

## THE HISTORY AND THE FUTURE OF THE POLITICS OF POLICING

By  
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### *Abstract*

*This chapter examines the operational realities of the police executive linkages—beyond the official dictates of the law and the desired position expressed in ideological discourses on police independence. Paper draws primarily on historical and criminological literature and research, and public inquiries.*

*The central argument of this paper is that, while there may be a somewhat clear-cut division between the 'policy' versus the 'operational' control of the police by the State in law and in rhetoric, the reality is quite different. The relationship between the State and the police is a dynamic relationship that changes to reflect the nature of the policing that is being carried-out, the political interests of the party in power, and to some extent the personalities of the key players within both the police services and in politics at a specific period in time.*

*This research indicates that looking for the 'smoking gun'—i.e. the memo or document that in writing acknowledges a directive from the executive to the police—sidesteps the reality of the on-going partnerships between politics and policing.*

### **Introduction**

Much current controversy surrounding policing centres around two issues: the relationship between the police and politics and the question of accountability. Dianne Martins paper has addressed the issue of accountability and while the two issues overlap, I shall be looking specifically at the political question. An understanding of the organizational workings of the police is essential to any attempt to reconcile the tensions between the dictates of police autonomy and the restraints imposed on the police. In addition to examining cases involving state/political intervention in police operations, I shall be identifying the conditions that are vulnerable to this control over the police. I

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shall also be emphasizing that this control only becomes *visible* under certain conditions. This supports the notion that it may be much more the ‘norm’ than the ‘exception’.

Because the police and other agencies are created to carry out government intentions, and are dependent on government for their existence, authority, and resources, they are said to be part of the executive arm of government. Yet traditionally we maintain a belief in, and protect the rhetoric of, and in some cases the practise of, the ‘independence’ of policing. We may be making false assumptions about the ‘naturalness’ of this independence. In Canada we tend to trace our police models back to England and many of our police officers came from England—a trend that continued until fairly recently. In countries that share this policing tradition, the ambivalent relationship between freedom to act unhindered by party interests, while being held to account within the democratic process, has been a concern from the days of the ‘new ‘ London police in 1829 through to the present. Jean-Paul Brodeur however reminds us that there was a different model in France in 1667 under Louis XIV which advocated, rather than warned against, the blatant use of police powers to advance State interests.<sup>2</sup> Similarly, Louise Shelley in her analysis of Soviet policing describes the police involvement in the intimidation of political opponents for the benefit of political bosses as being an explicitly stated function of the police. She states: “...the Communist Party sanctioned the elimination of class enemies, and political opponents by the police apparatus...”.<sup>3</sup>

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<sup>2</sup> Jean-Paul Brodeur. 1983. “High Policing and Low Policing: Remarks About the Policing of Political Activities”, *Social Problems*, Vol. 30, (5) pp 507-520. Taken from *Understanding Policing*, edited by K. McCormick and L. Visano, p. 285.

<sup>3</sup> Louise Shelley. 1996. *Policing Soviet Society: The Evolution of State Control*, Routledge N.Y. P.27.

Gerry Woods in his research on the LAPD concluded that there were few gains achieved from the movement *away from* the political machine, highly politically controlled era of policing in the US into the ‘supposed’ professional and independent era—and that in fact the police, shifted from being controlled by politics, to becoming ‘political’ in their own right through lobbying, intimidation of candidates and an increasingly powerful and demanding union. Measurements of police effectiveness or efficiency also did not show a marked improvement.<sup>4</sup> Post the collapse of the communist regimes in Eastern Europe, several countries are now faced with the task of re-examining the desired relationship between the ‘new’ governments and the (sometimes) ‘new’ police. Countries such as Hungary, Germany, Poland and Czechoslovakia are responding in different ways to this challenge. Shelley’s analysis confirms that there has not been a uniform movement to what we might see as the ‘appropriate’ independent role of the police from the state but in fact have moved to formalize a ‘high policing’ model with the political functions remaining in tact.<sup>5</sup> These international examples reveal that there is little consensus around the potential for, or perhaps even the desirability of, our taken-for-granted ‘ideal’ independent model and an examination of our own system may reveal political links that we typically wish to deny.

Obviously we are concerned with those situations where a political body or individual would ‘instruct’ the police as to whom to, or not to, bring charges against, or whom not to investigate. At the beginning of this research, I considered these ‘extreme’ cases to be perhaps the least significant of police-political interference—least significant *because*

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<sup>4</sup> J. Gerry Woods. 1973. *The Progressives and the Police: Urban Reform and the Professionalization of the Los Angeles Police*, Ph.D. University of California, LA.

<sup>5</sup> Louise Shelley. *Policing Soviet Society*, pp. 196-7.

they are so obviously in violation of the accepted limits of political control over the police. However, as one identifies specific examples and continues to research, the policy versus the operational activities of the police blur even in these cases. It becomes evident that the issue of ‘policy development’ is also problematic in that some policies *determine* the operational response of the police and are therefore not distinct from operational decisions.

While this paper acknowledges some of those extreme cases, the intent is rather to show the on-going ‘normalized’ control by the state, or by government officials in positions of authority, over the operational activities of a police force when it chooses to exert an influence. The difficulty arises that this control is most often accomplished with the willing complicity of the police service. This paper argues that this complicity provides the curtain behind which the varying agendas of police and state can be advanced. An examination of police work reveals a mutual exploitation of the ambiguity that exists between the police and politics. The political direction to police operational decisions may only be seen when something goes wrong—as Reiner says:

“Like riding a bike, policing is the sort of activity that is thought about mainly when the wheel comes off. When things are running smoothly it tends to be a socially invisible, undiscussed routine”.<sup>6</sup>

Or perhaps more poetically, as Leonard Cohen might say, the various crises provide ‘the crack’—“*That’s how the light gets in*”<sup>7</sup> and reveal that which usually remains hidden or unnoticed.

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<sup>6</sup> R. Reiner. 2000. *The Politics of the Police*. Oxford University. P. 9

<sup>7</sup> Leonard Cohen. 1992. *Anthem* on The Future CD, Columbia.

The task of this paper is not to ‘debunk’ the notion of independence—that task would be too easy and misleading. The evidence suggests a two-directional relationship, with the political masters having direct involvement in police operational matters *and* the police becoming ‘political’ in their direct involvement into law making, decreeing policies and selecting desirable political candidates. As Otwin Marenin and Gerry Woods describe, it was ironic that while arguing that their ‘professionalism’ entitled the police to autonomy, they turned increasingly toward the political arena in order to make their demands heard.<sup>8</sup> Through a dramaturgical look at police work, we see with some clarity the police as political actors, actively attempting to shape, mediate, and exploit their political environment and likewise, we see evidence of the politicians identifying the police as a valuable ally through which to gain desired political outcomes.

This paper also acknowledges that all *crime* is in a sense political—but more so at various times in our history. What remains fairly constant is the attraction to crime rhetoric by the politicians. As Stuart Scheingold observed:

“Politicians in search of an issue have good reason to believe that campaigning on crime is good politics—at least if one takes a get-tough stand. Law enforcement officials are also well served by the fear of crime, since the result is frequently that more resources are directed to the agencies of criminal justice”.<sup>9</sup>

Bill Chambliss provides an analysis of the political dictate from New York. Rudolph Giuliani directing his Police Commissioner to establish a way of informing precinct commanders precisely where crime was occurring and to hold the precinct commander

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<sup>8</sup> Otwin Marenin. 1982. “Parking Tickets and Class Repression: The Concept of Policing in Critical Theories of Criminal Justice” *Contemporary Crises*, 6, Amsterdam: Elsevier Sc. Publ. pp. 241-266 and J. Gerry Woods. 1973. *The Progressives and the Police: Urban Reform and the Professionalization of the Los Angeles Police*, Ph.D. University of California, LA.

