



Indian and
Northern Affairs

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REPORT OF TASK FORCE

POLICING

IN RESERVES

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REPORT

TASK FORCE ON POLICING ON RESERVES - REPORT

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INTRODUCTION

Background

The economic and social development of a community is related directly to the degree of law and order which prevails in that community. Effective policing is essential for the maintenance of law and order, and the police play a major part in determining the way in which laws are enforced and disorder circumvented; indeed, for many in the community the relationship with the police is their only direct experience with the system of law and order. Given the recognized need for good policing, Indian communities or reserves have a right to expect as good policing as other Canadian communities. For a variety of reasons, some of which stem from the isolated and remote nature of some reserves, policing has been less than adequate, and one of several consequences has been the disproportionately high incidence of petty crime among the inhabitants.¹ These consequences are dealt with in a survey entitled "Indians and the Law", which was published in 1967 by the Canadian Corrections Association. The survey was undertaken at the request of the Indian Affairs Program. Though only part of it dealt with policing problems, some of its recommendations serve to delineate relevant areas of concern. These are:

1. "(3) Clarification of the jurisdictional responsibilities between the provincial governments and the federal government for police, legal aid, probation and after-care services to Indians as a basis for expanding and improving existing law enforcement, judicial and correctional services.
2. "(6) Termination of multiple police jurisdiction on Indian reserves through arrangements between the federal, provincial and municipal police forces, to remove confusion in the minds of the people and to avoid costly and inefficient use of police manpower. A single

1. Annex 1 consists of statistical tables showing incidence of petty crime in general populations and among native peoples. .../2

force on each reserve is recommended, assisted by an expanded and improved Indian constabulary.

3. "(7) Expansion and improvement of the Indian constable system through:
 - a) Clear definition of terms of reference, including expanded authority under federal and provincial legislation;
 - b) Training of band constables to provide knowledge of modern police methods and skills;
 - c) Adequate and standardized pay levels and working conditions to recognize the importance of this as a career position;
 - d) Continuing supervision by the appropriate police force.
4. "(8) That, where feasible, the Royal Canadian Mounted Police be requested to take responsibility for training and supervision of the Indian constable system.
5. "(16) The role of the Indian Affairs Branch in all phases of the law enforcement, judicial and correction process should be reviewed with the objective of ensuring that adequate programs are available to Indians through federal, provincial and private agencies ... offences."

Thus, it was evident from a number of sources, including particularly from the Indian people themselves, and from surveys like "Indians and the Law" that there was a pressing need for improved policing services on reserves. In response to this need the Department adopted in 1971 a new policy outlined in what came to be known as Circular 55, of September 24, 1971. In that Circular the regulations for the Indian Band Constable system were revised. (Indian Band Constables are responsible to Band Councils, though their salaries are heavily subsidized by the Department.) The revision provided for more flexibility, better conditions of service and more effective organization. By February of this year, when the Task Force began its

examination of the system, there were a total of 109 band constables servicing some 83 bands. By November there were 156 band constables servicing 112 bands. (A revised chart of the current situation is attached as Annex 2).

Though Circular 55 brought about extensive improvements in policing on reserves, it was never intended as a permanent system to meet ongoing needs, but as a means of dealing with the most pressing problems. Persistent policing problems experienced by Indian communities led to the establishment of the Task Force in January of this year in an effort to get at the fundamental problems and to create a framework within which viable solutions might be found. It was imperative that the Task Force have at its disposal the services of a consultant with an expertise in policing generally and some experience in dealing with the policing problems of Indian peoples. The Task Force was fortunate to secure the services of Ex-Deputy Commissioner William Kelly (RCMP) as its consultant.

Objective

The Task Force was to examine policing on reserves in its entirety, and after consultation with all concerned at appropriate levels, to make recommendations on this subject.

Scope

The Task Force was limited in its scope to policing services on reserves. This eliminated consideration of such services in the Yukon, Northwest Territories, and Northern Quebec, though the Task Force was very much

aware that the conclusions it reached, and the recommendations it made, might well be relevant to native peoples in these areas. Indians living in urban centres made up another, and much larger, group which were outside its terms of reference, though the Task Force remains very much aware that this will be an area of increasing concern.

Though on one hand the Task Force was limited to policing services on reserves, on the other hand it had also to consider policing in relation to the adjacent areas surrounding the reserves. Not to do so would be unrealistic, considering the fact that many of the most intractable policing problems arise from the relationship between Indian and non-Indian communities.

In much the same way, though the Task Force recognized that its responsibility should be confined to reporting on how policing on reserves might be improved and making recommendations to that effect, in practise it was very difficult to draw a firm clear line between the consultative and the implementative process, and not infrequently the Task Force found itself involved in what could only be regarded as the first part of the implementative process. Because progress in the different regions was uneven, and because of the inter-dependence of the processes themselves, it proved impossible to avoid involvement in the first steps of implementation.

Rationale

The rationale was developed very early in the Task Force's work. It consists of the adoption of a point of view on the jurisdictional question, and the development of a set of guidelines.

The Task Force believes that most of the policing functions required by communities lie within the jurisdictional responsibility of the provincial governments. (Attached as Annex 3 is a short paper on jurisdiction which develops this point of view.) This reinforced the Task Force's assumption that it must adopt a regional approach to its work. It also underlay an early decision to solicit the continuing cooperation of the provincial authorities in each Region.

The Task Force began by making a number of assumptions. It was thought that these could best be expressed as guidelines in that the Task Force had, throughout its work, to remain aware of them and they served to shape the kinds of solutions which eventually emerged. They are:

- 1) As each Region has its own particular policing problems, Indian consultation could only be carried out at the Regional level and solutions would vary greatly from Region to Region;
- 2) Indians are entitled to have policing as good as that enjoyed by other Canadian citizens;
- 3) The major responsibility for policing in each Region is that of the respective Provincial Attorneys-General;
- 4) Any minority group should, where appropriate, be policed within the local police structure by members of its own community;

- 5) Indians should be offered the choice as to the type of police service they prefer; and
- 6) There is a need for preventive policing which could be obtained by a police presence on reserves, and at the same time improve upon the complaint-oriented system which now prevails.

Method

Given the necessity for a regional approach, the following work plan was adopted:

- 1) To examine the current policing situation which exists in each Region and the rationale for it;
- 2) To determine the problems encountered in each Region, and the solutions developed there to resolve them;
- 3) To develop, in consultation with the Indians, alternative methods to resolve these problems; and
- 4) To make recommendations as to the most satisfactory policies the Department might adopt to deal with policing on reserves in the national context.

It is the responsibility of Regional officials to arrange for Indian consultation. This being so, the Task Force decided to ask each of the Regional Offices to consult with the respective Indian Association in its Region as to how arrangements could be made to determine the wishes of Indian bands as to the most efficacious ways of improving policing services.

The work of the Task Force divided naturally into three broad phases. The first phase was taken up with a thorough examination of the prevailing situation. A second phase was taken up with devising methods to consult Indian peoples, and other parties involved, as to how policing might be improved. A third phase was taken up with ascertaining Indian preferences, and consulting the other parties involved as to the practicability of their preferences.

WORK OF THE TASK FORCE

First Phase

The Task Force made a thorough examination of the current situation in the course of which it prepared a synopsis made up of charts of the relevant statistical data, short papers on jurisdiction, guidelines (Annex 4) and current policing problems (Annex 5). This last paper outlined in point form the difficulties which had come to the attention of the Department in the last few years. When the synopsis was completed, copies of it were sent to the Regional Offices, with a request for their comments on its accuracy and its relevancy, as a means of involving them at a very early stage in the work of the Task Force. At the same time arrangements were made for the Chairman to visit each of the Regions, to collect their comments and to discuss with their representatives policing problems and how Regions thought the consultative process might best be undertaken.

In his reports on his visits to the Regions, the Chairman indicated the progress made in each Region, their particular problems and the planning for the consultative process. It was clear that progress would be uneven,

in that band constable programs were much further advanced in some regions than in others. It was also clear that Ontario and Quebec would pose particular problems because of the existence in both provinces of provincial police forces, the O.P.P. and the Q.P.F., and the attitude of the Indians toward the need for federal involvement. Some means would have to be found to ensure that all parties involved were consulted. On the basis of that information the Task Force took the following decisions:

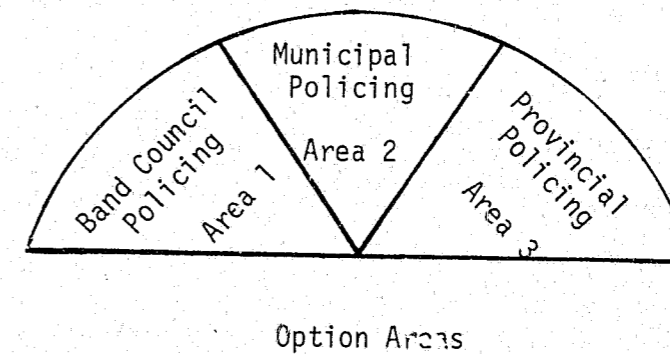
- 1) to prepare an interim report on what it had learned thus far, and on how it proposed to carry out its task;
- 2) to prepare a paper on the various policing options which would be put before the Indian people in each Region;
- 3) to have Mr. Kelly visit each region to facilitate the consultative process by explaining to the parties involved the various options and their implications; and
- 4) to set up Regional Committees for coordination in each of the Regions, on which Provincial Attorneys-General, Provincial police forces (including RCMP), Regional Offices and Indian Associations would be represented.

Second Phase

Accordingly, the Task Force prepared an interim report, and drew up a number of options in the form of a paper, entitled, "Development of Alternative Methods for Policing on Reserves", (Annex 6), to serve as the basis for consultation with the parties involved. Copies of these

two documents were made available to all concerned through the Regional Offices.

