island, a new policy was being pursued by the R.C.M.P. which eliminated any hope of having them resume in this area. It stated that the policy of the force "does not permit the

\textsuperscript{93} It may be of interest to note that Sombra Township, located just north-east of Walpole Island, held a similar referendum in 1960 (though not under the \textit{Indian Act}) and voted in a large majority to remain "dry" (Chatham Daily News, September 8, 1960).

\textsuperscript{94} For example, in Middlesex County (which borders Lambton County to the east), Williams (1972:9) found that of all Natives sent to county jail in July and August of 1965, 87 percent were committed there for offenses defined as "liquor-related".
enforcement of by-laws under the Indian Act. The reasoning given by the R.C.M.P. was that because most by-laws had to do with civil and property rights, they could not be considered proper subjects of attention for a force concerned primarily with the enforcement of criminal law. Hence, if Council wished to prosecute under a by-law, a more elaborate process became necessary: first, a Native Constable would have to approach Council with the issue, who, in turn, would have to draw up a Band Council Resolution expressing their desire to institute proceedings; next, the Resolution, and all facts pertaining to the prosecution, would have to be forwarded to the Superintendent of Indian Affairs; this would be followed by a review of the case by a legal advisor who, if it were approved, would forward the information to the Department of Justice for the appointment of a solicitor; finally, the solicitor would then meet with Council to arrange for a member of Council to lay a charge. Needless to say, such a procedure was rarely, if ever, invoked. Indeed, this directive ended with an indication that "educative

95 This policy was quoted in a memorandum issued by Eric Acland, Senior Administrative Officer (Indian Affairs), on September 15, 1960, and refers to a document issued by the Officer in Charge, Criminal Investigations Branch (R.C.M.P.) on July 18, 1958. PAC, RG 10, Vol. 7153, file 471/3 - 10, pt. 3.

96 Letter dated August 9, 1960, From the Senior Administrative Officer to the Regional Supervisor. PAC, RG 10, Vol. 7152, file 471/3 - 10, pt. 2.
persuasion" should be substituted for this procedure whenever possible.97

In this regard, Walpole Island, and many other Native communities, were put into a predicament which rendered by-law enforcement in particular, and law enforcement in general,uviable. Walpole Island’s Council responded to this new position of the R.C.M.P. in a letter written by the Indian Agent. It stated that:

"It is the opinion (, however,) of the writer and some of the Band Councillors that if the R.C.M.P. are in no way concerned with the by-laws which are enacted under the Indian Act and since the Walpole Island Indians now have the right to purchase alcoholic beverages in the same manner as other citizens do and therefore come under the Ontario Liquor Control Act, which is enforced by the Provincial Police, it would seem that the value and use of the R.C.M.P. on the Reserve is approximately nil".98

The letter continued, suggesting that if the characterization was accurate, the R.C.M.P. should be removed from the Island entirely. Council’s difficulty, in this regard, was that it had not been empowered to the degree that it could simply replace the R.C.M.P. Rather, the Walpole Island community had been provided with policing services by the R.C.M.P. with little, or no, regard to the

97 Letter dated August 9, 1960, From the Senior Administrative Officer to the Regional Supervisor. PAC, RG 10, Vol. 7152, file 471/3 - 10, pt. 2.

particular needs or desires which they may have had. Hence, when these services were found to be ineffective, no mechanism existed to allow this community to institute new services. They had been considered passive recipients of such services, and now that these services were in jeopardy, it left open the question of who would fill this void. Although the R.C.M.P. remained on Walpole Island until 1968, the events which preceded their ultimate removal were an attempt on the part of the Band to assert their control over law enforcement.

Two main initiatives arose at this time: first, consistent with a recommendation of the R.C.M.P. was an increase in the use of Native Constables (who were designated "Supernumerary Constables" of the R.C.M.P.); and second, was an increased reliance on the O.P.P. There is also some evidence which suggests that the R.C.M.P. and O.P.P. may have attempted to cooperate with one another once again. A letter from a senior official of the R.C.M.P., written in regard to another Reserve, indicated that the R.C.M.P. was grateful to the O.P.P., and Native communities in general, for having accommodated their new policy. It alluded to a problem, however, which continued to mitigate against the effective policing of Native communities – namely, that with two police forces, there was a tendency for each force to avoid responsibility by leaving
difficulties to the other.\footnote{Letter dated August 15, 1961, from Ellen L. Fairclough to W.H.A. Thomas. Indian Affairs, file 471/18 - 1, pt. 2.} Needless to say, although the R.C.M.P. had established guidelines to vindicate themselves of the general responsibility to police Native communities, it was a more difficult task to unload this responsibility in practice.

Policing had become a serious problem in many Native communities. For example, at the Caradoc Reserve,\footnote{The Caradoc Reserve is located in the county of Middlesex, south-west of London, Ontario.} because the R.C.M.P.’s jurisdiction was no longer extended to civil matters, nor to the \textit{Criminal Code} (which had come under provincial jurisdiction via the Attorney General), and because an O.P.P. detachment was not very close by, their Council inquired into the appointment of a Supernumerary Native Constable under the O.P.P. (rather than the R.C.M.P. as was customary). This was an entirely new proposition, and received favourable, if not helpful, endorsement from the R.C.M.P.\footnote{Letter dated January 5, 1962, from Eric Acland to Regional Supervisor, Indian Affairs. Indian Affairs, file 471/18 - 1, pt. 2.} Further correspondence took place whereby two main problems were fleshed out: that of funding,\footnote{Letter dated April 4, 1962, from T.L. Bonnah to Indian Affairs, Ottawa. Indian Affairs, file 471/18 - 1, pt. 2.} and
that of the remaining jurisdiction which the R.C.M.P. held. Unfortunately, what was achieved is not made clear, as no further correspondence was available.

Although progress in the areas of policing and by-law enforcement remained ambiguous, Walpole Island's Council continued to pursue the more general goal of increasing its level of self-sufficiency. For example, in 1961, consistent with a provision in the 1951 Indian Act, Walpole Island received control over its welfare program under the Ontario General Welfare Assistance Act. Such achievements served to re-affirm this Band's ability to assert local administrative control over its affairs, and could only have positive implications for similar pursuits in other areas (e.g. policing). Indeed, it was likely the success in these areas which led Burton Jacobs and a group of Councillors to pursue the removal of the Indian Agent. One incident is particularly revealing in this regard. Although it would be difficult to substantiate, Burton Jacobs, and a few of the Councillors who supported him, all felt that they were being subject to unusual police attention at this time. Jacobs, specifically, indicated that he had encountered a series of harassments from the police, and while he admitted that they could have been coincidental, he suspected that they were related to his campaign for the removal of the Agent (Taylor

1984:48). This incident underscores the dilemma which many Natives face in regard to the role of the police.

Nevertheless, by 1964, Council had attained what it believed to be majority support for the removal of the Indian Agent, and on September 16, 1964, the Indian Agent announced that he had a transfer pending, which took place January 1, 1965. However, with the removal of the Indian Agent there emerged a new problem for Councillors. Although they no longer needed to consult an Agent when making decisions, they were by no means free to act on their own behalf. As Burton Jacobs described (Taylor 1984:37), one of the most frequently heard statements in the Council house was "I wouldn’t recommend it". This had often been the Indian Agent’s response to suggestions made by Council, and had now simply shifted to another bureaucrat within the Department of Indian Affairs. Such was the case when a member of the Council By-Law Committee called Indian Affairs to enquire about a by-law which had been passed for the appointment of a Constable to enforce Band by-laws.\(^{104}\) Indian Affairs responded by saying that they thought it was unwise to enact such a by-law. Although this Councillor assured the department that such a Constable would be trained at the Ontario Police Training College (and would therefore be qualified to do such work), it was still not

recommended. What Indian Affairs had not realize, however, was that this by-law had not only already been enacted by Council, but that it had come into force.