<sup>9</sup> Stuart A. Scheingold. 1984. *The Politics of Law and Order: Street Crime and Public Policy*, NY. Longman.p.xii.

accountable for reducing the crime in his/her precinct. As Chambliss says: “In what can only be considered a miracle, crime rates began to decline...By the late 1990’s the rates were heralded as demonstrating the success of get-tough laws.”<sup>10</sup> Following this success in NY, Police Chiefs in other big cities across the US were pressured into replicating the NY strategies. This politically driven campaign was politically extremely useful and useful to the police in terms of gaining large increases in resources. The ‘euphoria’ was dampened only after the fact by evidence of police manipulation of crime data to produce these lower crime rates and the realization that other factors such as demographics played a significant role.

The ‘mix’ of a tight political agenda that coincides too closely with a policing agenda typically does not bode well for effective enforcement. In identifying the need to ‘dampen’ political rhetoric, Ted Gest concludes that the “orgy of emotional but largely hollow and oversimplified talk” must be turned into rational decision-making”.<sup>11</sup> We see also, in Canada and internationally that in political terms, some segments of our communities are more expendable and more easily exploited in the pursuit of organizational gains.

The objective of this paper is therefore to illustrate the complexity of the relationship between policing and politics and in the process to suggest how the truth of the relationship might be built into the formal policy, legislative and accountability mechanisms.

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<sup>10</sup> William Chambliss. 2001. *Power, Politics & Crime*, Westview. P. 41.

<sup>11</sup> Ted Gest. 2001. *Crime & Politics: Big Government’s Erratic Campaign for Law and Order*, Oxford Univ. Press, p. 270.

## Criminological Literature

Adherence to a rhetoric of police independence rests on a belief in a number of contradictory notions. Few criminologists have argued stronger for a serious look at the police-and-politics relationships than Robert Reiner:

“Most police officers stoutly maintain that policing and politics don’t mix. ...it was an important part of the legitimating of the British police in the face of initial opposition that they were non-partisan. This notion of the political neutrality or independence of the police cannot withstand serious consideration. It rests on an untenably narrow conception of ‘the political’. Restricting it to partisan conflict. In a broader sense, all relationships, which have a power dimension, are political. Policing is inherently and inescapably political in that sense.”<sup>12</sup>

As Al Reiss points out<sup>13</sup>, the police must maintain the status quo (whatever it may be) until it is changed by legitimate political authorities. The police will therefore enforce whatever is the political stand at any moment but must change with each change in political view, while remaining political neutral. Supposedly therefore, policing involves political-related decisions with limited political involvements.

Part of the justification for police independence is seen to rest on the ideological notion of community accountability—the idea of the police officer being a citizen-in uniform. Rowan and Mayne, the first Commissioners of the ‘new’ police force in London were determined that the new force “ would be, in fact, but be believed to be, impartial in action” and that the best way to gain this impartiality was via the creation of a “political

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<sup>12</sup> Robert Reiner *The Politics of the Police*, Oxford Press, 2000. P. 8-9.

<sup>13</sup> Al Reiss. 1982. “Forecasting the Role of the Police and the Role of the Police in Social Forecasting” in *The Maintenance of Order in Society*, ed. by Rita Donelan, for The Canadian Police College, pp 132-150.

neutral, well-trained and disciplined professionals”.<sup>14</sup> In challenging the reader to look critically at the independence of the police Michael Brogden states:

“The ideological picture of accountability to the law is bound-up with an apparent duty on police officers to remove all vestiges of political direction and control, which they interpreted as control by constitutionally elected authorities. ...an ideological view of policing that ignores the material practices of police work in British society, and represents a partisan conception of police-class relations (masked under the social construct of the community).” (p. 123)

This paper will draw from the historical record, recent trends, and criminological theory to examine the operational links (formal and informal) between policing and politics.

Among a very large literature, the following names stand out: Al Reiss, Peter Manning, C.D. Robinson, J.Q. Wilson, Otwin Marenin, R. Reiner, M. Brogden and J.P. Brodeur.<sup>15</sup>

Some of the policing criminological theorists talk in extremes, or pure types. Either the literature presents the ‘automaton’ view that the police are a mere arm of the state, carrying out orders from some elite group, or groups, or conversely the view that the police are totally independent and that policy and operational issues never mix.

In between there are a couple of alternative positions—one is that the police can on occasion serve as the pawns of the state (scape-goats, or lightning rods) who must take the blame for political decisions and for larger societal conditions that are in fact determined at the political level. Richard Rianoshek described for example the riots in the United States in the 1960’s and 1970’s. In these cases, the activities of the police were basically dictated by circumstances that had been determined by government decisions,

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<sup>14</sup> Commissioners Rowan and Mayne to J. Scanlon, March 2, 1842, mepol 1/41, letter 88301. Quoted and discussed in Wilbur Miller. 1973. *The Legitimation of the London and New York City Police, 1830-1870*. Columbia University Ph.D. History dissertation. P. 56.

<sup>15</sup> Much of the research pertaining to the Toronto Police is taken from my graduate research—Margaret E. Beare *Selling Policing in Metropolitan Toronto: A Sociological Analysis of Police Rhetoric 1957-1984, 1987*. Columbia Ph.D.

followed by citizen responses to those decisions that left no alternative policing options.

He stated:

“In this situation the police served as a social scapegoat, because their highly visible ‘brutality’ directed attention from the real source of the protest movement and the riot growing out of it”.<sup>16</sup>

Perhaps the most compelling description sees the ‘independence’ of the police serving like a mask that can be slipped on and off as needed. C.D. Robinson uses this description when discussing the bonds between the mayor and the police and argues that this was the actual political role of the police:

“...to accept the punishment that might otherwise be received by others...police serve as the convenient scapegoat for a variety of error, ineptitude, malfeasance, misfeasance, non-feasance, committed or permitted”.<sup>17</sup>

Mann and Lea quote from Thomas Becket: “Will no one rid me of this troublesome priest?” In this form, it is a mere statement without a specific written order that provides perfect deniability of responsibility if the query is taken up by some underling—especially if it results in controversy and blame.<sup>18</sup>

There are very real ties that connect the police to the governing body and claims to the contrary—and claims of an independence outside of these ties—may result in a situation where no one takes responsibility and no one can be held accountable. J.P. Brodeur<sup>19</sup> cites the example from the McDonald Commission where after receiving explicit leads

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<sup>16</sup> Richard Rianoshek “History, Ideology, and the Practice of Policing”, paper presented at the *American Society of Criminology* meetings, Denver Colorado. Nov. 10, 1983, P. 7.

<sup>17</sup> C.D. Robinson, “The Mayor and the Police: The Political Role of the Police in Society” in G.L. Mosse *Police Forces in History*, London, sage 1975. p. 278.

<sup>18</sup> Edward Mann and John Alan Lee. 1979. *RCMP: The RCMP vs. The People*, General Publishing Co. Don Mills, Ontario. p. 101.

<sup>19</sup> McDonald Commission, Canada 1981b. “High Policing and Low Policing” p. 282 *Understanding Policing*.

regarding RCMP crimes, the government appeared to prefer to insulate themselves with ignorance of the details of this lawlessness in order to justify inaction on their part. Likewise, the RCMP Commissioners can have a similar “need—not to know”.<sup>20</sup> In a related exchange concerning the then-Commissioner Simmonds regarding the possible evidence that the government had been aware and had sanctioned the RCMP ‘dirty tricks’ during the 1970’s, Commissioner Simmonds explained that he had not read the Nowlan Report (RCMP internal investigation into their Security Service’s ‘dirty tricks’) in order “to prevent myself from becoming enmeshed in actions” that occurred before he had become Commissioner.<sup>21</sup>

All of these views acknowledge, as stated by James Q. Wilson, that policing takes place “under the influence of a political culture, although not necessarily under day to day political direction”<sup>22</sup>. Most policing issues are of no particular interest to the state—neither the target of the policing action nor the nature of the incidents. Within these ‘zones of indifference’<sup>23</sup> the ideology of an autonomous police service can be true in fact as well as in belief. The situation changes when the state has a view. Again, as discussed by J.Q. Wilson, these ‘zones of indifference’ may quickly become areas of great political concern given increased political significance of the particular issue. If politics can dictate this balance—then the ‘zone of indifference’ cannot be equated with real independence. Not to paint a picture of police subservience, the reverse may also be true. The police will guard their own interests and while willing to be seen as merely taking

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<sup>20</sup> Edward Mann and John Alan Lee. 1979. *RCMP: The RCMP vs. The People*, General Publishing Co. Don Mills, Ontario. P. 99.