Indian bands were to be asked through their associations to indicate their preference for one of the options. An effort was made to fit all available options within a spectrum, which was divided into areas on the basis of what institution would be the principal authority for the policing function. This would determine the basic nature of the police force actually providing the services.



The simplest form of policing lay in variations of the existing band constable system where the principal authority is vested in a band council, and these are included in Area 1. In Area 2 are the options in which the principal authority is vested in a municipality. The most complex and sophisticated options involve either, Indian provincial police forces, or Indian contingents in existing provincial police forces, where the principal authority is vested in a province, and these options are included in Area 3. It is recognized that none of these areas can be mutually exclusive. Overlapping will be inevitable, no matter how precisely they may be defined,

and there will probably be, as bands develop or change their outlook, a transition which could move in either direction from one area to another. Though additional options would be entertained - none has so far emerged - they could be fitted into one of the three areas. The options in each area are:

1. First Area - Band Council Policing
 - (a) Civil by-law enforcement only constable;
 - (b) supernumerary special constable enforcing by-laws and federal and provincial laws with respect to minor offences; and
 - (c) supernumerary special constable with authority to enforce all federal and provincial laws.
2. Second Area - Municipal Policing
 - (a) purchase of police services from existing forces;
 - (b) band is considered, by province, for purposes of policing, as a municipality; and
 - (c) use of existing police services.
3. Third Area
 - (a) a separate Indian police force; and
 - (b) an Indian branch or contingent of an existing police force, of which it would be an integral part.

Area 1 - Band Constable Policing

1. a) Civil By-law Enforcement only Constable - There are many areas on Indian reserves where a constable is required more to

enforce civil rather than criminal laws. His duties include such things as pounds, fencing, zoning, construction, sanitation, school zone crossing, maintaining order at band functions and elections, etc. Although activity arising out of the above might well result in a criminal prosecution, generally speaking, if there were offences to be proceeded with under a criminal statute, they would be taken care of by regular police officers, even a band constable with greater jurisdiction, or after the band or possibly its legal adviser had looked into the matter. This is a necessary position, but not one greatly involved with enforcement of the criminal law.

- b) Supernumerary Special Constable Enforcing By-laws and Federal and Provincial Laws with respect to Minor Offences.

A supernumerary special Indian constable is one appointed under the RCMP Act to give his jurisdiction as a peace officer, some of whom carry provincial appointments. The appointment does not require the RCMP to have any responsibility for any part of his duties including direction and control. Where such appointments have been made the provincial police (RCMP) have co-operated to the extent that after their appointment they assist in the limited training of such constables and are prepared to continue to do so. The jurisdiction of these band constables is limited in practise to comparatively minor offences and the provincial police force expects more serious offences to be brought to its attention for handling in accordance with its normal responsibility. Even some minor offences under the criminal code, because of the relatively low standard of band policing, require and often receive the assistance of the provincial police concerned.

The kind of policing described in this option is generally the kind of policing that exists on most reserves in Canada where a band constable has been appointed. (The exceptions include the two reserves policed by the municipal police adjoining, namely North Vancouver, B.C. and Sydney, N.S., and the two reserves in eastern Canada namely Caughnawaga in Quebec and St. Regis which is partly in Quebec and partly in Ontario, which have band constables with greater jurisdiction than most other band constables.

c) Supernumerary Special Constable with authority to enforce certain Federal and Provincial Laws.

In Caughnawaga, Quebec, the several Indian Constables have jurisdiction not only by way of a special appointment from the Province of Quebec, but by way of appointment as a supernumerary special constable under authority of the RCMP Act. The contract with the province of Quebec which established the Caughnawaga Police Force, requires it to report all serious crime to the Quebec Police Force (Q.P.F.), in order for that force to enter the investigation. In any event, the Quebec Police Force is available for advice and decision as required. Up to now an RCMP detachment is situated on the reserve and although the constable cannot become involved in matters of provincial jurisdiction he is available to the Caughnawaga Police Force in an advisory capacity.

In the case of the St. Regis reserve, a number of Indian Band constables are appointed as supernumerary special constables under the RCMP Act, and are also appointed as special constables under the Ontario Police Act. These constables also require a similar appointment

from the Quebec authorities (as is now given to the Band Constables at Caughnawaga) to enforce the law on that portion of the St. Regis reserve situated in the province of Quebec. With the appointment as special constables under the Ontario Police Act, the responsibility for supervision of the Band Constable at St. Regis, in so far as law enforcement in Ontario is concerned, is that of a superintendent of the Ontario Provincial Police at district headquarters, Long Sault, Ontario. This officer is available to advise and guide the Band Constables on police matters generally. It has been clearly pointed out to the St. Regis force by the Ontario authorities that the Ontario Provincial Police Criminal Investigation Bureau services are available in "all serious and important" cases.

Area 2 - Municipal Policing

2. a) Purchase of Police Services

Police services for reserve policing are purchased by some Indian Reserves. One is adjacent to the city of Sydney, Nova Scotia, and the other is adjacent to the city of North Vancouver, British Columbia. This type of policing is superior to most Indian reserves' policing where provincial police (RCMP) detachments are not situated on reserves. But even at these places there is some feeling that services are not as good as they would be if there were a resident policeman on the reserve. There is a responsibility, however, on the part of the contracting police force to supply all police services, many of which are probably not normally apparent to residents. But efficient as these services are, they are provided by an outside

police force, consisting of non-Indian constables. There is probably a communication problem if it is only in the form of some Indians being reluctant to make complaints to such a police force. (The views of the two police forces concerned have not been obtained as to the policing problems on these reserves, seen from their point of view.)

There are probably very few municipalities in Canada adjacent to reserves which are prepared, under contract, to undertake work on these reserves.

b) Band is considered by Province for purposes of policing as a Municipality.

It is the understanding of the Task Force that in the province of Ontario it is possible to have the Police Act amended so that some reserves could become municipalities for the purposes of policing and granting powers to create their own police forces. This goes much beyond the appointment of special constables as is done now for certain reserves. The Task Force has no knowledge of any reserves wishing to be formed as a municipality for the purpose of policing and this option is being referred to simply because the possibility for such an arrangement exists.

c) Use of Existing Police Services

This option consists of using the existing police services. This contemplates that a band lying within a municipality will be policed by that municipality's police force without the necessity of special arrangements being made. Negotiations to have the

municipality accept its obligation to police the reserve area lying within its boundaries might well be necessary, as well as there being a need for the band to recognize that the municipal force has policing jurisdiction over a reserve. Where a band is not within a municipality, whether it is adjacent to one or remotely located in unorganized territory, it could continue to use the services of the existing provincial police force without special arrangements.

Area 3 - Provincial Police

3. a) A Separate Indian Police Force

The suggestion for an Indian police force to police all reserves in a province has been raised by two Indian Associations, those of Saskatchewan and New Brunswick. Such a force would require the approval of the Attorney General for its establishment. There may be a reluctance in most, if not every, province to establish another completely separate police force, where police service in the eyes of provincial authorities now appears reasonably adequate. The evidence would seem to be insufficient to justify creating another body of police responsible only for the policing of Indian reserves within a province. In addition one should not at this point discount that some Indians may object to a separate system of policing. Even if an agreement was forthcoming, the establishment of such a force would create great difficulties. Undoubtedly it would initially require considerable financial aid from the Federal Government and a continuation of such aid for the foreseeable future. It is only reasonable to assume that the salary standards that would

be expected would be comparable to those paid members of existing police forces. Such a force would require accommodation, equipment, transportation, uniforms and an administrative set-up, both in staff and accommodation, at considerable expense. It would also be necessary to prepare for training requirements and a rank structure.

However, the principal problem would be the present lack of police experience among Indians to administer and operate such a force. Assuming that such a force was being considered, the problem of recruiting to the required standard would present difficulties. It is foreseen that if such a police force were established, the assistance of the Department of Indian Affairs would be required to maintain some form of continued supervision if only to protect its financial interests with their attendant difficulties.

b) An Indian Branch or Contingent of an Existing Police Force of which it would be an Integral Part.

This option provides for a branch or contingent of Indian special constables, recruited, operated and supervised by a provincial police force, of which it would be an integral part. As permanent members of such a force these constables would have a career before them, with adequate training, reasonable salaries, pension benefits, etc. Within the structure of competent and well organized police forces these constables should be capable of providing a high standard of policing on reserves.

Third Phase

The third or consultative phase was carried out principally by the Regional Offices which consulted with the Indian Associations on the basis of the options paper to determine the wishes of the Indian bands. In order to facilitate this process, Mr. Kelly, the consultant, visited each region and participated in a series of meetings. He spoke at meetings of Indian Associations across the country and met with all of the parties involved in each province; the representatives of provincial governments, regional offices, provincial police forces, and Indian Associations. He explained in some detail the rationale for the Task Force, how it conceived its responsibility, and the background against which the options had been developed. He answered queries on various aspects of policing. At the same time he endeavoured to carry a stage further the consultative process itself, so that he could report to the Task Force on the position in each of the Regions.

The Regions were urged to get on with the formation of Regional Committees, not only as an instrument of implementation of improved policing services, but as another means of facilitating the consultative process. The Regional Committee was the means by which the practicability of the various options could be discussed.

Because the RCMP serves as the Provincial Police Force in all of the Provinces except Ontario and Quebec, the Task Force established close liaison with the National Headquarters of the RCMP at an early stage. Having had indications of a strong preference for option 3(b), the Task Force arranged to meet with a representative group of the RCMP. For their

part, the RCMP began to develop through their own channels a response to option 3(b). A number of meetings were held between the RCMP and the Task Force. The object of these meetings was to agree on the national acceptability of option 3(b). From the RCMP point of view there was a need to develop a national basis for the proposed Indian regional contingents. National Headquarters and the Task Force subsequently reached agreement on proposed salary scales, on principal guidelines for the proposed forces, and on terms of service.