According to Section 82(2) of the Indian Act, in order for a by-law to come into force, Council must first send it to Indian Affairs. If, after forty days, a response is not received, the by-law automatically comes into effect. When the Councillor indicated this, it became necessary for Indian Affairs to take a new position. One day later, a letter was sent to Chief Burton Jacobs.\textsuperscript{105} It acknowledged Council’s plans, and commended them on their intent to have this Constable appointed as a member of the O.P.P. rather than the R.C.M.P. Moreover, it requested that Council keep them informed, adding that they would be happy to contact the provincial authorities themselves if it was thought to be of help. Clearly, Council’s plan, once initiated, had presented itself as an idea whose time had come. It should be noted, however, that this was the same idea which the Caradoc Band Council had come up with three years earlier. By October, 1965, Council had chosen two Constables,\textsuperscript{106} and in February, 1966, one of them was appointed and began to attend Police College.\textsuperscript{107}

\textsuperscript{105} Letter dated November 30, 1965, from the Regional Director of Indian Affairs to Chief Burton Jacobs. Indian Affairs, file 471/18 - 1, pt. 2.

\textsuperscript{106} The Chatham Daily News, October 5, 1965.

\textsuperscript{107} The second Constable was never referred to again.
It was in June, 1966, that Walpole Island received official control of its own affairs under a uniquely established form of self-governance. After a one year period without the Indian Agent, a new precedent had been set among Native communities. Moreover, the commencement of work by Walpole Island's first Band Constable, later that year, also contributed to the growth of locally controlled Native policing. He was appointed as a "Supernumerary Special Constable" with the R.C.M.P., and was vested with the full authority of a "Peace Officer". His official/legal title, however, was not "Police Officer", nor did he receive an appointment with the O.P.P. as had initially been desired. His duties were limited to the enforcement of certain terms of the Indian Act (via the R.C.M.P. warrant), and all Band by-laws (via his appointment as Band Constable). However, while it was clear that the R.C.M.P. could assist the Constable in enforcing sections of the Indian Act (e.g. laying charges and prosecuting), no one knew what procedure would be followed when a charge was being laid in respect to a by-law. While he could adequately lay a charge and act as a witness in court, he

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108 The Walpole Island First Nation was the first Native Band in Canada to achieve a form of self-governance. This arrangement, however, is more accurately conceived of as a form of "delegated authority".

109 It is quite possible that this Constable was the first to work under such arrangements in all of Ontario.
could not be expected to also act as a Prosecutor.\textsuperscript{110} This problem was to continue to inhibit the effective enforcement of by-laws, and maintained an element of uncertainty in regard to this Constable's actual authority.

In March, 1967, Council sanctioned the creation of a "Police Committee". It was to have three members, and was to function in the same general manner as a municipal "Police Commission". However, because (R.C.M.P.) Supernumerary Special Constables were not subject to the (Ontario) \textit{Police Act},\textsuperscript{111} its status was not formally recognized, and it had to function outside of the official legislation. The role of a municipal Police Commission is to provide a buffer between a local police force and the community which it serves, as well as its Council. It is a body instituted to provide, among other things, an impartial forum for the resolution of disputes which arise routinely during the course of police work. Typically, a municipal Police Commission has two of its members appointed by the province, and only one by the city.\textsuperscript{112} This is thought to ensure the impartiality of its members. In Native communities, however, all members of a Police Committee are

\textsuperscript{110} Letter dated September 30, 1966, from J.W. Churchman to Dr. H. Fisher. Indian Affairs, file 471/18 - 1, pt. 2.

\textsuperscript{111} A "police act" is a piece of legislation used to outline the rights, roles, and duties of police officers.

\textsuperscript{112} This was changed in 1983 to three provincial, and two city, appointments - for a total of up to five members on a Police Commission.
appointed by Council. In fact, it has become customary for newly elected Band Councils to appoint a new Police Committee after each election. This has jeopardized its most fundamental precept of impartiality.

The status of Walpole Island’s Police Committee is indicative of the overall situation in Native policing. The ad hoc operation of this Committee underscores the marginal status to which Native policing has been relegated by the government. Currently, Walpole Island’s Police Committee continues to operate only in as far its members, and those persons with whom it deals (e.g. Constables, Council, the community, etc.), wish to abide by its decisions. As a matter of law, unlike its municipal counterpart, this Committee has only as much power as Council wishes to give it at any given time. This has led to significant problems in its operation, and has put into jeopardy the autonomy of the police department. The lack of formal division between Council and the Committee maintains Band Council’s ability to fire, and generally interfere in the duties of, Walpole Island’s Constables. Indeed, these problems became apparent with the hiring of Walpole Island’s first Special Constable, and continue to re-occur in the contemporary setting. In the following section I will examine how these initiatives have been developed, laying the foundation for the contemporary period.
6.4 - THE PERIOD OF DEVELOPMENT (1968 - 1975)

In February, 1968, the R.C.M.P. announced that it was removing its detachment from Walpole Island. As a result, the O.P.P. in Sombra began to take a more active role in the policing of Walpole Island. The O.P.P. did not set up a detachment on the Island but, in conjunction with the Native Constable, began to conduct regular patrols. However, only months later, changes were announced by the O.P.P. While there was to be no direct change to Walpole Island, the O.P.P.'s Sarnia detachment was being relocated, which, as a consequence, affected the jurisdiction of the O.P.P. in Sombra; Sombra was to continue to police the Island, but patrols were to be less frequent.113 This, in turn, increased the need for a local police detachment.

In January, 1970, it was determined that Walpole Island's police force should be enlarged to four persons. In part, this was due to the anticipated opening of a bridge which was to connect Walpole Island and the Canadian mainland. Opened in May, 1970, the community recognized that this bridge was going to have a profound impact on the Island. Not only could anyone now commute to and from the Island, but the amount of traffic which was to enter Walpole Island was going to increase dramatically. Moreover, the Sombra O.P.P. could now access the Island more readily, and the local Customs Office was to become much busier with

traffic going to and from the United States (via ferry). Hence, the effectiveness of the police was perceived to be of paramount importance.

In June, 1970, Chief Jacobs, was replaced by Don Isaac; an incumbent who was particularly keen on establishing a locally controlled police force. In July, 1970, the Superintendent of the O.P.P. addressed Council to explain a move which was being planned for the establishment of a local Native police force with three officers.\textsuperscript{114} Its most significant feature was to be that this force was to work under the auspices of the O.P.P. rather than the R.C.M.P. This would enable it, as had been recognized ten years earlier, to enforce the Liquor Control Act and the Highway Traffic Act. It would no longer be restricted to the rather ambiguous enforcement by-laws, and the Indian Act, and its officers would have the authority to pursue individuals beyond the confines of the Reserve. The O.P.P. continued to patrol the Island, but was not in a position to enforce either by-laws or the Indian Act.