<sup>21</sup> *Globe & Mail*, January 10, 1978, quoted in Mann and Lee

<sup>22</sup> J.Q. Wilson 1974. “Politics and the Police” in Jack Goldsmith and Sharon Goldsmith *The Police Community: Dimensions of an Occupational Subculture* (Palisades Publ., California). p. 180.

<sup>23</sup> J. Q. Wilson *Varieties of Police Behaviour*, Harvard University Press, 1976 edition, p. 233.

instruction on some occasions, they may make these decisions based on their own perceptions of organizational or individual advantage.<sup>24</sup>

A thorough analysis of the ideology of political neutrality of the police has been done by Manfred Brusten who systematically examines each of the foundations upon which people claim the police to be politically neutral and concludes that not only is each claim false but that there is a danger in failing to determine the political views of the line officers since the political alignment of these officers may determine how they react in particular situations. In his research he argues that:

- *historically* the police came into existence because of a given political situation and that the ‘function’ as always been to maintain the existing political power structure;
- *structurally*, the argument that the police neutrally enforce ‘law and order’ ignores the fact that the status-quo is nothing more than a certain state of the power structure. Manifestations of dissatisfaction within society will likely be perceived as being counter to law and order and will be suppressed or at least ‘controlled’;
- *politically*, he argues that the view that sees the police as neutral instruments in a democratic government who may be used politically from time to time but do not make their own politics, ignores the role of political figures in appointing members of the policing regulatory boards, role of politics in the police union, and the existence of secret security units as an integrated part of regular police work. He concludes with the warning that behind this political involvement by the police, lurks political beliefs held by the police officers themselves which are as yet untapped by empirical research”.<sup>25</sup>

Resource dependency, renewal of the Chiefs’ contracts, fear of adverse publicity, socialization into a status-quo supportive culture—all of these factors mean that the police organization will see itself as a partner to their political masters. The higher up the chain, the closer to the master. As Peter Manning states:

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<sup>24</sup> O. Marenin. 1982. p. 257.

<sup>25</sup> Manfred Brusten “Securing the State: Politics and Internal Security in Europe”, *Working Papers in European Criminology, No.3 European Group for the Study of Deviance and Social Control*, 1982, pp 53-76.

“In practise...the police organizations function in a political context; they operate in a public political arena and their mandate is defined politically. ...Patterns of police and politics within the community are tightly interlocked. The sensitivity of the police to their political audiences, their operation within the political system of criminal justice, and their own personal political attitudes undermine their efforts to fulfil their contradictory mandate to appear politically neutral”.<sup>26</sup>

### ***Jean-Paul Brodeur’s “High Policing---Low Policing” Model***

Jean-Paul Brodeur’s thesis regarding *High Policing—Low Policing*<sup>27</sup> has made a significant contribution to the widely accepted concepts with which to differentiate ‘political policing’ from the rest (what he describes as the ‘policing of conspicuous signs of disorder including criminal policing’). Brodeur argues that the political component is a core ingredient of what he terms ‘high policing’—not a deviant aberration that numerous Inquiries, courts and other disciplinary mechanisms must eliminate and/or punish. As he states:

“High policing is actually the paradigm for political policing: it reaches out for potential threats in a systematic attempt to preserve the distribution of power in a given society”.<sup>28</sup>

His position is that increasingly the police in North America are operating according to this ‘High Policing’ paradigm and as he states: “The long arm of the law being, so to speak, curtailed in favour of the wide eyes of the police”.<sup>29</sup> High policing is further described by Brodeur as having 4 key characteristics:

- “Control’ is accomplished in part by the storing of intelligence that encompasses any source of intelligence that might further state policies;
- Powers extend beyond those as decreed by bifurcated systems that separate the powers associated with legislation, from enforcement and the sanctioning of offenders.
- Protection of the community may be secondary to the *use* of enforcement to generate more information and hence more intelligence. Brodeur states: “Crime

<sup>26</sup> Manning 1974 “Police: Mandate, Strategies and Appearances” *Criminal Justice in America* Ed. By R. Quinney. Little, Brown and Co.pp181-183

<sup>27</sup> Originally appearing in 1983: Brodeur J.P. “High Policing and Low Policing. *Social Problems* 30:507-520.J-P Brodeur. Revised 1982 ASC paper. “High Policing and Law Policing”. Taken from *Understanding Policing* ed. By Kevin McCormick and Livy Visano 1992, Canadian Scholars Press. Pp277-299.

<sup>28</sup> Ibid P. 285.

<sup>29</sup> Ibid P. 287.

is thus conceived as something which lends itself to manifold exploitation”, (P. 286)

- Extensive use of undercover agents and paid informers and a willingness to ‘advertise’ this strategy—with part of the motivation being the amplification of fear among the populous.

The difficulty comes from the concept of ‘political policing’, which at times appears to cover very diverse activities—i.e. as Brodeur acknowledges, from policing the conduct of politicians to national security policing. A further issue is the fact that the concepts that represent the crimes or threats that are being policed, such as ‘national security’, are to a large extent left up to the police and politicians to define in an arena of secrecy.

Brodeur acknowledges that the exploitation of crime for political advantage has a long history in police enforcement and he mentions specifically morality offences—prostitution, gambling, drugs and alcohol. As he states, brothels have long been a source of police intelligence gathering and extortion. Likewise, police discussions in Canada around issues such as the decriminalization of marihuana and other issues such as the handing over of traffic patrolling to private police get debated in part in terms of the loss of intelligence that is gained from the policing of these ‘offences’. The ability to stop and search currently is seen to provide information that in many cases has nothing to do with the traffic or the drug possession violations.

There appears to be three separate lines that feed into the increasing amount of ‘high policing’ if one utilizes Brodeur’s model. First, ‘low policing’ is gradually taking on the rhetoric and strategies more traditionally attributed to ‘high policing’. Hence a wide array of ‘normal’ criminal conduct becomes discussed in ‘threat rhetoric’—organized crime, drugs, illegal migration, all become threats to either national security or the

security of a section of an urban city. As an example, I shall demonstrate that within a large Canadian city, this ratcheting up of the potential impact from social problems and/or criminal incidents occurs *because of* the complex but increasing politicisation of the police—and not *visa versa*. Meaning, that in this category of cases, the politicisation does not occur in order to combat the threat but rather because of the potential for political advantage, the behaviour is defined as a threat. And in so doing, it justifies greater links to political interests. As Peter Manning argues:

“The matter of ‘political exigency,’ is of course highly flexible and is associated with the ‘high politics’ of policing (Brodeur). It comes into play in theory only in cases of declared national emergency, but the current situation suggests that a quasi-war can be declared by political fiat and congressional support for funding. <sup>30</sup> An active, democratic drama of policing, it seems, requires both opposition, i.e. forces that obstruct and oppose its strengths), well as negation, i.e. those forces representing the evil and the marginal. These latter, the forces against which the ‘good’ battles, in turn, have great flexibility, malleability and utility and can range from the reputedly dangerous ‘squeegee men’ of New York City under Mr. Bratton to terrorist threats to national security.” <sup>31</sup>

Second, the increasing use of surveillance and data collection and storage and the analysis of this information into intelligence may itself, according to Brodeur, transform policing from low to high policing as these ‘policing strategies’ come increasingly to resemble the political methods employed in ‘high policing’. I find this concern a little less compelling—at least at present in Canada. Despite decades of emphasizing the importance of information sharing and the need to make a commitment to analysis work in order to produce truly valuable strategic intelligence, the police remain to an extent at the mercy of the public sources which are collected and maintained elsewhere. The police

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<sup>30</sup> Manning footnote: The present Bush administration has arrogated the ground of debate by calling the present state (Jan 28, 2003) one of war, but it has not been declared. Whether this is a crisis in national security is presently being limply debated in the United States congress but not in the media.