Result

By the time Mr. Kelly returned from his visits, it was abundantly clear that progress would vary considerably from Region to Region. Some Regions had already done considerable work in policing and were in a better position to proceed with consultation. (So wide was the gap between Regions that by the time the Task Force had finished its work some Regions were on the verge of implementation while others were still engaged in the consultative phase.)

On the basis of Mr. Kelly's reports from the Regions, the Task Force was convinced that improved policing of a standard high enough to meet the ongoing needs of the Indian people could not be obtained with the existing band constable system.

In some respects the police problems on Indian reserves are greater than they are in white communities and it is unfair to expect a relatively untrained band constable acting on his own to tackle some of these problems,

let alone to do so with any great degree of efficiency. There are few reserves where liquor has not created serious problems as illustrated by the number of Indians who are prosecuted throughout Canada for offences arising out of intoxication. It may be said that most of these offences are committed off reserves where the Indians are more likely to come in contact with the police. If this is so can conditions on reserves where there is even less policing be any better?

There are a number of other reasons for the conditions on reserves which make policing difficult. In many areas reserves are considerable distances from provincial police detachments and in emergency situations assistance for the band constable is seldom provided quickly enough. Even means of effective communication such as a telephone are lacking in some areas. There is often a lack of accommodation to accommodate juveniles who are involved in breaking the law in some way. Similarly, there is a lack of accommodation for those arrested on reserves. Many problems arise during the evening hours, through lack of supervision of evening activities, or the lack of police patrols. There are very few organized activities at night for young people on reserves. Social and welfare workers, where they exist on reserves, tend to leave their jobs at the end of the day leaving little in the way of organized activities on some reserves.

These are only a few of the circumstances which create problems for the police. It is generally the police who are required to step into the breach when other agencies fail in their responsibilities. A trained policeman in a white community with better facilities to assist him in his work, without assistance and support from many citizens in the community, would have difficulty in keeping a community under control. How then can

a band constable hope to do so? While the above conditions do not exist on all reserves they exist in a sufficient number of places to refer to them generally without fear of contradiction.

Some people may be under the impression that the training now given to band constables is sufficient for him to enforce the law and police the reserve efficiently. This is not the case. He requires sympathetic supervision, direction and further training when he returns to the job, as well as a large measure of community support in carrying out his duties, if he is to become an efficient policeman. This is how young constables with more extensive training in police forces are trained and developed. Band constables cannot be expected to develop satisfactorily without it. Supervision and guidance are lacking. The band constable seldom comes within the ambit of any one who knows what good police standards are. The fact that he is hired by one Band Council, does not ensure that he will be acceptable to the succeeding Band Council. His authority is in large measure dependent on the popularity and respect in which the Band Council is held. In too many cases chiefs, councillors, or a particular group on the reserve may influence a band constable unduly in his work. When this happens it is not surprising that he may show partiality to those responsible for it. For a variety of reasons, a band constable is seldom given the kind of respect necessary for him to carry out his duties effectively, or in some instances, to enable him to carry them out at all. Police cars and constables have been used for many things not normally connected with police work. Some problems are inherent in the band policing system. Most bands would only accept policing by one of their own. Some

constables find it difficult in a small community to enforce the law in cases where their own families are involved. As a result, if he does not enforce the law in their case he becomes reluctant to do so in the case of others, and law enforcement generally declines to the point where on some reserves it is practically non-existent. After a period of time and under these conditions some band constables hardly know what their responsibilities are. Indians requiring police service in these situations have been known to go directly to the provincial police. In some reserves if a band constable enforces the law (the white man's law) it is akin to being disloyal to the Indians themselves and in some cases the constable is regarded as little more than an informer for the provincial police.

Another significant result was the widely shared Indian preference for option 3(b), and Mr. Kelly's finding that it was broadly acceptable to most Provincial Governments and to provincial police forces. (The 3(b) option provides for branches or contingents of Indian special constables, recruited, trained and supervised as an integral part of provincial police forces.) This option generally commended itself to the parties involved because it seemed likely to provide a high standard of policing on reserves, and in such a way that Indians themselves could make the major contribution.

A very important feature of this option is that there will be a trained Indian career constable under the control and direction of experienced policemen available, in due course, to handle Indian police problems. It cannot be expected that at first this system would work at peak efficiency. It must be accepted that recruiting and training of recruits to a desirable level (and this includes field training after formal recruit training) will take time.

The higher salary would attract Indian recruits of a high calibre for police work. Unless higher qualifications are imposed on recruits for Indian policing, much of the training would be a waste of time and money. Present day police training requires a reasonably high educational standard in order for it to be fully absorbed. In order to establish such a system, however, the standards initially set should not be so high that recruiting would be difficult if not impossible. Those recruiting such men, it is hoped, would take into account not only educational qualifications but those qualities which command respect among their own people.

Indian Special Constables under this option would be in uniform and where practicable would reside on Indian reserves. Where the Indian population is large enough a sufficient number of Indian Special Constables could be appointed to meet police needs. Where the total population of a number of reserves requires only one Special Constable, he could reside in a central location and attend to the problems on several reserves.

It should be noted that under option 3(b) Band Councils would not have administrative control of Constables. Band Councils will have a less direct voice in the appointment of Indian Constables than they have at the present time. Although some Band Councils may feel the lessening of their authority is not in the interest of the Indian people, some Band leaders have voiced the opinion that the lessening of a Band's administrative power in relation to policing under this option, may well ensure better policing on Indian reserves. Although Band Councils in trying to ensure that local needs are met satisfactorily have recourse to the same remedies as any other community

policed by a provincial force, Indian representation on regional policing committees may provide a more direct and effective means of doing so. In this way a closer rapport would be developed with the provincial police force than might otherwise be the case.

Another feature of this option is that the provincial police (RCMP) concerned is responsible for policing in areas adjacent to reserves. Where Indians are involved in these areas, the Indian Special Constable might well be used for policing purposes there. The amount of jurisdiction he is permitted to exercise off a reserve (as a member of the RCMP, for example, he would acquire this jurisdiction on becoming a Special Constable) will depend upon his own ability, the confidence placed in him by those who direct him and the wishes of the Attorney General who is the official responsible for policing within a province. It is probable, however, that Indian Special Constables will come to be of very considerable value in such matters.

Where there is no police presence on a reserve, policing is done on a complaint-oriented basis. That is, the police only turn up when they are called, and they are called only when there is trouble. In many places, even when complaints are made, because the nearest police detachment is a long way off, and it may have other responsibilities of higher priority elsewhere in its area, even the complaint-oriented system does not work satisfactorily. Police forces serve reserves in the same manner as they do rural areas within their jurisdiction. While it is not expected that all Indian reserves should receive the same type of policing as towns or villages, the nature of an Indian reserve demands much more of that type of

... policing than that normally given to the rural areas of a province. Option 3(b) comes closer to this type of policing than any other option.

As the dialogue between the Task Force and the parties involved in the Regions proceeded, the need for the Regional Committees became more and more evident. Where they were in operation the Committees were invaluable in facilitating the consultative process. They provided a forum for an exchange of views and a means of reaching decisions on matters of common concern. They could provide the machinery for implementation of 3(b), and perhaps even a means of monitoring its operation.

Nonetheless, despite a widespread preference for option 3(b) it was apparent that no one option was likely to be accepted by all bands. Some bands would want to continue on with the present band constable system, others would wish to pursue other options.

The results of the consultative phase can best be summarized on a region by region basis.

Maritimes

There is a strong preference for option 3(b) in Nova Scotia and Prince Edward Island. Indians of New Brunswick have submitted a related proposal which is now being considered. Regional Committees are in existence in both Nova Scotia and New Brunswick. No decision has yet been reached as to the way in which to proceed in Prince Edward Island.

Quebec

The situation here is complicated by the current difficulties between the

Quebec Government, the Q.P.F. and the Indian bands. The situation is further complicated by the fact that nearly a third of Quebec Indians do not live on reserves so that they are not within the terms of reference of the Task Force. A solution in this Region will take some time to achieve as no one option can serve most Indian bands. The present Band Constable system, with whatever modifications may be necessary, could serve some bands while others may be best served by the kind of system which now operates on the Caughnawaga Reserve. A Regional Committee is to be established in Quebec, and the Quebec Police Commission has assumed responsibility for organizing its meetings.

Ontario

The situation in Ontario is complicated not only by the existence of a separate police force, but by the existence of three separate Indian Associations. This made consultation more difficult than in other Regions. Indications are that a good many bands in this region may prefer option 3(b). Consultation continues among the various parties involved, but a Regional Committee has not yet been established.

Manitoba

The Indian bands in Manitoba support option 3(b). A Regional Committee has been in existence for quite some time. It only remains to discuss the modalities of implementation. (Attached as Annex 7 is a letter of November 21 from Mr. G.F. Kelly which describes in some detail the present situation in the Region.)

Saskatchewan

The vast majority of bands in Saskatchewan have asked for option 3(b). A Regional Committee is in existence. It only remains to discuss the modalities of implementation.

Alberta

The process of consultation is not quite complete in Alberta but there are indications that there may be considerable support for option 3(b). A Regional Committee has not yet been established.

British Columbia

There are indications that there is fairly wide support for option 3(b). Meetings of a Committee are held on an "ad hoc" basis. It may be that some minor modifications in option 3(b) will need to be worked out by the Committee, so that it will meet particular policing problems encountered by Indian bands of that Region.