In an effort to hasten the development of this new police force, Council began to inquire into the mechanisms which enabled police forces to service Walpole Island in the first place. This was an attempt to not only learn more about policing, but also to induce officials into making decisions with regard to police jurisdictions. Some of

\textsuperscript{114} The Chatham Daily News, July 16, 1970.
these inquiries were into the roles and responsibilities of the O.P.P. on Reserves,\textsuperscript{115} while others inquired into the establishment of a Reserve police force.\textsuperscript{116} Although a flurry of letters began to circulate among officials,\textsuperscript{117} the final letter sent to Walpole Island was conspicuously lacking in any response to the creation of a Reserve police force.\textsuperscript{119} Nevertheless, in 1971, the Walpole Island Police Force was the first police force in Ontario to form under the "Native People's Policing Program".\textsuperscript{120,121} This was a significant step, even if only for symbolic reasons, as the relative success of this development would act as a catalyst for more ambitious projects.

\textsuperscript{115} Letter dated November 2, 1970, from G.N. Faulkner to the Regional Director. Indian Affairs, file 471/18 - 1, pt. 3.

\textsuperscript{116} Letter dated March 5, 1970, from P.H. Isaac to Jean Chrétien. Indian Affairs, file 471/18 - 1, pt. 3.

\textsuperscript{117} Letter dated March 26, 1970, from J.V. Cain to J. Nicholls. Indian Affairs, file 471/18 - 1, pt. 3.

\textsuperscript{118} Letter dated November 12, 1970, from G.S Lapp to the District Supervisor. Indian Affairs, file 471/18 - 1, pt. 3.

\textsuperscript{119} Letter dated April 27, 1970, from Jean Chrétien to P.H. Isaac. Indian Affairs, file 471/18 - 1, pt. 3.

\textsuperscript{120} This program was a part of a broader initiative referred to as "Circular 55".

\textsuperscript{121} The Windsor Star, October 7, 1976.
With the election of Chief Isaac, and nine (from a total of twelve) new Band Councillors, the focus of Band Council shifted from enhancing this community’s self-sufficiency in accordance with the Indian Act, to more far reaching reforms. Indeed, policing was to become a major focus for this Council, and plans were under way to have the Walpole Island Police Force become self-sufficient. There were two ways in which this could be achieved: Walpole Island could allocate sufficient resources to policing to make the O.P.P. unnecessary, or, they could join together with other Native communities to establish an autonomous Native police force. Although it was the first alternative which had initially been favoured by Isaac, the prohibitive cost of supplanting the O.P.P. proved too much for the Walpole Island budget. Hence, Walpole Island began to consult other Native groups in regard to the formation of a (provincial) Native police force.

The idea of such an initiative did not take long to catch on. The Association of Iroquois and Allied Indians (A.I.A.I.) began to represent the various Native communities who were interested in such a project, and initiated negotiations with the government in this regard.

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123 Interview with William Colwell, July 8, 1992.

Germination of this initiative should not be understated: the development of an autonomous Native police force represented a radical departure from the types of reforms envisioned in earlier decades. In the face of escalating uncertainty with regard to policing, and increasing disenchantedment with the willingness of the government to resolve these long-standing problems, this impetus underscores the growing commitment of Native peoples to resolve their own problems. While Walpole Island was a focal point for this initiative, many other communities had gotten involved, and similar movements had also begun to operate in other parts of the country (see, Harding 1991).

From a pragmatic perspective, this initiative contained a multitude of redeeming features. The formation of (provincial) Native police force could resolve many of the difficulties which both Walpole Island, and other Native communities, were experiencing. The establishment of a Native "Police Act", which was an element of this initiative,\(^\text{125}\) would not only have made by-laws enforceable, but would have made them the primary focus of law enforcement in these communities. This would have provided Native Bands with the opportunity to enact legislation distinct from that of the province. Moreover, problems with regard to Police Committees would have been resolved vis-a-vis such an Act, and there was even the

suggestion that it could provide the first step towards the establishment of a separate Native Justice system.\textsuperscript{126} Furthermore, in the long run, such a strategy would have strengthened Ontario First Nations' calls for autonomy and self-governance.

The atmosphere seemed very optimistic and, at one point, there was even a report suggesting that Walpole Island would provide the training ground for this new provincial Police Force.\textsuperscript{127} However, while the planning of this initiative continued to get support from Native communities, little had changed in the area of policing. Indeed, it seemed that the government was reluctant to give in to such a proposition, but was hard pressed to come up with alternate solutions to difficulties which had developed in regard to the policing of Native communities. In February, 1974, the government did finally respond to Native demands with the issuing of a report which had been produced by the Provincial Solicitor General. Entitled the "Task Force on Policing in Ontario", it recommended that Ontario initiate what was to become the (Ontario) "Indian Constable Program"; the provincial counterpart to the federal "Native Special Constable Program". The main impetus of this report was to bring Native Constables under the jurisdiction of the O.P.P. rather than the R.C.M.P. (O.P.P. 1987b:3). Although

\textsuperscript{126} The Chatham Daily News, April 22, 1974.

this had been identified by Native Bands as a necessary step for over a decade, such a change was to have Native Constables come under the partial jurisdiction of the (Ontario) Police Act which, in turn, would precluded the development of an autonomous Native police force.

With the implementation of the Indian Constable Program over the latter portion of 1975, and into 1976, attempts by Natives to implement their own initiatives were increasingly displaced. This program had been implemented on the same grand scale as its federal counterpart and, as a result, had the same effect of suppressing all other initiatives. Although one hundred percent of the funding was now to be provided by the provincial and federal governments, this also meant that a significant degree of control had shifted from the Band to the province. This program could be characterized as a "basket of goods"; Native communities were only in a position to receive full funding in the context of this program. Hence, they received little opportunity for input into policing, and were compelled to abandon their own initiatives in favour of one for which they would not have to pay. The implementation of this program on Walpole Island was to be the final "reform" which this community would see, and was to establish the framework around which all other developments in policing would emerge.
6.5 - THE CONTEMPORARY PERIOD (1976 - 1993)

The reforms and initiatives sought by this community in earlier decades, in this period, have become more mainstream. Critical to developments in this regard has been the institution of the Indian Constable Program, and the degree to which Native communities have been made to rely on the funding of this program. Although Walpole Island had always received partial funding for its Constables, the extent to which funds have been specifically allocated under this program has limited the ability of such communities to develop their own policing programs. Indeed, the Walpole Island Band is involved in policing primarily at a managerial level, and has had little say in regard to what shape developments will take. Although several modifications have been made to the arrangement of policing in this, and other, Native communities, these changes continue to occur within the parameters of the (Ontario) "Indian Constable Program".

In many respects, the changes which this program has invoked are geared towards the "professionalization" of this police force. This has been achieved, primarily, by bringing it under the jurisdiction of the O.P.P. Concomitantly, the Walpole Island force has had to become more bureaucratic in its interaction with the overall policing institutions. As a consequence, a significant amount of the Band’s autonomy has been transformed into
administrative procedure; increasingly, guidelines rather than initiatives have dictated what shape policing will take. Indeed, the degree to which policing on Walpole Island has become only an adjunct to the O.P.P. is made clearest in view of the relationship which this force has with the O.P.P., in contrast to the Walpole Island Band. For example, while Walpole Island's Constables are chosen by Council, they must still be approved of by the O.P.P. Their employment status is not defined as one with the Band, but as that of an employer/employee relationship with the province. Hence, while the program may have upgraded the service delivery of this force (e.g. through increased training, resources, and jurisdiction), it has done so in a way which has severely limited this community's ability to contribute to this service in a meaningful way.