<sup>31</sup> *Three Modes of Security* Draft paper prepared for the “In Search of Security,” conference sponsored by National Institute of Justice and the Law Reform Commission of Canada, Montreal Feb. 19<sup>th</sup>-23<sup>rd</sup>, 2003. page 3.

vow repeatedly to work better together/ share together etc. This is substantiated by

Manning who states:

“While networked information systems are growing and linked databases more likely to emerge as a result of the 9.11 disaster, my observations suggest that the complexity of information technology in policing has not been met by an increased capacity of the police and other agencies to use such devices to their own benefit”...Furthermore, the web of control across policing organizations is technically flawed on the ground because the data bases are not wedded or linked; the software is incompatible; the management information system is a hodge-podge of ad hoc arrangements assembled over the last thirty years, and the introduction of new technologies, geo-coded data, enhanced 911, 311 non emergency call systems, has created new complexity and incomplete linkages.”<sup>32</sup>

Now, a third explanation for an increase in ‘high policing’ may relate more specifically to ‘globalization’ (for want of a better word) that has propelled many aspects of law making and law enforcement into the international arena driven by agreements and conventions signed by governments—with hence a strong political link.

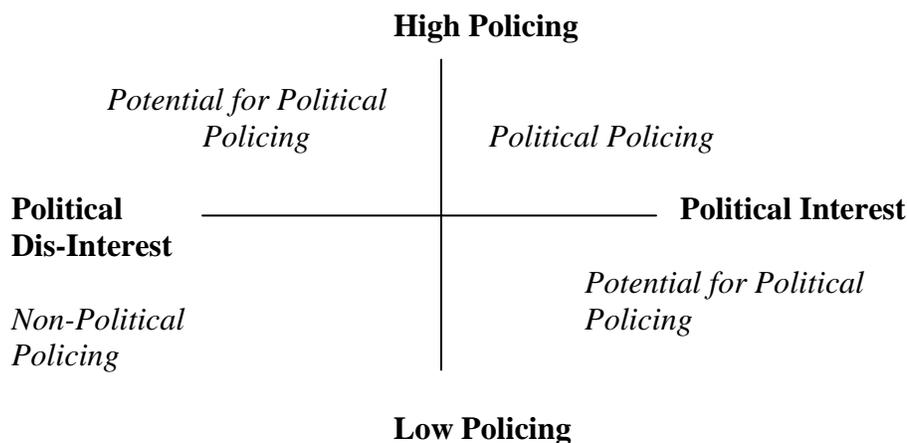
As described by Brodeur, the ‘high policing’ model typically employs a certain set of strategies, and typically is ‘political’ in the sense that the issues are seen to be relevant to governments and this relevance legitimates the intrusiveness of the strategies that are employed. The use of these strategies and the rhetoric that accompany them brings a much wider population of offences and offenders to the interest of the political masters. With the high policing model comes political interest and involvement. Therefore, it isn’t just the *cold* distinction between high and low policing but also how the state interprets the conduct—as ‘threat’ or ordinary criminal activity—with an appreciation that the political interpretation can shift quickly for reasons that have little to do with the actual

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<sup>32</sup> *Three Modes of Security* Draft paper prepared for the “In Search of Security,” conference sponsored by National Institute of Justice and the Law Reform Commission of Canada, Montreal Feb. 19<sup>th</sup>-23<sup>rd</sup>, 2003. p.11.

activity and/or may be a political response to ‘something going wrong’. A two directional model might represent the categories of criminal activity and the likelihood that they will generate political involvement and/or interference.

**Two Directional Model: Type of Criminal Activity being Policed  
and Likelihood of Political Involvement**



The final picture may be of a dialectic involving a policing organization with requirements and interests of its own, policing a society made up of varying classes with varying degrees of political, social and economic power, involved in matters ranging from critical concerns to ‘zones of indifference’. The result is a careful, but not always skilfully negotiated order, based on trade-offs, compromises and the occasional episode during which the public becomes aware of discretionary policing based on corruption, and pay-offs, discrimination and bias *or* political pressure—rather than objectivity, expertise and efficiency.

## **Law Enforcement in Politically Charged Contexts in Canada**

### *Lessons from History*

The historical record demonstrates the enduring and mutually advantageous nature of the links between the police and their political masters, from nation building and the suppression of dissent, to policy advancement more generally, to the current ‘security’ policing environment. The world—or at least the Canadian public—becomes alerted to these political interests and involvements into operational policing decisions only in cases that are made high profile and media worthy. This exposure is not restricted to any one specific type of incident—i.e. international in scope or national security /terrorism related etc—but rather almost any incident may become high profile by the fact that ‘something has gone wrong’. When things go ‘right’, it is business as usual—and ‘usual’ often involves a large amount of unofficial, unacknowledged, ‘invisible’ politization of police work.

Different forms of political influence and direction occur at the three different levels of government. This section begins at the federal level and works its way down, through the provincial arrangements to the local Metropolitan Toronto municipal level. All three levels are instructive in illustrating the ongoing and deep linkages between the police and political masters and the political process. The Royal Canadian Mounted Police are the Canadian federal police force and they serve ‘on contract’ in a municipal and a provincial capacity in various jurisdictions. Their influence in terms of policy compliance and policy making is significant. At the municipal level, this chapter focuses in some detail

on the Metropolitan Toronto police force, which is the largest Canadian urban municipal force—hence, our ‘biggest’ city police force.

### ***Federal***

The intent in this paper is not to provide a thorough analysis of the politicised role of the RCMP but rather to indicate that it’s beginnings and its current status is rife with political direction. In a detailed study of the relationship between the police and politics in great Britain, France, Germany and Italy, David Bayley argued that the role behaviour of the police in each country is a reflection of the:

“...purpose for which the force was created and the political culture of the country, especially the way in which authority is manifested by government officials”.<sup>33</sup>

He saw the police role being more clearly involved in state politics where there were particular difficulties in ‘state-building’—i.e. the process of penetration of a territory by a coherent set of institutions. He argues that violence and resistance must be seen to be ‘political’ before the police role will be expanded. Bayley’s focus upon violence might not be particularly relevant in the traditional sense of the word, but rather the Canadian state faced violence from geographical conditions. As June Callwood states: the country is illogical—it runs East and West whereas the rivers, mountains, commerce and people flow North and South.<sup>34</sup> Large scale state intervention was thought to be necessary both to protect the resources and territory as well as to develop and maintain the infrastructure

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<sup>33</sup> David Bayley.1975. “The Police and Political Development in Europe”, in Charles Tilly ed. *The Formation of National States in Western Europe*, Princeton NJ, Princeton University Press. P. 375.

<sup>34</sup> June Callwood. 1981. “What Canadians Care About”, *Toronto Star*, April 20, 1981, A. 12.

to transport and develop the raw materials.<sup>35</sup> There is general agreement that the Canadian state-builders perceived an immediate need to spread state control firmly and strategically across Canada.

Because of the interconnectedness of police and government, the evolution of the former has generally paralleled that of the latter. As government has become stronger, more coherent, centralized and interventionist (particularly in the twentieth century), so has the institution of the police. In many ways too, as government has grown, it has assumed greater control over the police. The evolution of government has also been a history of the evolution of policy-making. While it has not always been clear cut, in gradually bringing the police under control, the government has been able to enlist the police in accomplishing its policy objectives.<sup>36</sup>

There are very few detailed Canadian case studies that trace the introduction of the 'new' police into Canada. However, two academic studies<sup>37</sup> on the Northwest Mounted Police (NWMP) trace their arrival in the Yukon and the transformation of law enforcement that occurred between the years 1885-1899 and serve to supplement the literary accounts that were often written by the police or government officials. Both Morrison and Stone make the argument that the prime reason for the arrival of the Mounties (North West Mounted Police) into the mining communities during the late 1880's had little to do with improving the administration of justice. The Miners Meetings were deemed to be quite

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<sup>35</sup> See S.D. Clark . 1962. *The Developing Canadian Community*, University of Toronto.

<sup>36</sup> From personal conversations with Tonita Murray.