As the results of the consultative process continued to flow in it was apparent to the Task Force, and to the RCMP, that the preference for 3(b) was so widely shared, and progress in some regions so far advanced, that steps toward implementation would have to be taken in some Regions even before this report could be written. Accordingly, the RCMP, in close consultation with the Task Force, developed terms of service, standards of pay, etc. for the proposed contingents in those provinces in which the RCMP is the provincial police force. Option 3(b) was submitted for the consideration of the two federal Ministers concerned. By early December

the Minister of Indian Affairs and Northern Development, Mr. Chrétien, and the Solicitor-General, Mr. Allmand, had approved in principle option 3(b). The financial implications of the implementation of option 3(b) have been examined in broad terms by the Task Force and the RCMP. Here again, the Task Force became involved in the first stages of the process of implementation, and by force of circumstances has gone somewhat further afield than it should, and indeed, than it wished to do.

Conclusions

The Task Force reached the following conclusions:

- (1) That the Indian peoples on reserves require better and more adequate policing to meet the needs of their communities;
- (2) That present policing on reserves is primarily complaint-oriented;
- (3) That much greater emphasis should be placed on preventive policing;
- (4) That preventive policing on reserves will increase their sense of security and contribute to the growth of strong viable communities;
- (5) That the present band constable system cannot provide the high standard of policing required for Indian communities

on reserves;

- (6) That a new system of policing is required, broad and flexible enough to meet the particular needs of evolving communities in the different regions;
- (7) That any system should offer to Indian peoples an opportunity to police themselves within the structure of an existing police force;
- (8) That option 3(b) would seem to be broad and flexible enough to meet the particular needs of evolving communities in the different regions;
- (9) That there is a widely shared preference for option 3(b) among Indian bands in different regions;
- (10) That continuing discussions with provincial authorities and provincial police forces indicate the feasibility of option 3(b) as a practicable system leading to improvements in policing on reserves;
- (11) That any improved system of policing such as 3(b) would cost considerably more money than the existing departmental program;
- (12) That the federal government, in co-operation with the provinces, should respond to the expressed preference of the Indians, and the other parties involved, by offering a suitable program in which option 3(b) could be implemented;

- (13) That as option 3(b) policing will contribute to the preservation of law and order in the provinces, they should bear some of the additional costs involved in implementing it;
- (14) That the proposed program is unlikely to be effective unless Regional Committees are set up in each Region, not only as a means of implementation, but as the continuing mechanism through which adjustments can be made in the proposed programs in accord with the changing needs of Indian communities on reserves;
- (15) That the participation of the Provinces in the Regional Committees is essential to the success of option 3(b), because the type of policing required from the proposed special constables lies within the jurisdiction of Provinces;
- (16) That in Ontario and Quebec the continued involvement of the RCMP may be necessary, in the form of a supernumerary special constable appointment under the RCMP Act, in addition to any special constable appointment by the provincial authorities;
- (17) That a senior member of the RCMP should be included in the Regional Committees in both Ontario and Quebec;

(18) That an adequate system of policing on reserves must take into account the related factor of policing in the surrounding communities, in that the policing problems are not limited by the reserve boundaries;

(19) That there is a need for a further study of the policing problems of off-reserve Indians, in that many serious problems arise in urban centres to which Indians have migrated from reserves.

Observations

(1) While the Task Force reached its conclusions without undue consideration of the precise financial implications of its proposals, nonetheless the assumption was made that any system of improved policing on reserves would inevitably cost more money than the present band constable system. It was also necessary to know within certain limits what the financial implications might be.

There could eventually be something like 350 Indian special constables in all regions if all the demands indicated to the Task Force should develop. For that number of constables the cost of the proposed program would range between \$4.5 and 5.5 million. Provincial governments should be encouraged to pay a proportionate share of the costs. (Estimates are derived

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from the RCMP for those provinces in which the RCMP acts as the provincial police force.)

The following table indicates the per constable cost in the initial year and in subsequent years. As may be seen from the table, some costs increase while others decrease. There is an annual 5% increase in salaries, pensions and operating costs, while the initial training and initial outfitting are one time costs for each special constable.

Cost Per Special Constable

	<u>Initial Year (1972-73)</u>	<u>Subsequent Years</u>
Salary (assumed)	\$ 8,000	\$ 8,400
Pensions (15% of salary)	1,200	1,260
Training (\$52 per diem x 45 days)	2,340	14
Uniforms	575	150
Other Operating Costs	1,404	1,474
Overhead (5% of all above costs)	676	565
Vehicle purchase cost	2,400	1,663
TOTAL	\$16,595	\$13,526

The operating costs include travel, health and welfare, repair of vehicles, fuel for mechanical equipment, and other such costs.

The overhead is estimated at 5% of all costs other than vehicle purchase costs.

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The per constable cost of purchasing vehicles is based upon a purchase of one vehicle for every two special constables. There is a 5% annual increase in vehicle cost assumed, and vehicles would be replaced every three years (with replacement cost defrayed by the trade in value of the old vehicle).

Based on these rough estimates, the cost of the proposed new program phased over five years would be as follows:

	<u>Special Constables</u>	<u>Costs</u>
1) 1972-73	50	\$.2 million
2) 1973-74	50 + 100 (150)	\$2.33 million
3) 1974-75	150 + 100 (250)	\$3.7 million
4) 1975-76	250 + 50 (300)	\$4.3 million
4) 1976-77	300 + 50 (350)	\$5.3 million

It should be noted that the present band constable system would be proportionately reduced as special constables are taken on; therefore, a proportionate amount of the \$1,014,300 now spent on the band constable program would be put towards IAND's share of the cost for the proposed new program.

- (2) The fact that a number of bands will elect to continue with the present band constable system, and that other bands will decide to participate in it, suggests that the Department will wish to continue to make that program available to bands. This being so the Task Force believes that the band constable system could be improved. Constables could be better trained, conditions of tenure could be improved, recruiting standards could be higher and perhaps arrangements made for some more frequent guidance from existing police forces in the area. The

Task Force suggests that a review of that program should be undertaken in early 1974, by which time it should be possible to gauge pretty accurately the full impact of option 3(b) policing, and estimate how much demand there is likely to be for the present band constable system.

- (3) Because of the existence of provincial police forces, other than the RCMP, in both Ontario and Quebec, the consultation on option 3(b) policing is, and will continue to be, prolonged, arduous and complex. In both provinces Indian bands are not unnaturally concerned with the need, as they see it, for them not to take action which would seem to diminish in any way their connection with the federal authorities. The RCMP is representative of federal authority, and many bands would be reluctant to see the RCMP disengage themselves from some form of responsibility for policing on reserves.

In Quebec the situation is further complicated by the current difficulties between the Quebec Government and the Indian bands. The majority of bands have very considerable reservations about having the Quebec Provincial Police Force responsible for policing on their reserves. The Quebec provincial authorities have indicated that they are not prepared to have the RCMP act as a substitute for the Q.P.F., though they have also made it clear that they are prepared to co-operate in seeking other alternative solutions. There are two other important relevant factors. Nearly a third of Quebec Indians do not live on reserves, so that they do not come within the terms of reference of the Task Force. The larger proportion of

Quebec Indians are English-speaking, and as the Q.P.F. does not have training facilities in the English language, this poses a problem for the training of band constables for English-speaking bands.

No single option seems likely to meet the needs of the Quebec bands. Some small bands in isolated localities may find the present band constable system the most practicable alternative. Other bands may find it advantageous to utilize existing police services in adjoining communities. More populous bands may move toward the "Caughnawaga type" of policing, or forming their own police force. For these bands the development of option 3(b) policing would have some relevance, in so far as training, standards, supervision and other problems are concerned, depending on Indian views and the success of the Regional Committee in developing a viable solution.

Recommendations

General

1. That Indian bands should continue to have freedom of choice as to the form of policing on their respective reserves, provided this is acceptable to Provincial Attorneys-General;

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2. That the emphasis on all policing should be on preventive as opposed to the more traditional complaint-oriented policing;
3. That the Department encourage provision of programs to Indian bands which will create a better understanding of the police function and civic duties in the community;

Special Constable Policing

4. That option 3(b) should be made available for those bands which indicate their preference for that type of policing;
5. That the federal government, in co-operation with provinces, should offer a program which would enable option 3(b) to be implemented, always bearing in mind that the participation of the provinces is essential to its operation;
6. That Regional Policing Committees be formed in all Regions as essential for (a) the implementation of the proposed program, and (b) for the effective operation of that program as the mechanism for making adjustments to meet the changing needs of the Indians and of the other parties involved;
7. That the RCMP be encouraged to have a senior commissioned officer represented on the proposed Regional Policing Committee in Ontario;
8. That, wherever feasible, 3(b) Indian special constables be located on reserves (as a resident police presence there);

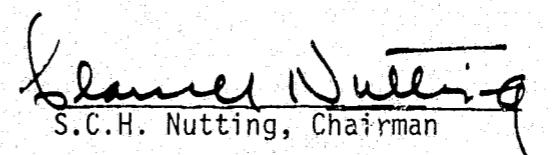
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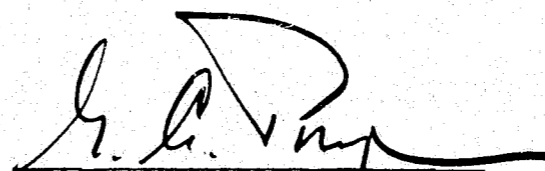
- 9. That option 3(b) special constables have jurisdiction not only on reserves but, where appropriate, in surrounding communities;
- 10. That the Department examine during the current year Indian policing problems in the Yukon, the Northwest Territories and Northern Quebec (where no reserves exist) to see whether option 3(b) policing, or some form of it, might have relevancy there;
- 11. That the Regional Policing Committee in Quebec be encouraged to continue its deliberations with a view toward the development of options which will lead to the improvement of policing on reserves;
- 12. That Indian bands should have the opportunity to avail themselves of option 3(b) policing at some later date, even though they might have indicated initially a preference for another form of policing;

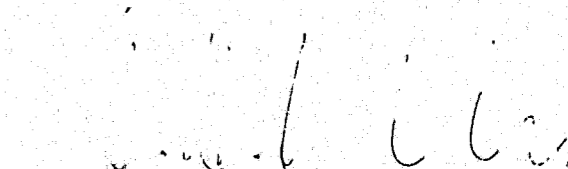
Band Constable Policing

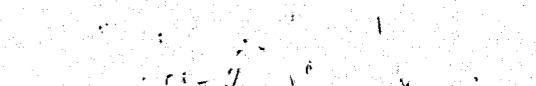
- 13. That a review of the present band constable program be undertaken by the Department early in 1974, when the impact of option 3(b) policing will be clearer, to determine its size, its effectiveness, and its potential for future development;
- 14. That, if the review indicates the need for the present program for some time to come, the program be improved by:
 - (a) appropriate training under the direction of the provincial police authorities;

- (b) established operational guidelines for supervision and assistance;
- (c) clarifying the relationship between the local detachment of the provincial force, the band constable and the band council;
- (d) clarifying the jurisdictional responsibilities of band constables;
- (e) considering the appointment of an officer in the provincial police force responsible for liaison with, and advice to, band councils employing band constables.