The limits of this program are seen most readily in the difficulties which it has not addressed. For example, Native Police Committees have still not been officially recognized by the province. Although the Police Act (renamed the Police Services Act) has only recently been revised (in 1990), it continues to exclude Native Constables, and hence, Native Police Committees, from its jurisdiction. Because Native Constables are technically defined as a "Special Constables"\(^{128}\), they do not come

\(^{128}\) This is the same status used to defined police officers who might work for a corporation such as CN, or a bus company.
under the explicit jurisdiction of the Police Services Act (at least not as "police officers"). Furthermore, while all Native Constables are trained, equipped, supervised, and paid through the O.P.P., they are not considered to be "regular" members of the O.P.P. In addition, the Indian Constable Program has done nothing to enhance the enforceability of Band by-laws. Instead, by-laws have been displaced to the degree that they have only a very minor role: rather than provide the Band with a means to establish community-specific regulations, by-laws act only as a source of Band revenue. Although, this revenue is important (derived from the sale of hunting and fishing licences, and fines for those without), their impotence is indicative of the overall erosion of law enforcement in this community. Indeed, Walpole Island's Constables pay little attention to by-laws, focusing on the enforcement of federal and provincial laws. Hunting and fishing by-laws are currently being enforced by two "by-law enforcement officers", who operate solely from Band funds, relatively independent of the police.\footnote{129} Hence, the Indian Constable Program has neither resolved the problems of policing Native communities, nor has it given Native Bands the opportunity to resolve these problems themselves.

\footnote{129} It should not mistakenly be assumed that these "by-law officers" are in fact pseudo-police constables. Their official authority in regard to the enforcement of any laws, including by-laws, is virtually nil.
In 1988, First Nations Contract Policing, a division of the O.P.P., received control over Native policing in Ontario. Among other things, this change saw the development of a "Policing Agreement" between Ontario's First Nation communities and the provincial and federal government. Under this agreement, a fixed level of resources is provided to Native communities, over a specified period of time, for which First Nations Policing negotiates with the Indian Commission of Ontario.\textsuperscript{130} Native communities are represented at the Commission either by the Union of Ontario Indians, Six Nations, or have independent seats and represent themselves.\textsuperscript{131} Walpole Island currently has an independent seat, and is attempting to negotiate for a "Specific Policing Agreement" which would allow them to develop policing services outside of the overall "Policing Agreement". Although such a scheme would be beneficial, by allowing this community to develop community-specific policing services, the development of a Specific Policing Agreement does not preclude the O.P.P.'s involvement in this community, and would continue to

\textsuperscript{130} The most recent Policing Agreement, negotiated in 1992, allows for the implementation of three hundred and thirteen new Native Constables (in Ontario) over five years. Initially, there were to have been five hundred and twenty six new positions, but government cut-backs reduced this figure. One hundred of these new positions have been instituted in 1992. Two of these one hundred positions went to Walpole Island, while a third was lost as a result of the cut-backs.

\textsuperscript{131} There are approximately twelve independent seats.
maintain Walpole Island’s status under the general rubric of policing in Ontario (i.e. the Indian Constable Program). It is possible, however, that the institution of a Specific Policing Agreement can be utilized for the development of more creative policing initiatives. Six Nations, which is developing and implementing such an agreement, is currently the only community to have received this status. How this initiative is developed, and what promise it offers for Ontario’s First Nation communities remains to be seen.

In general, the Indian Constable Program has transformed the issue of Native policing from an ideological one into a technical one. Native Bands are no longer grappling with the issue of how to maintain social order in their communities, but instead, are left with the task of making their police force’s as effective as possible within the confines of the Indian Constable Program. In this regard, this program has maintained the overall subordinate status of Native Constables (e.g. "Special Constables"), and the structure within which they work (e.g. Police Committees, by-laws). As a result, the focus of Native groups has inadvertently shifted from the implementation of substantive alternatives, to the technical improvement of services which already exist. Although adept leadership and planning has helped to alleviate some of the difficulties on Walpole Island (e.g. with regard to the Police Committee), the "system" which has produced, and maintains, the
subordinate status of policing in native communities remains intact.

6.6 - CONCLUSIONS

In this chapter, I have examined the development of policing on Walpole Island. Although many of the difficulties experienced by this community were shared by other Native communities, in many respects, Walpole Island was at the head of the Native policing movement. This examination began with a look at early policing; to a time when policing was just beginning to take root in this community. This was followed by a review of the developments which had arisen, primarily, as a result of the 1951 revision of the Indian Act. The focus here became politics; on how Councillors and bureaucrats attempted to deal with new conditions. The turmoil of the 1960s led into an era of reform in the early 1970s, and in this section I attempted to underscore the more radical development of initiatives. However, during the mid-1970s, the introduction of the "Indian Constable Program" established a new focus, and here I drew attention to the demise of more ambitious reforms, and to the co-optation of the Native policing movement. This conclusion arose from the recognition that Native policing was increasingly being defined in accordance with the contemporary model of policing. Indeed, apart from the disparities in Native
policing when compared to "regular" policing, the most significant distinction between "regular" and Native police is the ancestry of its Constables. The significance of this finding is explored in the next chapter.
7.0 - DISCUSSION

In the previous chapter, I chronicled the development of policing on Walpole Island. We saw that the trend in this community, ultimately, and perhaps inadvertently, was towards the replication of the common policing model. Although policing in Native communities is not identical to that in non-Native communities, it has been premised on the same "crime-control" model and, if the trend we have observed continues, no doubt, it will be "identical" at some point in the future. As a result, like its non-Native counterpart, it is plagued by both high costs and relative ineffectiveness. Although we have seen that recent actions taken by the Solicitor General have attempted to alter the fundamental basis of policing (i.e. community policing), we have also seen that these changes are relatively short-sighted and operate within a political, as well as practical, framework. It is in the complexity of all of these factors that we are able to find the focus of this research on "Native" policing.

It is a matter of fact that Native Constables have functioned as subordinate police officers when compared to the "regular" ranks. Moreover, many of the support mechanisms which function in non-Native contexts are not present in the Native setting (e.g. Police Commissions). These difficulties have made the Native Constable’s role a more difficult one, while, at the same time, serving to keep
these Constables on the margins of the policing sub-culture. As a result, many Native Constables leave "Native policing" to become police officers with the "regular" O.P.P. at some point in their careers.\textsuperscript{132} Although many Native Constables have suffered doubly as a result of this situation\textsuperscript{133}, it is one which provides Native communities with a more viable opportunity for reform. Unlike their non-Native counterparts, Native Constables have not been as firmly entrenched into the policing institution, while at the same time most of them seem to express a genuine concern for the wellbeing of the communities in which they serve.\textsuperscript{134}

For the most part, it is the strength of the messages which suggest that policing (as we know it) is not only necessary, but the only means with which public order can be maintained. While this is equally true in both Native and non-Native communities, the police have had a more ambiguous role in Native communities, and, as a result, are not as firmly ingrained in these communities. This is supported in an examination of those Native communities which have attempted to reject the mainstream structures of police

\textsuperscript{132} Although statistics are not available on this point, a significant proportion of Native police officers, who are members of the "regular" policing ranks, began their careers in policing as "Native Constables". Indeed, two officers in such a position indicated that such a transition is perceived as "natural" from the perspective of Native Constables.