<sup>37</sup> Thomas Stone "The Mounties as Vigilanties: Perceptions of Community and the Transformation of Law in the Yukon 1885-1897" *Law and Society Review*, Vol.14, No.1 Fall 1979; W.R. Morrison, "The Northwest Mounted Police and the Klondike Gold Rush" in G.L. Mosse (ed.) *Police Forces in History*, Sage, California 1975.

successful at establishing and maintaining a sense of order to the communities. Rather the prime reason for their arrival was not to serve the residents but rather to protect the territory, especially due to fears of a takeover from the United States. According to Morrison:

“This system (Miners meetings) was bound to come into conflict with that of the Canadian Government which saw its distant possessions not as crucibles of self-government but as communities to be put under the benevolent but complete control of the central government”.<sup>38</sup>

Once the NWMP entered the North, representing the central government, the old Miners meeting system was doomed. Similar to the arguments made by Alan Silver, Wilbur Miller and Eric Monkkonen,<sup>39</sup> regarding the experiences elsewhere, the same was true in Canada—legal agencies such as the police perform an *instrumental* function as well as a *symbolic* function. The history of the North-West Mounted Police is in many ways an account of how it made effective use of both its symbolic and instrumental functions to further the sovereignty aims of the Canadian government. The legitimacy of the Mounties reached ‘beyond the creeks’, back to wherever the miners and adventurers might choose to settle. This degree of legitimacy was only attached to the Mounties who served as an extension of the central government.

The Northwest Mounted Police stepped in to reconfirm, via law enforcement, not local community values, but rather the control of the central government over the territory. It follows that when the first Inspector, Charles Constantine went into the Yukon region, he

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<sup>38</sup> W.R. Morrison . 1975. *ibid* p. 264. Quoted in M.E. Beare. 1987. *Selling Policing in Metropolitan Toronto: A Sociological Analysis of Police Rhetoric 1957-1984*, Columbia Univ. Ph.D. p. 45.

<sup>39</sup> See A Silver “A Demand for Order in Civil Society: A Review of Some Themes in the History of Urban Crime, Police and Riot” in D.J. Bordua ed. *The Police: Six Sociological Essays*, John Wiley and sons, 1967; Wilbur Miller *The Legitimation of the London and the New York City Police 1830-1870*. Ph.D. Modern History, Columbia University; Eric Monkkonen. 1981. *Police in Urban America 1860-1920*. Cambridge University Press.

was instructed to go, not as a police officer, but rather as an 'Agent of the Dominion Government'<sup>40</sup> Therefore, during Post-Confederation period, the desire for territorial expansion on the part of the Canadian government, led to the formation of the North-West Mounted Police ostensibly to settle conflicts in the west, but just as purposefully if more discreetly to prepare the way for settlement and deter American plans for expansion. In contrast with the western United States, the Canadian prairies were governed and policed *before* they were occupied by settlers on any large scale. The police led the way for an array of other government officials and agents.

As late as the 1940's, the voyages of the RCMP ship *St. Roch* through the Northwest Passage served to show the Canadian flag. For a short period in the 1980's, the Canadian government was again concerned over the protection of her sovereign territory with the passage of American oil tankers and Russian submarines through the Northwest Passage. As one gesture of sovereignty among others, the Solicitor General of the day, accompanied by the Commissioner of the RCMP, flew to the remote RCMP detachment of Resolute Bay close to the Northwest Passage to present a plaque commemorating, in French, English and Inuituk, the voyages of the *St. Roch*.<sup>41</sup> Even today, as the sole permanent representative of the Canadian government in many remote areas of the Canadian north, the RCMP is still fulfilling a sovereignty role.

It was of course not only the European settlers that the early Canadian police ruled. The Indian and Eskimo in Canada's northern areas were also brought quickly under the sovereignty of the State. The Mounties assumed duties as diverse as running the

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<sup>40</sup> Stone. 1979. Quoted in M.E. Beare 1987 p. 46.

<sup>41</sup> Tonita Murray, correspondence.

penitentiary for prisoners and lunatics, managing the post office, accompanying the tax collector, and enforcing customs and gold smuggling laws. Therefore, the police played prominent roles in furthering government policies on:

- the maintenance of order
- the imposition of temperance and prohibition
- the assertion of sovereignty
- the assurance of national security
- administration and regulation of government business and statutes
- the 'control of crime'
- the provision of services to the public

A similar pattern occurred elsewhere in Canada. On the northwest frontier, the RCMP fought prairie fires, arbitrated disputes between settlers and native people, delivered mail, provided information, supplies and veterinary services, identified and controlled epidemic diseases, helped new settlers adjust to pioneer life and distributed food and clothing to native people during times of hardship. Likewise in northern Ontario, the provincial police responded when disaster occurred. They were mobilized by the government when, between 1911 and 1922, there were a number of devastating forest fires which destroyed millions of acres of forest, consumed whole towns, killed over 250 people and left thousands of families homeless.

The order problems outside of the municipalities grew as Canada began to expand economically. Migrant men building canals and railways, or attracted to the gold rushes in Northern Ontario, British Columbia and the Yukon Territory were a destabilizing force and frequently an actual threat to order. Governments created or enlarged existing policing mechanisms to control such situations.

Poor working conditions led to the formation of unions, organized strikes and demonstrations. Among the most notable of these was the Winnipeg General Strike of 1919. While the policy of the leadership was non-violent, the strike was portrayed across the country as a Bolshevik uprising. After six weeks of strike, the federal government ordered in the militia and the Royal North West Mounted Police (RNWMP). They broke up what began as a peaceful march and, in the confusion that followed, one spectator was killed and thirty wounded. Another major incident was the *On-to-Ottawa Trek* in 1935 in which 1,300 unemployed men left Vancouver for Ottawa to protest on the grounds of Parliament. They were stopped at Regina by the RCMP, on orders of the Prime Minister. Riots ensued, which resulted in many injuries and the death of a member of the RCMP.<sup>42</sup>

During the 1920's and 1930's, the Marxist 'threat' was seen to be entwined with the labour movement in Canada. The labour unrest took place against a backdrop of rising government fear of the radical socialism that had appeared in Europe. Many of the activists were immigrants; thus, immigrants, organized labour, radicalism and subversion became linked in the popular mind. With government policy firmly against agitation, the police broke up strikes and arrested the leaders. They earned, as a consequence, the enmity of organized labour who saw the police as strikebreakers, xenophobes and capitalist hirelings. For their part, the police were following the policy of governments who regarded labour unrest as a movement to subvert Canada. Police showed little opposition to unionism itself<sup>43</sup> and personal accounts of police of the period indicated

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<sup>42</sup> Correspondence with Tonita Murray.

<sup>43</sup> Marquis, Greg. 1993. *Policing Canada's Century: A History of the Canadian Association of Chiefs of Police*, Toronto, University of Toronto Press. pp. 112-115.

some sympathy for the unemployed.<sup>44</sup> Both governments and police, however, demonstrated an inability to distinguish between dissent and subversion<sup>45</sup>, and so they tended to perceive the threat as greater than it was. The RCMP continued to be responsible for national security matters until 1984 and of course their role changed again post 9/11 and the new Canadian anti-terrorism legislation.

Jumping from the earlier history to the recent, there has been a continuing blurring of federal policing and politics. There are two ways of analysing these linkages— tracing the changes that have occurred structurally and in terms of management within the RCMP, or on a case-by-case basis capture the ‘moments’ when political interference has been more clearly illustrated. Unfortunately, there is neither time nor space to thoroughly catalogue the political aspects to the federal police following either of these methods. However some controversial decisions will be acknowledged.

Regardless of your political persuasion something fundamental changed within the RCMP following the term of Commissioner Simmonds. The next Commissioner, was Commissioner Norm Inkster. Whether the changes were part of a deliberate plan by Norm Inkster, merely allowed to happen during his term, or the result of influences elsewhere that by happenstance coincided with his term as Commissioner, we may not know. What we do know is that when we are looking at the politicisation of police work, the personality and aspirations of the key ‘players’ must not be ignored. While this is perhaps most evident at the municipal level where the police chief and the politicians

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<sup>44</sup> Lynne Stonier-Newman 1991. Policing a Pioneer Province: The BC Provincial Police, 1858-1950, Harbour Publishing, Madeira Park, BC, pp. 192-198.