 S.C.H. Nutting, Chairman


 G.A. Poupore, Member


 Wm. Kelly, Ex-Deputy Commissioner,
 RCMP (Retired),
 Consultant


 S.A. Roberts, Member

* The following were associated with the Task Force for short periods: W. Gryba, G. Peltier, H. Bombay, T. Evans, D. Colussi.

Annex 1

The following notes show the incidence of criminal convictions among Indians since the publication of Indians and the Law in 1967.

Table 1 shows that the incidence of native criminal convictions, where sentences are served in provincial jails, is proportionately much higher (4 to 24 times higher) than non-native convictions in all provinces documented. In the eastern provinces and the Northwest Territories, the proportion of native inmates serving time in provincial jails is much higher than in the east.

Table 2 shows that Indians make up an extraordinarily high proportion of the population in Federal penitentiaries relative to their population expressed as a percentage of the total population. In the western provinces they make up 30% and over of the Federal penitentiary inmate population, much higher than in the east.

Table 3 shows that in the period from 1959 to 1967, the incidence of Indians charged with indictable offences increased 103%, whereas the incidence of non-Indians similarly charged rose only 44.05%.

It should be noted that the statistics presented here refer to the incidence of criminal conviction among all Indians, both status and non-status, and Métis. It may be that the gross numbers of incidence of conviction of status Indians would be lower than those suggested here.

The costs of maintaining a person in a Federal penitentiary average \$9,128.00 a year. This is a rough figure, and does not include the cost of parole supervision, which averages \$1,105.00 for the first year.

\$9,128.00 indicates what it costs per year to keep a convict in a Federal penitentiary, but the cost of the legal process used to convict the person, the cost to the victim, and to the community, both native and non-native, cannot be given a meaningful dollar value. The cost of the social disruption that a criminal act and conviction entail is incalculable.

While the statistics demonstrate the higher incidence of native versus non-native crime, the reasons for it are not known, and we make no attempt to explain it.

The cause of criminal activity in general is not known; this is all the more true for crime among native people. It appears to be part of the social welfare and social development syndrome, and exists in the wake of inadequate policing, particularly of the preventive sort.

There is no way to calculate at present how much impact a program of preventive policing would have toward reducing the incidence of Indian crime. An experimental program of preventive policing by Indian special constables could be established and measured at the earliest in 3 to 5 years, and its effect could then be assessed.

TABLE I

% INCIDENCE OF SENTENCES AMONG NATIVE AND NON-NATIVE PERSONS BY PROVINCE (1970-71)

PROVINCE	PROVINCIAL JAILS			FEDERAL PENITENTIARIES		
	% Indians in jail	% non-Indians in jail	Difference /Indians	% Indians in Pen.	% non-Indians in Pen.	Difference/ Indians
QUE	0.02	0.04	- 0.5 times
ONT.	0.93	0.15	+ 6.2 times	0.03	0.03	nil
MAN	3.13	0.36	+ 8.7 "	0.11	0.04	+ 2.7 "
SASK	2.96	0.44	+ 6.7 "	0.10	0.04	+ 2.5 "
ALTA	4.75	0.75	+ 6.3 "	0.11	0.01	+11.0 "
B.C.	2.57	0.57	+ 4.5 "	0.12	0.05	+ 2.4 "
N.W.T.	1.29	0.05	24.0 "

NOTES.

- "Indians" includes metis and non-status and Inuit peoples.
- The percentages of Indians and non-Indians was derived from the number of Indians and non-Indians in jails and penitentiaries relative to their respective total populations.
- "Difference" refers to the difference between the percentages indicated in (2) above, i.e; the incidence of Indians sentenced in provincial jails in Manitoba for this fiscal year is 869% or 8.69 times as great than it is among non-Indians.

TABLE 2.

PROVINCE	% Indians/ Total Provincial Population	% Indian Sentences/ Federal Penitentiaries	% Indian Sentences/ Provincial Jails.
QUEBEC	1.63	0.5	-----
ONTARIO	2.00	2.0	10.9
MANITOBA	11.33	30.0	50.3
SASKATCHEWAN	12.67	30.0	46.2
ALBERTA	5.51	33.0	25.8
BRITISH COLUMBIA	4.97	10.0	18.1
NORTH-WEST TERR.	46.24	-----	91.8

Persons Charged with Indictable Offences
Yearly Percentage Variation
1959 to 1967

Table 3

	ATL.	P.C.I.	P.S.	N.B.	QUÉ.	ONT.	MAN.	SASK.	ALBERTA	B.C.	YUKON N.W.T.	NATIONAL
1959 I	0%	0%	+17.3%	+45.4%	0%	+14.8%	+69.8%	+28.4%	+41.3%	+14.9%	+94.5%	+30.0%
To												
1960 NI	-14.9%	-61.4%	-1.7%	+17.2%	+8.8%	+11.5%	+13.6%	+24.8%	+10.5%	+9.8%	+71.6%	+13.2%
1961 I	-100%	0%	-44.4%	-12.5%	+68.4%	+21.9%	+10.8%	+22.1%	+11.6%	+9.4%	+38.3%	+15.4%
To												
1961 NI	+50.2%	+31.2%	+3.9%	+17.4%	+18.3%	+3.2%	+16.1%	+18.3%	+4.0%	+4.1%	+7.1%	+8.7%
1962 I	0%	0%	+20%	-14.2%	-12.5%	-1.2%	-1.8%	-1.8%	+16.2%	+2.7%	-8%	+2.1%
To												
1962 NI	+28.7%	+78.5%	-2.4%	+15.4%	-4.5%	-1.5%	-8.2%	-4.4%	+4.7%	+4.4%	+5.3%	-1.6%
1963 I	+100%	0%	0%	+33.3%	+3.5%	+23.6%	+5.9%	+17.9%	+7.1%	+17.8%	+23.9%	+15.3%
To												
1963 NI	-3.7%	-14.6%	+12.2%	+7.1%	+26%	+6.8%	+1.2%	+9.7%	+2.7%	+11.7%	-9.5%	+10.7%
1964 I	-100%	0%	+38.8%	+56.2%	-10.3%	-3.1%	+2.0%	+14.5%	+19.9%	+0.3%	-34.2%	+4.9%
To												
1964 NI	-5.2%	-25%	-3.5%	-7.3%	-10.5%	-4.8%	+26.7%	+11.6%	+3.4%	+4.0%	-33.0%	-2.2%
1965 I	0%		+12%	-12%	+50%	-7.9%	+1.3%	-19.3%	+9.1%	-2.4%	-1.3%	-5.0%
To												
1965 NI	-77.5%	+270%	-1.8%	-13.7%	+4.7%	+2.7%	-4.7%	-7.0%	-9.3%	-4.1%	+50.5%	-3.4%
1966 I	0%	+100%	-17.8%	+54.5%	0%	-1.3%	+7.4%	+0.4%	+8.4%	+11.3%	+54.0%	+7.1%
To												
1966 NI	+302%	-40.4%	+5.3%	+24.4%	+11.1%	+9.7%	-7.7%	+10.7%	+6.1%	+13.8%	+51.0%	+9.2%
1967 I	+600%	-100%	+39.1%	-20.5%	-17.9%	+12.0%	-4.7%	+11.9%	+9.7%	+13.9%	-28.0%	+7.5%
To												
1967 NI	-33.0%	+13.2%	-6.6%	+3.8%	-9.6%	+1.4%	+10.2%	+3.3%	+4.3%	+7.0%	43.0%	-6.4%
Total Period	+500%	0%	+39.1%	+14.5%	+68.4%	+68.6%	+107%	+88.7%	+183%	+89.1%	+121%	+103%
NI	-4.5%	+44.5%	+10.9%	+75.6%	+45.8%	+31.7%	+213%	+84.1%	+28.7%	62.4%	51.8%	+44.0%
Yearly Average	+62.5%											
NI	-5.5%	+5.5%										

* Defined racially - descent traced through the father

REGIONS	NO. OF BANDS	BANDS WITH CONSTABLES	NO. OF CONSTABLES	TOTAL LAND CONTRIBUTION
MARITIMES	28	14	17	64,000.00
QUEBEC	40	9	19	176,100.00
ONTARIO	111	22	33	243,400.00
MANITOBA	54	39	48	181,400.00
SASKATCHEWAN	67	1	1	100,000.00
ALBERTA	41	15	26	189,400.00
BRITISH COLUMBIA	190	12	12	60,000.00
YUKON	13	-	-	-
NORTHWEST TERRITORIES	16	-	-	-
TOTALS	560	112	156	\$1,014,300.00

CURRENT SITUATION

Annex 3

Policing on Reserves - Jurisdiction

Existing Departmental policy regarding policing services is set out in Circular Letter No. 55 dated September 24, 1971. One inevitable conclusion to be drawn from the Circular Letter is that the Department (and the Federal Government) are making every effort to ensure that each Indian community can obtain police services adequate to its needs.