\textsuperscript{133} Native Constables typically exist at the margins of both their communities and the policing "sub-culture".

\textsuperscript{134} Which are typically their "home" communities.
authority and have initiated their own police forces (e.g. the Dakota Ojibway Tribal Council Police Force). Moreover, we saw that on Walpole Island, in the early 1970s, this Band attempted to institute its own autonomous police force. Hence, unlike in the non-Native contexts, Natives have been quite willing to explore alternatives to the current policing model. However, to this point, most of these attempts have maintained their focus on the repudiation of mainstream police authority, rather than on the implementation of alternatives to the contemporary policing model.

I have attempted to underscore the desirability of instituting alternatives to the crime-control model, and have done this by stressing, first, the impracticality of this model, and second, by illustrating the degree to which "Native policing" has been defined by this model. Apart from the possible practical advantages which Native communities may share in regard to the implementation of alternatives, there are further criteria which serve to underscore the desirability of taking such actions. Native communities find themselves in a complex position in the contemporary context. The recent rejection of the Charlottetown Accord by Native peoples, which would have entrenched their sovereignty in the Canadian Constitution while also eliminating the Indian Act, epitomizes this

135 See, also, Appendix 6.
complexity. To a significant degree, the viability of Native claims are tied to the support which they receive from the Canadian population at large. It is through the mobilization of such support, through such groups as the Assembly of First Nations, that Native peoples have been able to bring their concerns to the forefront of the political agenda. The continued mobilization of such support remains an integral ingredient for the ultimate recognition of Native autonomy and self-determination.

Critical to such support is the perceived validity of the claims which Native peoples make. In this regard, Native groups have been asserting their rights, in principal, as sovereign nations, to strengthen their own positions, but also in an effort to receive public exposure and support (e.g. the Gathering of Nations). Although the assertion of autonomy in policing was inspired by the profound inability of the judicial system to provide "justice" to Native peoples, it has also operated to provide legitimacy to calls for self-determination. In this regard, there is no reason for Natives to pursue autonomy in policing only in an effort to replicate the institutions which they are shedding. Rather, by exploring the alternatives which are available to them, Natives may find

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136 Indeed, this is exemplified by the recognition and affirmation of existing treaty rights "that now exist by way of land claims agreements or may be so acquired", in s. 35(1) of the Constitution Act, in 1982 (Moss 1991:15).
better means of dealing with problems which afflict their communities, while at the same time strengthening claims of self-governance.

In an earlier section, I cautioned against the superficial imposition of "traditional" alternatives to policing. Native communities are in a precarious situation, and it is unlikely that oversimplified "traditional" solutions will be able to effectively deal with their needs. In an effort to ensure the viability of alternatives which are deemed appropriate, communities could begin to institute alternatives along side current structures of policing. It is, in fact, unlikely that policing, as it is known today, will ever become entirely unnecessary. After all, communities will continue to need a minority of services meant to address the most serious of crimes (e.g. violent crimes), and in most cases, will continue to require a rapid, and in some cases forceful, response to some situations. The emphasis of this research, however, has been on the degree to which such services are not necessary, and as such, on the development of initiatives which are better able to deal with a wide variety of situations.

For example, we saw with the Dakota Ojibway Tribal Council Police Force that new initiatives were added on to the policing structure already in existence, modifying the Constables' roles to include an element of "social work". This is one means of increasing the effectiveness of the
police, but, ultimately, would be better achieved if "social work" were to become the dominant role of this service. As such, this initiative may be threatened by police officers themselves, who may be unwilling to make such a transition. Moreover, persons drawn to policing, at least in the contemporary setting, are unlikely to have the skills required to carry out such a role effectively. Consequently, while a broadening of the police mandate, to include social work, may be a means of increasing the effectiveness of the police, the complete implementation of such a strategy may require more fundamental changes to this institution — indeed, ones which may make the creation of an entirely new institution seem more practical.

Other communities, such as the James Bay Cree, have attempted to identify some elements of "traditional" justice and policing in an effort to combine these with other, more viable, models. The James Bay Cree, in recognizing the importance of well thought out long-term initiatives, have engaged in an elaborate process, spanning nine communities, to attempt to provide "Justice for the Cree".\textsuperscript{137} It is a multifaceted endeavour, and includes an examination of local crime, policing and alternative methods of dispute

\textsuperscript{137} This is the overall title which has been given to this initiative. The research and development which initiated this process was conducted by Roger McDonnell, Jean-Paul Brodeur, and Carol La Prairie, and has been published in four volumes by the Grand Council of Crees (Quebec) and the Cree Regional Authority (1991 -1992).
resolution, as well as an investigation into the extent that Cree custom may be helpful in developing alternatives for these communities. Although, in this particular example, such initiatives remain in the consultation and development stages, it is likely that such initiatives will have a significant degree of success.

A primary concern for all Native communities inclined to pursue such alternatives pertains to the degree that such alternatives will have to continue to correspond and interact with the Canadian judicial system. In the long run, this problem may resolve itself as more and more Native communities develop their own resources, and, in this way, are able to rely upon and assist one another. Nonetheless, these are problems which will have to be dealt with, but which should not preclude the development of alternatives in this regard. For the time being, it is individual communities which must act on their initiative, recognizing that the contemporary policing model offers few solutions and little hope for reform.
8.0 - CONCLUSIONS

This research has examined the development of Native policing. It has explored the relationship which has existed between Native peoples and the institutions used to police their communities. In many respects, this examination of policing can be extended beyond the Native context, to any context which employs the same "crime-control" model. Indeed, a critique of the contemporary policing model is only related to the Native context to the degree that Native peoples are willing to acknowledge and address these issues. However, Native peoples are no more obliged to alter this model than anyone else. This research has focused on Native policing only because it is in this context that policing reform is most likely. Native communities have consistently challenged the government's right to assert control over their communities (e.g. through the police), and it is in this respect that reform in Native policing is most plausible.

I have attempted to demonstrate the degree to which Native policing has come to be synonymous with regular policing. Although this finding, in itself, was not problematic, a critical examination of the contemporary policing model served to underscore some of the difficulties in this regard. It is for this reason that this research has identified some of the deficiencies inherent in the "crime-control" model; in the hope that such an examination
might renew a search for alternative strategies better able to deal with the problems afflicting the contemporary Native setting. A simple evaluation may be enough to determine the desirability of instituting alternatives. This could include an evaluation of: problems which remain unaddressed; problems which the police address; and the resources which are currently utilized for these purposes. A finding that a disproportionate number of resources are being utilized to address a minority of problems (as is the case in the non-Native setting) may warrant a re-evaluation of how resources are allocated.
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APPENDIX 1

INITIATING THIS RESEARCH PROJECT:

The development of a mutually agreeable project was initiated in my meeting the Director of this program, Dean Jacobs, in November, 1991. I had a further meeting in February, 1992, with Dean Jacobs and his assistant, Vera Williams; who was designated my contact person. She assisted me in not only finding a project, but generally to become more aware of developments on the Island. I remained in telephone contact with her until April, when I was contacted and asked to attend a Police Committee meeting where a definitive project would be agreed upon. As it turned out, unbeknown to me, Vera Williams was later laid off and I ceased to hear from her about new developments on the Island. Nevertheless, I attended this meeting in late April, which took place at the Walpole Island Police Department, and there I met Joseph Gilbert, a Council member and the Chair of the Police Committee (who was inadvertently to become my new contact person). I also met several further persons including Lindsey Swords, also a Council member, and Bill Jones, the Chief Constable. After providing background information about myself, a number of areas of research were reviewed, and it was agreed that, as a part of my research, I would examine the historical development of policing on Walpole Island. This would be the basis of my research, and would provide a framework for a broader discussion of Native policing in general. I was accompanied at both of these meetings by the Chair of my Thesis Committee, Dr. Max Hedley.