<sup>45</sup> Keith Walden, 1982. Visions of Order: The Canadian Mounties in Symbol and Myth, Toronto, Butterworths.

may be duking-it-out on the front pages of the local papers, in a less visible manner, the same is true for the RCMP and *perhaps* with greater consequences for the wider administration of justice.

Paul Palango, in two volumes<sup>46</sup> makes the argument that the RCMP, particularly following the McDonald Commission in 1981<sup>47</sup>, was increasingly seen as problematic by the federal government and therefore as an institution that required being politically controlled.

“While Ottawa says it has simply been trying to be fiscally responsible, almost every move it makes seems intended to destabilize and demoralize the proud and loyal members of the RCMP. They know that, to be effective law enforcement officers, they must be independent of government, but almost to a man or woman these days, Mounties feel they have become subject to political control. The rule of law has been subverted by the rule of politics”.<sup>48</sup>

Palango works his way through the various political scandals and the RCMP handling, or not handling of them.

A different interpretation of events would perhaps be that the RCMP was being treated in a manner similar to the rest of the federal government departments—i.e. stripped of personnel and budget and asked to do, not ‘more with less’, but rather ‘less with less’.

Across government, departments were forced to undergo an intense exercise in identifying ‘core’ responsibilities and making decisions as to what could be/ should be contracted out or dropped entirely. It could be argued that during this period, working under these circumstances, meant that the initiatives of all departments were being

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<sup>46</sup> Paul Palango 1994. *Above the Law*, McClelland and Steward, Toronto; *The Last Guardians: The Crisis in the RCMP...and In Canada*, 1998. McClelland and Steward, Toronto.

<sup>47</sup> Canada, Commission of inquiry Concerning Certain Activities of the Royal Canadian Mounted Police, *Certain R.C.M.P. Activities and the Question of Governmental Knowledge*, Ottawa, Ministry of Supply and Services, 1981.

<sup>48</sup> Paul Palango. 1998. *The Last Guardians*, McClelland and Steward, Toronto, p. 291.

determined by central government more so than at previous times. Whatever the explanation, this period of certainly rife with politically related incidents, while the merits of—or even the reality of—the shift toward a close political influence may remain debated. The highest profile cases involving accusation of political interference involved Senator Cogger and Doug Small.

Senator Michel Cogger accused the RCMP of bias in their investigation of his activities—including allegations of fraud, payments for lobbying and money laundering. Commissioner Inkster set up a one-man Board of Inquiry under René Marin to investigate Cogger's claims. Again, the accusation by Inkster's critics was that it was unheard of to hold an inquiry while a police investigation was on-going and that by doing so, the police investigation was jeopardized—perhaps deliberately so. As an afterword, this Tory senator was convicted of accepting more than two hundred thousand dollars from an entrepreneur who wanted government contracts. He remained in the Senate, collecting his salary. In a second incident, Doug Small from Global Television, obtained a copy of the federal budget that was to be released the following day and held it up on the dinner-hour news case on April 26<sup>th</sup> 1989. Charges for possession of stolen goods were laid against the journalist, even though, according to a complaint brought against the Commissioner and the Deputy Commissioner, “the RCMP knew or ought to have known that no crime had been committed”<sup>49</sup>. Prime Minister Mulroney was calling it a ‘criminal act’. The media immediately claimed that the charges were politically motivated.

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<sup>49</sup> Office of the Commissioner for Federal Judicial Affairs, [1994], 2F.C. 562. *In the Matter of Parts VI and VII of the RCMP Act, R.S.C. 1985, c. R10, as amended by S.C. 1986, c.11.*

To some critics, Inkster came to see himself during his time as Commissioner (1987-1994) as an *actual* Deputy Minister, rather than of Deputy Minister rank. He was politically sophisticated and moved easily among the type of people who populate the upper echelons of the political and international social classes rather than among police officers—even senior police officers. Palango quotes Inkster’s response to accusations that the RCMP was becoming too political and too open to political interference:

“Ironically, however, there is a growing trend to interpret this changed relationship with government not as an enhancement and a further contribution to the development of public policy, but rather as a growing intimacy which allows the force to respond to political pressures and influences. Any interpretation of this changed relationship which infers that the force can be used as a vehicle for political partisan purposes is sadly inaccurate and one I find totally unacceptable.

Since 1985 the force has investigated over 30 cases involving persons appointed or elected to parliament. ...Most of these investigations have been carried out amidst great public debate. Yet in each case I can find no evidence that members of the force did other than their duty without fear, favour or affection of or towards any person. ...”<sup>50</sup>

In follow-up questions Inkster revealed that there were fifteen on-going investigations. In what might be seen as a ‘damned if you do and damned if you don’t’ scenario, the immediate result of this disclosure was further accusations that this statement had ‘warned’ those political suspects to get home and destroy evidence.

Deputy Commissioner Jensen and Assistant Commissioner Stamler are quoted as having had concerns that the federal police had become co-opted by the political process specifically under the Mulroney era. Weekly meetings with the Solicitor General of the day meant that critical information about ongoing investigations was being shared with their political masters. After Solicitor General Kelleher recommended Norm Inkster for

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<sup>50</sup> Norm Inkster, before the Standing Committee on Justice and the Solicitor General, December 12, 1989. Taken from Palango 1994. p. 289.

Commissioner to replace Commissioner Simmonds upon his retirement, Kelleher made his own Assistant Deputy Minister, Michael Shoemaker<sup>51</sup>—a civilian bureaucrat—Deputy Commissioner of the RCMP. The then Deputy Commissioner Hank Jensen maintains that Kelleher’s intention had been to make Shoemaker Commissioner but that Simmonds and Prime Minister Mulroney had stopped it. As Jensen stated:

“As the force became more and more bureaucratic in its approach, the government was able to exercise more and more control over the operations of the RCMP...My quarrel with Inkster and Shoemaker is not that they made the force more business-like, but they made the RCMP an agency of government. They politicised it.”<sup>52</sup>

The expressed intent of the introduction of people like Michael Shoemaker was to form a bridge between the RCMP and Treasury Board, Privy Council and the Machinery of Government people. While the merits or motivations of appointing anyone to the Deputy Commissioner position from outside can be debated, Shoemaker was an intelligent man who had held senior positions in the Ministry that dealt with policing. By the time Kim Campbell was Prime Minister, in a fevered bid to remain in power, government departments across Ottawa—including the RCMP—appeared to be there specifically to serve their Ministers rather than the people of Canada.<sup>53</sup>

The interactions during the 2004 ‘sponsorship scandal’ illustrate several aspects of this ‘closeness’ to politics. First is funding. According to the Auditor General’s report the RCMP basically ‘laundered’ \$1,704,000 through the sponsorship programme in order to buy horses, trailers, and increase their operating budget to compensate for the additional

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<sup>51</sup> Michael Shoemaker served under Commissioner Norm Inkster.

<sup>52</sup> Hank (Henry) Jensen, quoted in Palango. 1998. *The Last Guardians*, p 135.

<sup>53</sup> Our role below the Deputy Minister *previously* had been ‘protected’ from politics. We were to serve our particular stake-holders—in our case at the Ministry of the Solicitor General, we were to serve the public in general and the police etc. *and in so doing* the Minister would be served.

expenses incurred during the RCMP 125<sup>th</sup> anniversary celebrations.<sup>54</sup> This money travelled from the Communications Co-ordination Services Branch (CCSB) to three ‘Liberal-friendly’ Montreal ad agencies who charged \$1,326,290 for passing this money on to the RCMP. The RCMP then opened a separate non-government bank account to house this money. This act plus the fact that the funds were not transferred directly to the RCMP, supports the contention that the police were willing partners to a wider exploitation of governments funds allotted for political reasons to Quebec and seemingly also to the RCMP. Ironically of course it is the RCMP that is responsible for investigating the alleged abuses to the Sponsorship Program. Lawrence Martin asks:

“Once implicated in the Adscam Scandal, were the Mounties then intent on covering it up? Back when the abuse of sponsorship monies first came to light in March 2002, the Alliance Party, through Rahim Jaffer, wrote to the RCMP requesting that it investigate the serious allegations. No action was taken. A couple of months later, Greg Weston of the Ottawa Sun contacted force headquarters to ask why not. The RCMP told him it was because they hadn’t received a complaint. Given the Jaffer referral, Mr. Weston thought this was a rather perplexing response.”<sup>55</sup>

After the whole situation blew up with great media coverage, the RCMP then claimed that their investigative efforts were being threatened by the insistence of the Parliamentary Inquiry to order the appearance of specific officials and the calling of witnesses. They claimed, perhaps correctly, that this Inquiry process, in advance of the development of the police case, could affect the police investigation.<sup>56</sup>

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<sup>54</sup> *Report of the Auditor General*. 2003. “Government-Wide Audit of Sponsorship, Advertising, and Public Opinion Research”, pp. 19-20.