On page two of the Circular Letter, the jurisdiction of the Federal Government, the provincial governments and of the Indian bands is set out. It is clear from these statements (which appear to be correct) that the Federal Government has very limited authority to provide policing services to Indian bands. Enforcement of the Criminal Code and of provincial statutes to which all Indians are subject is the responsibility of the provincial governments. Each province has enacted legislation setting out the authority for the operations of the police forces within its jurisdiction.

Basically, the provinces have stipulated that communities of adequate size must provide essential police services for their residents. Where the community is too small or where there is unorganized territory, the service will be and is provided by the provincial police force. The fact that most provinces have entered into contractual arrangements with the RCMP to meet their obligations does not transfer the basic authority or responsibility for the service to the Federal Government.

The bulk of legislation requiring enforcement by a police force is the concern of the provincial authority. The RCMP are limited to the enforcement of specific Federal statutes. (This does not account for assumed responsibility of the RCMP under contractual arrangements.) The general policing responsibility required by day-to-day community life (including enforcement of the Criminal Code) has never been given to that force. Where municipalities (organized communities) have enacted by-laws requiring enforcement, it has been and is the responsibility of that municipality to provide its own enforcement arm.

Financing of police forces is the responsibility of the government having policing jurisdiction.

Apart from band by-law enforcement, the bulk of the policing needs felt by Indian communities are those which, in a non-Indian community, are services provided by the municipal or provincial police force. It is not likely that the situation changes by reason of a community being Indian or by reason of its location on an Indian reserve. The Indian community itself must enforce its by-laws as does any other community. Police services should be provided by the police force

normally charged with that responsibility. For most Indian communities, because of their small size, this would mean the provincial force.

The present situation, and that which led to the policy set out in Circular Letter 55, is not so much the result of jurisdictional questions as it is the result of the adequacy of the service now provided in comparison with the needs of the Indian communities, as seen by those communities.

The present trend within the overall Indian community is a recognition of the jurisdiction of the provincial police force as this jurisdiction is interpreted above.

With the exception of a few bands which do not accept the concept of any non-Indian police force having jurisdiction in policing matters, it appears that Indian communities are increasingly concerned about the adequacy of policing services available to them. It is natural for any community to prefer to be policed "by its own". It appears this is possible under existing provincial legislation if the provinces can be persuaded to accept their jurisdictional responsibility. It seems that the provincial reluctance is based primarily on financial grounds. The existing police forces are spread too thin now to meet the demands now recognized, let alone adding the needs of the Indian communities, and they do not have the resources to increase the services now provided. There is also, it appears, a tendency to respect the oft-stated Indian desire to have a purely Indian-staffed police force, for each Indian community. This is seen as a Federal responsibility although there does not appear to be any assertion of any statutory or other authority to support this view.

Guidelines for Task Force on the Policing
of Canadian Indian Reserves

Preamble

The policing of Indian reserves is complicated by the several legal jurisdictional responsibilities for law enforcement in Canada, the traditional policing on reserves by the RCMP, the three levels of government involved, namely, municipal, provincial and federal; the attitude of Indian bands toward being policed by certain police forces and even the views of some that there is no police authority in Canada with legal law enforcement jurisdiction over them, or the lands they occupy.

The task force should keep in mind, that as far as possible it is the wish of the Department of Indian Affairs that the policing of Indian reserves will be based on a flexible policy allowing for regional variations, in keeping with existing law enforcement legislation in relation to the operation of supplementary police services required by an Indian band, and in accordance with the wishes of the Indian bands. All bands may rest assured that the Department has no desire to force upon them a form of policing of which the band does not approve.

The task force will keep in mind at all times, that its deliberations and recommendations should form the basis of national policy on a matter which affects the security, happiness and well-being of the Indian people, not only for the foreseeable but the distant future. With these matters in mind, the following guidelines are set out:

Guidelines:

1. It is recognized that many Indian communities desire to assume responsibility for their own policing requirements.
2. Indian communities have the right to expect police services as effective and at as high a standard as those supplied to other Canadian communities in similar geographic circumstances.
3. In keeping with the best policing principles, the Indian people have a right to be policed by those in whom they can place full confidence and communicate in a language understood by both parties.
4. It is recognized that many Indian communities desire to be policed by those who have knowledge of Indian culture and the particular problems of law enforcement on reserves.

5. That law enforcement on reserves can only be carried out effectively within the structure of Canada's criminal law.
6. All the arrangements for the policing of reserves in any province will require the concurrence of the Attorney-General.
7. If the policy recommended by the task force is objected to by certain Indian bands, it should not in any way interfere with the implementation of such policies by those bands which agree with it.
8. That the task force recognizes the need of Indian communities to be represented on any applicable policy committee and in the matter of Indian band constable they should be responsible to a local police authority.
9. Efforts should be made to impress upon all provincial police authorities that in accepting responsibility for criminal law enforcement on Indian reserves, all criminal law must be included, both major and minor, and the general enforcement of the law which might not reach the stage of the commission of offenses.

Note should be taken on the fact that with the acceptance of the responsibility for the enforcement of the criminal law by a provincial law enforcement authority and the need for only minor enforcement by the RCMP of certain provisions of the Indian Act, the latter will have less contact with Indians than ever before in the enforcement of the law on Indian reserves.

10. Where the band is so small that it cannot be considered in the same light as even the smallest incorporated municipality within a province, the same policy regarding policing of such a band, in relation to financial responsibility shall be the same as that now in existence for any unorganized areas within a province.
11. It should be impressed on band leaders that acceptable law enforcement includes the carrying out of police duties by a band constable without interference from any member of the band, regardless of status. Band leaders should be advised of the result of any investigation and any decision on the matter should be one in which the supervising police authority is involved. A band constable should be supported and encouraged by the band to carry out his duties without fear, favour or affection. This should be a major responsibility of band leaders.

Where there is neglect of duty or any other reason for complaint concerning the manner in which a band constable behaves or carries out his duties, such complaint is to be committed in writing to the supervising police authority. This authority will investigate the complaint before any further steps are taken and which may be required as a result of the investigation.

12. Recognition is given to the fact that it is not sufficient to appoint band constables without ensuring that they are able to perform their functions adequately.
13. Although the best qualified candidates should be sought for the position of special constable, and although minimum standards are required standards applied to regular police recruits or white special constables should not be mandatory. The criteria for appointment should be based on the known honesty and integrity of the individual Indian once a minimum standard of recruitment has been established.
14. Appointments of special constables should take into account the desirability of band constables being employed on a reserve other than their own.
15. Consideration should be given to the possibility that the band constable system may at some stage be acceptable to the Northwest Territories and the Yukon Territory, where reserves do not exist, though many communities are either Indian or predominantly Indian.
16. Where an Indian special constable or group of special constables are employed in the enforcing of the law, to the extent that they relieve the regular police force, consideration should be given by the provincial authority to subsidize financially such a group.
17. The law enforcement problems created in communities adjacent to Indian reserves in which Indians are involved, should be a matter for consideration by the task force.
18. Efforts should be made by the task force to establish the feasibility of establishing on a regular basis lectures on non-Indian police training courses on Indian history and culture in order for non-Indian police forces generally to approach enforcement of the law in relation to Indians with a greater sympathy and understanding.

. . . 4

19. The task force recognizes the need for support by way of legal advice on these matters related to reserve policing which are likely to arise out of band constables carrying out their duties.
20. The task force recognizes the desirability of the establishment of long term law enforcement policy for Indian reserves.

CONSIDERATIONS

- I The task force will pursue the principle that Indian communities should assume primary responsibility for their own policing and the financial cost thereof, except that in cases of demonstrated need, the governments concerned will be prepared to financially assist a band desirous of setting up its own enforcement organization including contract policing.
- II In order to provide adequate police service consideration should be given to recommending means of supplying office accommodation, furniture, police equipment, communications equipment and transportation to band constables.
- III Although training of Indian special constables will take place on a provincial or inter-provincial basis, efforts should be made to standardize such training as much as possible.
- IV That in due course the purpose of the task force be conveyed to all the Indian people in Canada in order to ascertain where there is need for
 - (i) change in present policing arrangements;
 - (ii) what is foreseen in the way of manpower or additional manpower requirements;
 - (iii) where it is the view of band leaders that special constables be recruited within the band; and
 - (iv) if they are prepared to accept responsibility for band policing.

CURRENT POLICING PROBLEMS

Annex 5

Preamble

The existing situations, policies and methods respecting law enforcement on Indian Reserves has clearly delineated a series of problems. In this respect circumstances will vary between Regions and within the individual Region. It should also be noted that all such problems do not apply to all Regions or to all Reserves; that some apply to the law enforcement program while others apply to the enforcement agencies; many are inter-related; and in this paper reference is to the normal law enforcement situation and the matter of special policing for special occasions is not considered.