In early May, I attended a luncheon for the welcoming of Gwen Bonafice, an Inspector from First Nations Policing. At this luncheon, I met several persons including the (former) Chief of Walpole Island, Robert Williams, and D. (Murray) Wood, a member of the R.C.M.P. who had been seconded to the O.P.P. to facilitate the development of Native policing. This luncheon was concluded with a leisurely boat tour through many of the waterways which make up the Walpole Island area. It provided for an opportunity to talk with many of the people in attendance, which included Inspector Bonafice, Joseph Gilbert, and Walpole Island’s two By-Law Enforcement Officers. Moreover, I met a number of the officials who had routine authority in regard to policing on Walpole Island, including Inspector Charlie Turner, from the O.P.P. District Headquarters, and Detachment Commander Gord Miller, of the Sombra O.P.P. This meeting provided for an ideal opportunity not only to get to know the Island(s) geographically, but to converse with a multitude of Native and non-Native policing officials.
Later in May, it was agreed that I would meet Joseph Gilbert and Robert Williams in Toronto to attend the meeting of the (Ontario) Native Police Commission. Walpole Island has one independent seat on this Commission, and therefore has an opportunity to negotiate with the government and other Native communities for policing related resources. Although no specific contacts were made at this meeting, it introduced me to a facet which, admittedly, remains peripheral to this research, but nevertheless served to enhance the reality which surrounds the broader issue of policing in Native communities. I found this to be a helpful practice, and attempted to familiarize myself with as many facets of Walpole Island as possible. Hence, in addition to my academic concerns, at various points during my research I would bring my bicycle to Walpole Island and would chat with people as the opportunity arose, stop for coffee at "Bob's Landing", or eat lunch at the "arena". I also attended the annual Pow Wow, and, in one case, after having received Council approval, observed a Band Council meeting.
APPENDIX 2

LIST OF PERSONS INTERVIEWED (SCHEDULE USED, AND RELEVANT OCCUPATION(S)):

Interview Schedule "A" - Walpole Island Police Officers (past and present):

(1) - Mr. William "Bill" Jones - Walpole Island Chief Constable

(2) - Mr. William "Bill" Colwell - Gas station owner, former Walpole Island Supernumerary Special Constable

(3) - Mr. Frederick "Pat" Soney - Retired, former R.C.M.P. Special Constable (Walpole Island)

(4) - Mr. Lyle Johnson - Walpole Island Constable

(5) - Mr. Lee Stonefish - Walpole Island Constable

(6) - Mr. Faron Whiteye - Walpole Island Constable

(7) - Mr. Winston Williams - St. Thomas O.P.P., former Walpole Island (Chief) Special Constable

Interview Schedule "B" - Persons affiliated with policing on Walpole Island (with the exception of police officers):

(8) - Dr. Burton Jacobs - Band Councillor, former Walpole Island Chief

(9) - Mr. Charles Sampson - Band Councillor and Director of Economic Development

(10) - Mr. Ron George - Walpole Island Legal Assistant (lawyer), former O.P.P. Inspector (Toronto), and former O.P.P. Native Special Constable (Kettle Point)

Interview Schedule "Br" - Persons affiliated with policing on Walpole Island (Justice of the Peace):

(11) - Ms. Marsha Miskokomon - Walpole Island Justice of the Peace, former Band Councillor
Interview Schedule "C" - Persons affiliated with policing on Walpole Island, but who are located elsewhere:

(12) - Mr. Gord Miller - Detachment Commander, Sombra O.P.P.

(13) - Mr. Mark Wright - Liaison Officer, Sombra O.P.P.

(14) - Mr. Phil George - Sombra O.P.P., former O.P.P. Native Special Constable (Walpole Island)

(15) - Mr. Charlie Turner - Inspector, Chatham O.P.P.

(Informal Interviews - no interview schedule)

(16) - Mr. Parker Pinnance - Retired, former Band Councillor, and former R.C.M.P. Special Constable (Walpole Island)

(17) - Mr. Robert "Bob" Peters - Restaurant owner, former Metro-Toronto police officer, and former Walpole Island Special Constable

(18) - Mr. Randy Cota - Current occupation unknown, former Walpole Island Special Constable
SUMMARY OF DEMOGRAPHIC DATA (SECTION "A" FROM A TOTAL OF FIFTEEN FORMAL INTERVIEWS):

A - Demographic Information -

1 - Name - SEE APPENDIX 2

2 - Gender - F 1  M 14

3 - Age - UNDER 30  2  30-45  7  OVER 45  6

4 - Native Canadian - MOTHER 10  FATHER 11  NO 4

5 - Walpole Island Band Member - YES 7  NO 8

6 - Resides on Walpole Island - YES 8  NO 7

7 - Current Occupation - SEE APPENDIX 2
SAMPLE INTERVIEW SCHEDULES (A, B, Bx, C):

SCHEDULE (A - )

INTERVIEW SCHEDULE FOR - Walpole Island Police Officers (past and present):

Date - ______/1992 Time - __________

Location - ________________________________

Tape Recorder - YES ___ NO ___ (Cassette # _ )

A - Demographic Information -

1 - Name - _______________________________________

2 - Gender - F ____ M ____

3 - Age - UNDER 30 ____ 30-45 ____ OVER 45 ____

4 - Native Canadian - MOTHER ____ FATHER ____ NO ____

5 - Walpole Island Band Member - YES ____ NO ____

6 - Resides on Walpole Island - YES ____ NO ____

7 - Current Occupation - ___________________________

B - Perceptions of Walpole Island -

1 - How familiar are you with issues of Native self-government?

2 - Do you feel that Native Canadians are justified in their struggle for self-determination?

3 - How familiar are you with the issues of Native policing?

4 - Do you feel that Walpole Island's attempt to gain more control over policing will be (has been) beneficial?

5 - Do you feel that the Walpole Island Police Department is currently functioning adequately?
C - Occupational Information -

1 - How long have (were) you been a police officer on Walpole Island?

2 - Have you been involved with law enforcement anywhere else?

3 - Why was it that you became a police officer?

4 - What training have you received as a police officer?

5 - What do you feel are (were) the key functions of police officers on Walpole Island?

6 - Who are (were) you responsible to in your role as a police officer?

7 (a) - What are (were) the main duties required of you in your role as a police officer?

(b) - Are (Were) you required to follow any specific guidelines or legislation in carrying out your duties?

(c) - If so, do you feel that any of these guidelines or pieces of legislation are (were) particularly beneficial or detrimental to the completion of your duties (please elaborate)?

8 - How important are (were) the enforcement of Band by-laws in relation to other duties which you must perform?

9 - As a member of the Walpole Island Police Force, are (were) your powers limited with respect to jurisdiction or boundaries?