<sup>55</sup> *Globe & Mail* “Police Force or political force? Our most respected, iconic law enforcers seem to have been more helpful to Jean Chretien’s government than to its critics” by Lawrence Martin March 18, 2004 pA19

<sup>56</sup> *Globe & Mail*, April 21, 2004 pA1 “Mounties tell MPs to slow up ad probe: Sponsorship panel won’t pursue witness pending RCMP Investigation” by Daniel LeBlanc.

Obviously each of the separate political parties will have their own interpretation on the political ties of the federal police and it will not be my task to determine a definitive answer. However, there appears to be some objective evidence of linkages. The Quebec Superior Court ruling in the Francois Beaudoin case referred to the ‘unspeakable injustice’ of the RCMP raid on Mr Beaudoin’s home, golf course and cottage.

Beaudoin—the bank executive who hesitated to grant a loan to a friend of Chrétien—won his wrongful dismissal suit and was awarded his annual pension and severance package to be reinstated.<sup>57</sup> The Beaudoin case revealed how the Mounties worked with Michel Vennat (friend of Jean Chrétien) to destroy Francois Beaudoin, the former head of the Business Development Bank who had challenged the Prime Minister in what became known as the “Shawinigate File”.<sup>58</sup> This case involved the allegations of political influence in the requesting and obtaining of government loan’s to expand the Auberge Grand-Mère Hotel and golf course that had been previously owned by four friends, including the Prime Minister prior to being elected. The controversy rested on when he sold his shares and what influence and interests he still maintained in the business venture.<sup>59</sup> This Shawinigan controversy provided comparisons between the RCMP ‘diligence’ in pursuing ex-Prime Minister Mulroney in the ‘Airbus’ controversy versus the reluctance of the RCMP to persevere in the ‘Shawinigate Affair’.

The 1997 APEC case provides an example of an incident where accusations of political influence resulted in a thoroughly investigated inquiry. As Lawrence Martin states:

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<sup>57</sup> *CBC* “Shawinigate bank exec wins dismissal suit”, March 3, 2004.

<sup>58</sup> *Globe & Mail* March 18, 2004.

<sup>59</sup> *CBC* February 6, 2004 “L’Affair Grand-Mère”.

“The force’s independence from the political arm was seriously called into question...After investigating the controversy over freedom-of-speech abuses at the summit in Vancouver in 1997, a commission of inquiry concluded that the RCMP buckled to political pressure from the PMO when it manhandled protesters. Specifically the report targeted Chrétien heavyweight Jean Carle who was fingered in the Beaudoin case”.<sup>60</sup>

In 2001, Commissioner Zaccardelli dispelled all concern regarding political influence in the RCMP. When asked by Randy White, the Alliance House leader, whether or not he was ‘involved with the Liberals’, the Commissioner stated:

“I have absolute and total independence and that independence has never been challenged or questioned”.<sup>61</sup>

### ***Police Independence: Provincial versus Municipal Oversight***

Within Ontario, the struggle for independence of the police followed the high profile government corruption cases overlaid with organized crime ‘threats’ and the creation of the Ontario Police Commission in the early 1960’s. Often when we see example of the state involvement in police operations there is a prevalent ‘threat rhetoric’—the corrosion of society, organized crime, crime waves of one sort or another, political corruption and/or highly visible public disorder.

It was assumed that if police interest was insulated from direct interference by the municipal interests then the result would be the avoidance of conflict and an independent police service. As Allan McDougall stated:

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<sup>60</sup> *Globe & Mail*, March 18, 2004 p. A 19

<sup>61</sup> *Globe & Mail*, March 18, 2004.

“The existence of a Minister to protect the police interest is necessary for police insulation to continue and remain. The importance to the populace of an impartial police service subject only to the law and the courts for its law enforcement activity, provides the rationalization for the maintenance of that status. Threats such as the corrosion of society by organized crime, crime waves, political corruption, and the increased visibility of public disorder reinforce this need, and reaffirm the policeman’s belief in his mission.”<sup>62</sup>

Hence, according to his argument, the pressure for independence by the police interest at the expense of municipal responsibility plus the perceived ‘threats’ from organized crime and corruption were seen to justify—or were *used* to justify—the extension of provincial policy. Of course, there is some irony in the manipulation of the OC threat as an argument for the need for police independence via a move away from Municipal politics toward the provinces, in the fact that it was the corruption of an OPP officer (receiving bribes from gamblers in SW Ontario) that drove much of the hype and furore regarding the penetration of OC into Canada.<sup>63</sup>

Organized crime has always held a certain currency that elevates any discussion especially when it directly links to political embarrassment or advantage. During the early 1960’s scandals regarding organized crime and government corruption resulted in the Attorney General establishing an administrative agency to fight these ‘threats’ and to increase the efficiency of the police service in Ontario. The Ontario Police Commission was formed to assume responsibility for police policy. During this period the Canadian Police Information Centre (CPIC), the Canadian Police College (CPC) in Ottawa, Criminal Intelligence Service Canada (CISC), Forensic Laboratory Services, and the Identification Services were all developed or established.

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<sup>62</sup> Allan Kerr McDougall 1971. *Policing in Ontario: The Occupational Dimensions to Provincial-Municipal Relations*, University of Toronto Doctoral Thesis, April 16. p. 414.

<sup>63</sup> Ibid p.442

To protect the police from undue provincial interference, the establishment of a governing Board was intended to insure that the province would be reluctant to interfere with its operation. The assumption was that the existence of this board “provided some assurance that local politicians would not attempt to use their police department to their political advantage”.<sup>64</sup>

By the late 1960’s the Police Association of Ontario Annual General Meeting minutes recorded the beginnings of a rhetoric that acknowledges that while the police role was defined by the law, and their power was determined by it, their role of preserving the peace and protecting the life and property of the citizenry went beyond law enforcement to include discretion based on:

“ *commonly held social values and expectations...* Police Association started to sponsor the political values of citizen participation and local autonomy in an attempt to reduce legal restriction of the discretionary aspect of the police role”.<sup>65</sup>

This discussion on the wide discretion of the police provides us with our link into Municipal politics and municipal policing.

### ***Local Politics/ Municipal Policing***

The RCMP are not only responsible for federal policing but are of course the Provincial police in all but two provinces (with shared responsibilities in Newfoundland and Labrador), Yukon and Northwest Territories, and serve on contract as the Municipal

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<sup>64</sup> *ibid* p. 422

<sup>65</sup> *ibid* p. 441

police in 199 jurisdictions.<sup>66</sup> Different links to politics apply in each of these different situations. Chris Murphy argues that one of the reasons that some jurisdictions preferred to hire the RCMP on contract to do the local municipal level policing was because it removed the police from local politics. This reason may have been in addition to the fact that until recently the federal government subsidized these contract arrangements—at one time the federal government assumed 60% of the costs (then 70/30 and now at a cost recovery rate). Murphy quotes one Police Committee member as saying:

“Oh, it was just impossible with the old police. You’d always be getting calls from people saying why did the police chief drive so and so home and why you arrest my son...But with the RCMP you don’t get that kind of thing...”<sup>67</sup>

In addition to these sorts of complaints, there were also the ‘cozy or corrupt’ relationships between the police and the public where charges would be dropped and judges dismissed cases for friends. Some communities quite sincerely saw the policing of their communities very much as a ‘community service’ and therefore a service where the local political interests were seen as a legitimate priority for the police. The political links, in all of these forms was deemed to be closer between the politicians and the local independent police as compared to the RCMP. Being somewhat insulated from local politics did not however mean that the contracted RCMP were not susceptible to wider political pressures from Ottawa.