The more common of these general problems are indicated below, grouped under appropriate categories insofar as possible:

Categories

1 - Geography

- (a) the geographic location of the Reserve in relation to the applicable law enforcement agency. This distance may result in
 - a lengthy delay in "police response" time, the number of patrols, or the "police presence";
 - a lack of immediate back-up assistance for the local constable particularly in times of rowdyism;
 - a local resistance to the police agency's authority.
- (b) because of the set geographic limits of responsibility for each individual local senior police detachment, the detachment serving a particular Reserve is not necessarily that particular force's detachment closest to the Reserve.
- (c) a scattered or split population, a population of small groups over a large area with limited immediate communication, a small reserve, or small population, or physical land features, may make effective policing and patrol difficult, particularly in relationship to costs.
- (d) it is often claimed that the proximity or accessibility of a Reserve to a small/medium non-Indian municipality which has limited funds and policing force, strains those resources and subsequently the relationship between the residents of the two communities (it is doubtful that the Indian people cause the problem complained of, but they may add to an existing policing difficulty). The converse is of course also true.

11 - Communications

- (a) general communication difficulties including
 - lack of telephone, telex or radio contact with the law enforcement agency serving the Reserve;
 - accessibility only by air or roads which are not all-weather (adverse weather conditions may therefore isolate the residents or the local constable from immediate policing services):
- (b) multiple police jurisdictions on reserves are often confusing. The residents may not know and may have difficulty establishing which force is responsible for any given type of crime. The jurisdiction responsibilities may be easy to define on paper but difficult for a layman to comprehend.
- (c) in addition, it is frustrating when the force having jurisdiction is located some miles away, while the force which is not involved may be located in the immediate area.
- (d) in some cases there is little respect or confidence in a particular law enforcement agency; or the cultural background of the Indian recognizes only the force of Her Majesty (i.e. the Royal Canadian Mounted Police).

111 - Socio-Cultural

- (a) the majority of crimes appear to be related to the use or misuse of alcohol. A general lack of knowledge of the law, available services, individual rights, etc., may lead to a miscarriage of justice. Preventative and educational measures seem to be indicated as much or perhaps more than enforcement.
- (b) the language or cultural differences between the residents and the members of the force serving them often causes difficulties and strained relationships.
- (c) where a developing reserve is in, or immediately adjacent to, an urban centre co-operation between the applicable enforcement agencies is difficult to achieve. The difference in life styles create additional problems and the variations in the applicable laws of each can create confusion.
- (d) social conditions, availability of recreational facilities, degree of employment, cultural or developed attitudes toward the law and its enforcement agencies would all appear to have a bearing on the type, number, or degree of seriousness of crimes.

- Community Responsibilities

- (a) a clear understanding of the role of chief and councillors vis-a-vis law enforcement is often lacking. Leadership and the support of the local constable in theory, and in fact, when assistant is required, is frequently missing.
- (b) local politics, favouritism, patronage, personality conflicts, or misunderstanding of the responsibilities of each frequently leads to the discharging or resignation of a local constable notwithstanding the favourable recommendations of the Royal Canadian Mounted Police. Individual and council decisions must be paramount. Education, a police commission, a review board, or a system of transference between reserves may be of value in this respect.
- (c) generally an Indian Band is a close knit or highly inter-related group. Such family or social ties generally create difficulties for a Band Constable chosen from the Band membership who is attempting to maintain an unbiased attitude.
- (d) some Bands, for varying reasons, do not have a member suitable for an appointment as Band Constable either in fact or imagined and conversely many Bands will not appoint a member of a different Band or a non-Indian who is qualified.

- Policing Standards

- (a) some qualifications for police constables are necessary, but a strict, fairly high qualifications in such matters as education, sobriety, criminal record, and character may lead to overlooking or disqualifying an otherwise excellent candidate.
- (b) an effective partly standardized, and progressive training program for Band Constables is lacking.
- (c) seasonal employment, seasonal migration from the Reserve, seasonal non-Indian influence on a Reserve, and the availability of funds at certain times of the month creates a fluctuating need for policing.
- (d) permanent non-Indian Reserve population, or large commercial, industrial, or residential developments on a Reserve requires a standard of policing not necessarily related only to on-Reserve population.
- (e) the relationship, degree of co-operation, degree of supervision, and the division of duties, etc., of the Band Constable vis-a-vis the senior forces (i.e. Royal Canadian Mounted Police) is one of a local nature, often dependent upon personalities, and seldom consistent.

- (f) a single constable cannot be a local police force as holidays, illness, absence from the Reserve, etc., requires back-up or emergency assistance.

.VI - Jurisdiction

- (a) some Bands are settled on crown lands which are not reserves. The appointment of a Band Constable with a Royal Canadian Mounted Police "certificate" requires provincial concurrence which may or may not be forthcoming, or which may or may not cause a considerable delay in the appointment.
- (b) in the Northwest Territories and Yukon Territory there are no Reserves and generally no stated geographic limits to an Indian settlement. It is not possible therefore to issue a certificate of appointment related to a specific area for jurisdictional purposes.
- (c) the status of certain lands, actions, or laws vis-a-vis provincial or federal laws is often unknown or clouded. (i.e., on a Reserve when is a road a road? Which roads are subject to provincial traffic laws? Are leased lands and non-Indian residents subject to Council by-laws?)

VII - Financial

- (a) the Department's recently inaugurated grant program will no doubt assist in the financial difficulties. It is too early to evaluate. However, it is basic only. It makes no provision for capital purchases i.e., cruisers, radio communications, boats and motors, etc. Costs other than the basics are deemed to be the responsibility of the Band or other agencies. Unfortunately some Bands have no funds and neither the Solicitor General's Department, nor the Provincial authorities have indicated any desire to become involved financially, notwithstanding that such constables relieve their forces of a certain work load and that law enforcement is primarily their responsibility.
- (b) the lack of appropriate office facilities on some Reserves makes it difficult for either a local or senior police force to operate.

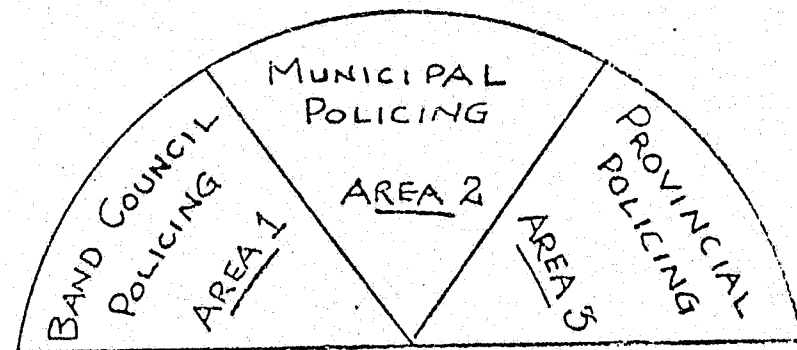
VIII - Legal Liability

- (a) the legal liability of the Band, the Band Council, or the Band Constable (or because of financial involvement, the Department) in any real or alleged illegal actions of a Constable has never been definitely established.
- (b) the availability of liability insurance and bonding to the Band, its Council or Constable is not clear or consistent.

Development of Alternative Methods
for Policing on Reserves

Rationale

The Task Force approached this problem by trying to fit all available policing options within a spectrum. The spectrum was divided into areas on the basis of what institution would be the principal authority for the policing function. This would determine the basic nature of the police force actually providing the services. (It being understood that matters of law enforcement are ultimately the responsibility of the Provincial Attorneys-General.)



It was thought that the simplest form of policing lay in variations of the existing band constable system where the principal authority is vested in the band council. These variations are included in Area 1. In Area 2 are the options in which the principal authority is vested in a municipality; i.e. this might be a band council considered as a municipality. The most complex and sophisticated options involve either Indian provincial police forces, or Indian contingents in existing provincial police forces, where the principal authority is vested in the province. These options are included in Area 3.

It must be recognized that none of these areas can be mutually exclusive. There will be an inevitable overlapping, no matter how precisely they may be defined, and there will inevitably be, as the bands develop and change their outlook, a transition which could move in either direction from one area to another. Though additional options may emerge they can be fitted into one of the three areas.

Available Options

1. First Area - band council policing
 - (a) Civil by-law enforcement only constable
 - (b) supernumerary constable enforcing by-laws and federal and provincial laws with respect to minor offences
 - (c) supernumerary constable with authority to enforce all federal and provincial laws.
2. Second Area - municipal policing
 - (a) purchase of police services
 - (b) band is considered by province for purposes of policing as a municipality
 - (c) use of existing police services
3. Third Area - provincial policing
 - (a) a separate Indian police force
 - (b) an Indian branch or contingent of an existing police force of which it would be an integral part.

Exposition

1. First Area - Band Council Policing

There seem to be three options available in this area:

(a) By-law Enforcement Constable - a constable appointed by the Council not necessarily a peace officer, whose responsibility is limited to the enforcement of band by-laws of a "civil nature" - i.e., animal control, health and welfare, building inspector, fence inspector, etc. One constable may enforce all such by-laws or there may be a special officer appointed where certain expertise is required such as a knowledge of construction for a building instructor.

(b) Supernumerary Constable (1) - a constable having an appointment as a peace officer and responsibility for the enforcement of federal and provincial laws with respect to minor offences.

(c) Supernumerary Constable (2) - a constable having an appointment as a peace officer and responsibility for the enforcement of all federal and provincial laws.

Note: In both options (b) and (c)

- The supernumerary constables may enforce band by-laws of a "criminal" nature and may, depending on local circumstances and needs, enforce those of a "civil" nature. In other or special instances specific by-law enforcement officers may be required in addition to the supernumerary constables, for by-laws of a "civil" nature requiring special expertise.

In option (c), where conditions such as size of community and degree of need warrant additional policing, a number of constables could be appointed, so that community would have a type of local police force. In all options administrative supervision would be by the Band Council with varying degrees of policing supervision from local detachments of the senior forces. The authority of constables may or may not extend off the reserve depending on the wishes of the Attorney-General. The division of authority (if any) between the senior police agencies and the supernumerary constables is one which is made locally, and may divide between types of crimes or between types of statutes or a combination of both.