10 (a) - In your role as a police officer, are (were) you ever required to get assistance from external sources?

(b) - If so, is (was) this problematic in any way?

(c) - If so, do you feel that there is (was) a better way to deal with these problems?

11 - How has (did) your job change(d) since you joined the Walpole Island Police Force? This could include (1) the duties you are (were) expected to carry out, (2) how you are (were) expected to carry them out, and (3) who you are (were) responsible to in carrying them out?
12 - How do you think the Walpole Island community perceives (perceived) Walpole Island's police officers?

13 - Do you think that the community's current perceptions are different from those which they may have had in the past?

14 - Do you feel that it is important for police officers on Walpole Island to be of Native ancestry?

D - Regarding Law Enforcement -

1 - What sorts of offenses do (did) you deal with most frequently?

2 - How effective do you think you are (were) in dealing with these offenses?

3 - What is (was) the most serious offense you have had to deal with?

4 - Are (Were) there any offenses for which you would require outside assistance?

5 - Is (Was) crime a serious problem on Walpole Island?

6 - How much of your work is (was) directly related to "fighting crime"?

7 - In your experience as a police officer, have you noticed a change in either the amount of crime being committed, or in the types of crimes being committed?

E - Delegation of Police Control -

1 - In general, do you feel that increasing a community's control in the area of policing makes the police more effective?

2 - Do you feel that a police force staffed and administered by Native people would necessarily be more effective in a Native community than a non-Native police force (please elaborate)?

3 - Do you feel that there are limits to the degree of control Natives should exercise with respect to the establishment of autonomous policing? For example, should First Nations be supported in the establishment of an entirely autonomous criminal justice system?
(PRESENT POLICE OFFICERS ONLY)

4 (a) - Who currently has control over the funding and administration of the Walpole Island Police Department?

(b) - Has it always been this way, or have any other people/organizations had control over the police department in the past (both on and off the Island)?

5 - Are the current structures of control appropriate, or do you feel that control over the police department should be delegated in another way?

F - Personal Opinions Regarding Native Policing -

1 - Do you feel that Walpole Island has actually benefitted from the increased control which it has already received?

2 - Do you think that autonomous Native policing will provide solutions to the problems faced by Native Canadians with regard to policing and the criminal justice system?

3 - Do you anticipate that Walpole Island will be successful in its goal to establish a fully independent policing system?

4 - Can you think of any (further) improvements which would benefit the police department? This could include such things as (1) its administration, (2) its ability to provide community services, and (3) its ability to control crime.

5 - Do you feel that it is necessary for Walpole Island/ Native Canadians to achieve self-government in the near future?

6 - With respect to the development of self-governance for Walpole Island, do you feel that it is necessary that Walpole Island’s police department be locally controlled?

G - Closing Comments -

1 - Do you have any additional comments which you would like to add to this interview?

2 - Can you think of any people who would be useful to me in this research (whom I should interview)?
3 - Although I don't expect it to be necessary, would it be alright if I were to contact you again regarding this research?

YES ___  HESITANT ___  NO ___

4 (a) - Would you like to know when and where my research is available when it has been completed?

YES ___  NO ___

(b) - Do you have an address where you can be notified:
SCHEDULE (B - )

INTERVIEW SCHEDULE FOR - Persons affiliated with policing on Walpole Island (with the exception of police officers):

Date - ________/1992 Time - __________
Location - ______________________________________
Tape Recorder - YES ___ NO ___ (Cassette #  )

A - Demographic Information -

1 - Name - _______________________________________
2 - Gender - F ___ M ___
3 - Age - UNDER 30 ___ -45 ___ OVER 45 ___
4 - Native Canadian - MOTHER ___ FATHER ___ NO ___
5 - Walpole Island Band Member - YES ___ NO ___
6 - Resides on Walpole Island - YES ___ NO ___
7 - Current Occupation - ____________________________

B - Perceptions of Walpole Island -

1 - How familiar are you with issues of Native self-government?

2 - Do you feel that Native Canadians are justified in their struggle for self-determination?

3 - How familiar are you with the issues of Native policing?

4 - Do you feel that Walpole Island’s attempt to gain more control over policing will be beneficial?

5 - Do you feel that the Walpole Island Police Department is currently functioning adequately?

C - Delegation of Police Control -

1 - In general, do you feel that increasing a community’s control in the area of policing makes the police more effective?
2 - Do you feel that a police force staffed and administered by Native people would necessarily be more effective in a Native community than a non-Native police force (please elaborate)?

3 - Do you feel that there are limits to the degree of control Natives should exercise with respect to the establishment of autonomous policing? For example, should First Nations be supported in the establishment of an entirely autonomous criminal justice system?

4 (a) - Who currently has control over the funding and administration of the Walpole Island Police Department?

(b) - Has it always been this way, or have any other people/organizations had control over the police department in the past (both on and off the Island)?

5 - Are the current structures of control appropriate, or do you feel that control over the police department should be delegated in another way?

D - Occupational Information -

1 - How does your occupation relate to policing on Walpole Island?

2 - How long have you had this occupation?

3 - What sort of experience or qualifications do you have which qualify you to hold such a position?

4 - Does the current police department on Walpole Island appear different than from in the past (in what ways)?

5 - How do you think the Walpole Island community perceives Walpole Island’s police officers?

6 - Do you think that the community’s current perceptions are different from those which they may have had in the past?

7 - Do you feel that it is important for police officers on Walpole Island to be of Native ancestry?
E - Personal Opinions Regarding Native Policing -

1 - Do you feel that Walpole Island has actually benefitted from the increased control which it has already received?

2 - Do you think that autonomous Native policing will provide solutions to the problems faced by Native Canadians with regard to policing and the criminal justice system?

3 - Do you anticipate that Walpole Island will be successful in its goal to establish a fully independent policing system?

4 - Can you think of any improvements which would make the police department more effective? This could include such things as (1) its administration, (2) its ability to provide community services, and (3) its ability to control crime.

5 - Do you feel that it is necessary for Walpole Island/Native Canadians to achieve self-government in the near future?

6 - With respect to the development of self-governance for Walpole Island, do you feel that it is necessary that Walpole Island’s police department be locally controlled?

F - Closing Comments -

1 - Do you have any additional comments which you would like to add to this interview?

2 - Can you think of any people who would be useful to me in this research (who I should interview)?

3 - Although I don’t expect it to be necessary, would it be alright if I were to contact you again regarding this research?

   YES ___ HESITANT ___ NO ___

4 (a) - Would you like to know when and where my research is available when it has been completed?

   YES ___ NO ___

   (b) - Do you have an address where you can be notified:
SCHEDULE (Ex - )

INTERVIEW SCHEDULE FOR - Persons affiliated with policing on Walpole Island (Justice of the Peace):

Date - _______ /1992 Time - _______

Location - ____________________________

Tape Recorder - YES ___ NO ___ (Cassette #  )

A - Demographic Information -

1 - Name - ____________________________

2 - Gender - F ___ M ___

3 - Age - UNDER 30 ___ 30-45 ___ OVER 45 ___

4 - Native Canadian - MOTHER ___ FATHER ___ NO ___

5 - Walpole Island Band Member - YES ___ NO ___

6 - Resides on Walpole Island - YES ___ NO ___

7 - Current Occupation - ____________________________

B - Perceptions of Walpole Island -

1 - How familiar are you with issues of Native self-government?

2 - Do you feel that Native Canadians are justified in their struggle for self-determination?

3 (a) - How familiar are you with the issues of Native justice and policing?

   (b) - Do you feel that Walpole Island's attempt to gain more control in these areas will be beneficial?

   (c) - Do you feel that progress is currently being made in these areas?

C - Delegation of Police Control -

1 - In general, do you feel that increasing a community's control in the area of justice and policing makes its administration more effective?
2 - Do you feel that a justice system staffed and administered by Native peoples would necessarily be more effective in a Native community than one staffed by non-Natives?

3 - Do you feel that there are limits to the degree of control Natives should exercise with respect to the establishment of autonomy in the justice system? For example, should First Nations be supported in the establishment of an entirely autonomous criminal justice system?

4 (a) - Who currently has control over the funding and administration of the Justice of the Peace on Walpole Island?

(b) - Has it always been this way, or have any other people/organizations had control in the past (both on or off the Island)?

5 - Are the current structures of control appropriate, or do you feel that control should be delegated in another way?

D - Occupational Information -

1 - How does your occupation relate to policing and other aspects of justice administration on Walpole Island?

2 - How long have you had this occupation?

3 - What sort of experience or qualifications do you have which qualified you to hold this position?

4 - Does the administration of justice on Walpole Island appear different than from in the past (in what ways)?

5 - How do you think the Walpole Island community perceives the Justice of the Peace (and police department)?

6 - Do you think that the community’s current perceptions are different from those which they may have had in the past?

E - Personal Opinions Regarding Native Policing -

1 - Do you feel that Walpole Island has benefitted from the increased control which it has already received?
2 - Do you think that autonomy in justice administration will provide solutions to the problems faced by Native Canadians?

3 - Do you feel that Walpole Island would be successful in the establishment of a fully independent justice and policing system?

4 - Do you feel that there are improvements which would make the justice administration more effective? This could include such things as (1) how it is administered, (2) its ability to provide community services, and (3) its ability to control crime.

5 - Do you feel that it is necessary for Walpole Island/Native Canadians to achieve self-government in the near future?

6 - With respect to the development of self-governance for Walpole Island, do you feel that it is necessary that Walpole Island's justice administration be locally controlled?

F - Closing Comments -

1 - Do you have any additional comments which you would like to add to this interview?

2 - Can you think of any people who would be useful to me in this research (who I should interview)?

3 - Although I don't expect it to be necessary, would it be alright if I were to contact you again regarding this research?

   YES ___  HESITANT ___  NO ___

4 (a) - Would you like to know when and where my research is available when it has been completed?

   YES ___  NO ___

   (b) - Do you have an address where you can be notified:
SCHEDULE (C -  )

INTERVIEW SCHEDULE FOR - Persons affiliated with policing on Walpole Island, but who are located elsewhere:

Date - ______/1992  Time - __________
Location - ____________________________________________

Tape Recorder - YES ___ NO ___ (Cassette #     )

A - Demographic Information -

1 - Name - __________________________________________

2 - Gender - F ____ M ____

3 - Age - UNDER 30 ___ 30-45 ___ OVER 45 ___

4 - Native Canadian - MOTHER ___ FATHER ___ NO ___

5 - Walpole Island Band Member - YES ____ NO ___

6 - Resides on Walpole Island - YES ____ NO ___

7 - Current Occupation - ___________________________

B - Perceptions of Walpole Island -

1 - How familiar are you with issues of Native self-government?

2 - Do you feel that Native Canadians are justified in their struggle for self-determination?

3 - How familiar are you with the issues of Native policing?

4 - Do you feel that Walpole Island’s attempt to gain more control over policing will be beneficial?

5 - Do you feel that the Walpole Island Police Department is currently functioning adequately?

C - Delegation of Police Control -

1 - In general, do you feel that increasing a community’s control in the area of policing makes the police more effective?
2 - Do you feel that a police force staffed and administered by Native people would necessarily be more effective in a Native community than a non-Native police force?

3 - Do you feel that there are limits to the degree of control Natives should exercise with respect to the establishment of autonomous policing? For example, should First Nations be supported in the establishment of an entirely autonomous criminal justice system?

D - Personal Opinions Regarding Native Policing -

1 - Do you feel that Walpole Island has actually benefitted from the increased control which it has already received?

2 - Do you think that autonomous Native policing will provide a solution to the problems faced by Native Canadians with regard to policing and the criminal justice system?

3 - Do you anticipate that Walpole Island will be successful in its goal to establish a fully independent policing system?

4 - Can you think of any improvements which would make the Walpole Island Police Department more effective? This could include such things as (1) its administration, (2) its ability to provide community services, and (3) its ability to control crime.

5 - Do you feel that it is necessary for Walpole Island/ Native Canadians to achieve self-government in the near future?

6 - With respect to the development of self-governance for Walpole Island, do you feel that it is necessary that Walpole Island’s police department be locally controlled?

7 (a) - Do you have any authority with regard to the affairs of Walpole Island?

(b) - Would you be willing to cede your authority over Walpole Island were this authority transferred directly to the community of Walpole Island?

E - Closing Comments -

1 - Do you have any additional comments which you would like to add to this interview?
2 - Can you think of any people who would be useful to me in this research (whom I should interview)?

3 - Although I don’t expect it to be necessary, would it be alright if I were to contact you again regarding this research?

   YES ___  HESITANT ___  NO ___

4 (a) - Would you like to know when and where my research is available when it has been completed?

   YES ___  NO ___

   (b) - Do you have an address where you can be notified:
APPENDIX 5

SAMPLE "THANK YOU" LETTER TO RESPONDENTS (FORMAL INTERVIEWS):

For Your Information:

Your cooperation in this interview has been greatly appreciated.

As has been noted, I am conducting this research in partial fulfilment of a Master’s Degree (Sociology) at the University of Windsor.

I will be contacting you this fall/winter, if you have so indicated, to let you know when and where my final research will be available.

If, however, you have any questions or concerns prior to this time, you can contact me by phone at (613) 722-7867 (leave message), or by mail at:

Tonio Sadik
580 Rowanwood Ave.
Ottawa, Ont.
K2A 3E1

Furthermore, if you wish to express any concerns or comments to someone other than myself, you can contact the Chairperson of this research at the University of Windsor - Dr. Max Hedley - at (519) 253-4232, ext. 2190.

Sincerely
APPENDIX 6

LIST OF TRIBAL POLICING PROGRAMS (NAME, LOCATION, AND DATE OF FORMATION):

(1) - Amerindian Policing Program (Quebec), 1978
(2) - Kahnawake Peacekeepers (Quebec), 1968
(3) - Cree/Naskapi/Montagnais/Inuit Aboriginal Police (Quebec), 1978
(4) - Blood Tribal Police Force (Alberta), 1979
(5) - Hobbema/Enoch/Stoney/Saddle Lake Tribal Policing Programs (Alberta), N/A
(6) - Louis Bull Program (Alberta), 1984
(7) - Dakota Ojibway Tribal Council Police Program (Manitoba), 1978
VITA AUCTORIS

Tonio Sadik was born in Hannover, Germany, in 1967. He graduated from Carleton University (Ottawa) with a Bachelor of Arts, Honours, in 1991. Having received his Master of Arts, after a year of recuperation, he intends to pursue a Ph.D., maintaining his focus on Native issues.