Some of the advantages of band council policing are:

- (1) the Band Council has direct administrative control over its constable;
- (2) the Band Council has a direct input in the division of duties (if any) through which a rapport may be established with the local senior force detachments and subsequently a stronger voice in the type of services being provided.
- (3) the Band Council has a direct voice in the appointment of the constable who will police their reserve as such appointments are made only on their recommendation;
- (4) it gives the Band a local "police presence";

- (5) the Band is not solely dependent upon an external force over whose services they have no control;
- (6) it encourages local participation and support.

Some of the disadvantages are:

- (1) in practice it is impossible for one man to be a "police force" and the band constable system makes no provision for immediate back up service or additional service when needed during certain periods of time;
- (2) tenure of office is sometimes insecure which may result in a lower calibre of recruit;
- (3) salary and fringe benefits may be low or non-existent in any given area, also contributing to a lower calibre of recruit;
- (4) there is no appeal body or board; i.e. police commission;
- (5) local politics, favouritism, social ties, patronage, personality conflicts, misunderstanding of the various roles of the constable or members of council may inhibit an unbiased attitude;
- (6) multiple police jurisdictions on the reserve are confusing to the inhabitants (especially where division of duties is involved);
- (7) possible lack of qualified personnel where the council is committed to hiring a band member;
- (8) an effective and progressive training program is difficult to achieve and continue;

- (9) degree of co-operation, supervision, division of duties, relationship, etc. is often dependent upon personalities and seldom consistent;
- (10) it offers limited possibilities as a career.

2. Second Area - Municipal Policing

There seem to be three options available in this area:

- (a) purchase of police services - This option would involve the band, whether its reserve is situated within a municipality or adjacent to it, purchasing policing services from the existing forces.
- (b) Band policing itself as a municipality - The band could take the necessary legal steps to have itself created a municipality (B.C.), or perhaps by minor change of provincial legislation it could be deemed to be a municipality for purposes of policing so that it could then, under the existing police acts of the various provinces, establish and operate its own municipal police force complete with police commission or police committee.
- (c) Band using existing police services - This option consists of using the existing police services. This contemplates that a band lying within a municipality will be policed by that municipality's police force without the necessity of special arrangements being made. Negotiation to have the municipality accept its obligation to police the reserve area lying within its bounds might well be necessary, as well as there being a need for the band to recognize that that municipal force has policing jurisdiction

over a reserve. Where a band is not within a municipality, whether it is adjacent to one or remotely located in unorganized territory, it could use the services of the existing provincial police force without special arrangements other than perhaps those which might be required to upgrade the standard or frequency of the service now provided in order to meet demonstrated need.

There is a common thread of advantage running through all of these options in that the band council would have a very effective voice with regard to the continuing operation of the police service. A disadvantage of options (a) and (c) is that the band might experience difficulties in obtaining services from existing police forces which it considered adequate to its needs. This would relate particularly to the question of band by-law enforcement, where, either existing forces are used, or policing services are purchased. Any band which has become, or is deemed to be a municipality, and consequently operates its own police force, could, through its council, impose a requirement to enforce by-laws on its police force. A further disadvantage might arise if the police, in enforcing by-laws, as opposed to criminal or quasi-criminal detection and protection activity, alienated the community and thus aggravated the need for policing services.

3. Third Area - Provincial Policing

There seem to be only two options available in this area:

(a) A separate Indian Provincial Force operating on its own under the authority of the provincial attorney-general and with some form of Police Commission. This force will not form part of the provincial police for the purpose of direction or control of administration, but it may be under the general supervision of the provincial police in its early and formative stages; and

(b) Indian policing under the direction and control of the provincial police acting on its own responsibility to enforce general laws on Indian reserves, but mainly through the use of Indian special constables, who will comprise a special Indian police service as an integral part of the provincial police force.

In regard to (a) it would be necessary to receive the approval of the attorney-general of a province in order to establish such a police force. There may be a reluctance in most, if not every, province to establish another completely separate police force, where police service in the eyes of provincial authorities now appears adequate. The evidence would seem to be insufficient to consider creating another body of police responsible only for the policing of Indian reserves within a province. But one should not at this point discount that even the Indians themselves may object to a system of policing where they may have little say in who polices them.

Even if an agreement was forthcoming the establishment of such a force would create great difficulties. Undoubtedly it would require considerable financial aid from the federal government initially, and a continuation of such aid for the foreseeable future. It is only reasonable to assume that the salary standards that would be expected would be comparable to those paid members of existing police forces. Such a force would require accommodation, equipment, transportation, uniforms, and an administrative set-up, both in staff and accommodation, at considerable expense. It would be necessary to prepare for training requirements and a rank structure. These would be the main requirements.

Assuming that such a force was being considered, the problem of recruiting to the required standard would present difficulties. This is a problem now overcome by the lowering of standards of special constables considered for engagement. If it were possible to establish an Indian provincial police organization where finances and standards of recruitment were of no real concern, then of course it would be ideal. But the present situation throughout Canada in the matter of Indian policing makes consideration of such force at this time an exercise in futility. It is foreseen that if such police force were established the assistance of the Department of Indian Affairs would be required to maintain some form of continued supervision if only to protect its financial interests with their attendant difficulties.

With reference to (b), the system envisaged is that of special Indian police service as an integral part of the provincial police service. This type of policing has many advantages and few, if any disadvantages, as it is now envisaged. Such a system of policing will not contain any of the problems outlined in (a) except for certain financial ones which the Department may be prepared to meet, at least in part.

Direction and control as well as administration and training would be handled by an already established and experienced police force. General supervision will not be required because the usual detailed supervision given to regular members in carrying out their duties would be automatic. The full responsibility for policing would not be that of the Indians themselves. There would be a facility for the Indians to acquire training and knowledge from continued contact with experienced policemen and the formal training of special constables would receive appropriate attention.

No one denies the need for a system where Indians can police themselves according to their own standards and culture and in their own language. If this is to come about in full, and as envisaged in (a), the system in category (b) might well form the basis for such a system. If the policing system in category (b) succeeds there would undoubtedly be optimism and confidence on the part of all concerned that the Indians could police themselves effectively through a completely separate force.

Annex 7

November 21, 1972

Dear Sir:

I would like to advise you that for this past five months, an intensive Police Training Program for Band Constables has been successfully carried out at Oo-za-we-kwun Centre Incorporated, jointly sponsored by the Department of Indian Affairs and the R.C.M. Police. The Course Training Standard for our Indian Constables was compiled by Sgt. L.L. Wagner, with the assistance of the staff of Oo-za-we-kwun Centre and Indian Affairs, and was authorized by the Commanding Officer, "D" Division R.C.M. Police, (Assistant Commissioner (now retired) G.W. Mudge).

The course as presented has enjoyed the support of not only the sponsoring Agencies, but also the Federal Department of Justice, and the Department of the Attorney-General of Manitoba, who have both provided lecturers, Crown Prosecutors, Defence Attorneys, and Magistrates for classroom services. The National Parole Board and the Probation Services Branch of the Manitoba Department of Health and Social Development also directly participated. The St. John's Ambulance Brigade have provided First Aid Training.

The courses provided at the Training Centre have been approved by both the Manitoba H.Q. of the R.C.M.P., and their Ottawa Headquarters. They are of six weeks' duration, and cover all matters respecting the techniques of police work, including basic sociology, dealing with juvenile delinquents, etc.

The fact that the course has enjoyed the full support of all the government Departments and Agencies involved in the administration of the law would seem to indicate the beneficial relationship that presently exists in Manitoba towards the improvement of the standard of the quality of service that native policemen provide to their communities. The strong support and the joint sponsorship of the R.C.M.P. adds greatly to the stature of the courses delivered at Oo-za-we-kwun Centre.

In view of the uncertainty as to the future relationship of native Police Constables to existing police training courses, and the apparent acceptance of Option 3(b) by the majority of the Indian Associations, it becomes obvious that on-going training for native policemen will be required.

The courses at Oo-za-we-kwun Centre are specifically tailored to native policemen, based upon the foundation built by the R.C.M.P. training programs, but adapted to the special needs of native police working in special circumstances. I would like to suggest that consideration be given for all training for native Constables who will come under Option 3(b) be held at the Oo-za-we-kwun Centre.

The standards of teaching and the basic curriculum, which as you know was prepared by the R.C.M.P. here in Manitoba, and also approved by R.C.M.P. Headquarters in Ottawa, provide an excellent basis for such a continuation, and indeed an expansion of this program.

We in Manitoba have diligently for this past seven years, with the full support and co-operation of the Assistant Commissioner, "D" Division R.C.M.P., and all members of his staff, sought to improve the image of native policing within the Province. Certainly a lot has been achieved, when you consider that seven years ago we only had seven Band Constables with no training at all, and today we have 47 Constables, and it is only due to lack of funds that this is not 60. Six years ago the R.C.M.P. at our request started holding two-week training classes for the Band Constables each year, and this year the training was increased to six weeks, with effective results.

I would ask that when you submit your final report, you attach a copy of this letter to same, or make the contents known in your report.

I know that it is recommended that Constables coming under Option 3(b) should take nine weeks training. We in Manitoba have been very active in our training for Band Constables. The Training Syllabus and Course Training Standard was prepared and approved by the R.C.M.P., both here and in Ottawa; most, if not all of our 47 Constables have received the six weeks' training; and I feel that this should be considered when plans are being made for hiring and training of those who choose to come under Option 3(b).

To the best of my knowledge, no other Region has the same successful training program for their Constables as we do in Manitoba. Of course, this could never have been achieved without the tremendous support and encouragement we have received from the R.C.M.P.

Yours truly,

G.F. Kelly,
Executive Assistant to
Regional Director, Man.

END

7 lines/minute