In this section I shall be looking at policing in Metropolitan Toronto. This study is by Canadian standards a study of ‘big city’ policing. The history of the Force/ Service reveals a complex network of interdependent relationships between the police and

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<sup>66</sup> *Organization of the RCMP* [http://www.rcmp-grc.gc.ca/html/organi\\_e.htm](http://www.rcmp-grc.gc.ca/html/organi_e.htm) (accessed August 9, 2004)

<sup>67</sup> Christopher J. Murphy. 1986. *The Social and Formal Organization of Small Town Policing: A Comparative Analysis of RCMP and Municipal Policing*, Ph.D. Thesis, Centre of Criminology, Univ. of Toronto.

politics—a varying but continual pattern of mutual-exploitation between political and the policing organizations. The data for this section was obtained from a qualitative and quantitative ‘mapping’ of the relationships pertaining to the police.<sup>68</sup> The intention is to trace and reveal the *context* within which the police interact with politics rather simply pin-point *incidents*.

The issue of the relationship between the police and politics has been debated in Toronto from the days of the amalgamation of the thirteen separate municipal forces into one in 1957 to the present. A number of concerns that were first raised in 1957 later developed into larger political issues concerning the relationship between the Chief of Police and the Chairman of the Board of Commissioners of Police, and in some cases the Chairman of Metro Council and the Mayor. The policing establishment survived and grew along with the political careers of newsworthy political figures via the recruitment of policing resources to execute the various ‘clean-ups’ and ‘crack-downs’. These operations ranged in size and intensity during the history of the Toronto Police from minor pet peeves of those with influence, to massive campaigns.

Metropolitan Toronto follows the Canadian model of having non-partisan local government. Political parties are not *supposed* to have active role in running the councils and they do not compete as parties for local council seats. Having said that—the first Chairman of the Metropolitan Toronto Council was Frederick Gardiner. ‘Big Daddy’ Gardiner had been a corporate lawyer, a former Reeve of Forest Hill and the former Vice-

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<sup>68</sup> See M.E. Beare *Selling Policing in Metropolitan Toronto: A Sociological Analysis of Police Rhetoric 1957-1984*. Ph.D. thesis, Columbia University, 1987.

President of the Ontario Conservative Association.<sup>69</sup> In addition to membership on the Executive Committee, Gardiner attended sessions of the four Standing Committees, served on 17 of the 18 Special Council Committees, and insisted on being appointed to the first Board of Police Commissioners. As Colton describes Gardiner:

“Part tyrant, part showman, and part Philistine, Gardiner was the biggest story in town. His control over the metro agenda, his sense of theatre and timing, and his capacity for distilling a controversy into a pungent phrase (hysterical historical societies, the symphony played on a cash register, shovelling fog with a pitchfork...) made for eye-grabbing copy and by-lines.”<sup>70</sup>

Gardiner’s political ties serve as a good example of the early and continual presence of informal political pressures in the operation of the local governments—and specifically in the operation of the local police. In some ways, the political ties of someone like Gardiner were at least apparent and predictable. What we see when we analyse the operation of the Toronto police over a thirty year period is a sometimes more subtle—but continual—pattern of political influence.

The first amalgamated Toronto Police Chief John Chisholm, repeatedly asked his colleagues and trusted friends what Charles (Bob) Bick’s *real* role was as Chairman of the Police Commission. His view was, that with Bick as chairman of the Police Commissioners, and the right hand man to Gardiner, and Gardiner closely tied to the Tory party, surely there were planning a take-over of the police.<sup>71</sup> In the temporary police headquarters at King and Church Street, Bick’s office was directly above the Chiefs with Bick frequently buzzing the Chiefs—in turn Chisholm, Mackey and

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<sup>69</sup> Timothy J. Colton. 1980. *Big Daddy: Frederick G. Gardiner and the Building of Metropolitan Toronto*, University of Toronto Press. See particularly pp 77-89.

<sup>70</sup> *Ibid* p. 149.

<sup>71</sup> Interview with Jocko Thomas, Courts Bureau Reporter for the *Toronto Star and CFRB*, July 4, 1983.

Adamson for consultation.<sup>72</sup> Bick held 10:30 am *daily* conferences with the Chiefs to ensure that the Commission policies were being carried out—appropriately.

An editorial discussed the issue of who should be ‘boss’—the Chief of Police or the Chairman of the Police Commission: The conclusion of course was that Bick should be ‘boss’. However, even Bick’s role as ‘boss’ was compromised. Bick had served with Gardiner on the original metro executive Committee. When Bick became Chairman of the Police Commission, Gardiner as Chairman of Metro Council had a seat on the Police Commission. Even though Gardiner is quoted as having said: You run the police and I’ll run the Metropolitan Council, by 1958 Gardiner was publicly demanding that the Toronto police “stop using powder-puff tactics with criminals and be prepared to shoot fleeing bank robbers, to kill.”<sup>73</sup>

While few Chiefs are actually driven to despair by the fact of the role of the Chairman of the Police Commission—with the possible exception of McCormack under Susan Eng—Chief Chisholm was deeply distressed. After haunting Bick at his cottage and acting wildly out of character, he phoned Jocko on the morning of July 4<sup>th</sup> 1958 to say “Chief speaking Jocko, special meeting of the Board at 12 noon—keep in touch” and went to High Park where he committed suicide by shooting himself.<sup>74</sup>

Whatever the appropriate balance is between the Chief and the Chairman, the role of the Chairman’s position is clearly a powerful one and when there are political ties into the

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<sup>72</sup> *Toronto Star*, “Do Police Need a Full-Time Commission Chairman”? by Jocko Thomas, August 27, 1977, A-6 Metro News.

<sup>73</sup> Timothy Colton *Big Daddy*, p.88

<sup>74</sup> Interview with Jocko, July 4<sup>th</sup>, 1983. See also Jocko Thomas. 1990. *From Police Headquarters: True Tales from the Big City Crime Beat* Stoddart Press, pp 164-173.

holder of that position, they reach deep into policing. Bick remained in that position until 1977. The *Toronto Star* carried an article which suggested that there were three candidates being considered as his replacement. In all three cases, political motivations were identified as the reason for their candidacy. A reporter, Michael Best stated:

“The Police Commission deserves better than to serve as a bone-yard for tired provincial politicians or a convenient pasture for foes to be got out of the way”<sup>75</sup>

The police force did not immediately respond in the press and although the position had not *officially* been given to Phil Givens, the impending appointment was not well-received by the police. As Jocko Thomas reported:

“...nothing appears to have shaken the force in its 20 years as much as the threat that the job of head of the police commission is to be handled as a ‘political plus’.”<sup>76</sup>

The accusation is that a deal was made—and a peculiar deal it was. Givens was a Liberal rather than a Tory Conservative—therefore why would he be given this position as a political reward from Premier Davis? The answer seemed to be that the seat that he had successfully held—even against Mel Lastman—in North York was desired by the Conservative party. An appointment offered to Phil Givens would move him out of his riding with the result that a Conservative candidate might have a chance of winning. In fact they were successful. Tory candidate Bruce McCaffrey won the riding the Givens had given up. Givens was officially appointed and simultaneously made a judge since one of the three provincial appointments to the board had to be Provincial judge. The former chairman Bick, responded with the seemingly ultimate criticism—that political appointments to the Policed Commission was an ‘Americanization’ of the Metro Force. It

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<sup>75</sup> *Toronto Star*, April 25, 1977, C-6

<sup>76</sup> *Toronto Star*, May 19, 1977, p.1

was how blatant the Tory ‘deal’ was that troubled some critics. As was reported: “It would appear you get rewarded for what you don’t do as well as for what you do, do.”<sup>77</sup>

Every period in the history of the metropolitan Toronto police revealed a similar pattern of political deals that impacted the police—in most cases with at least the senior police agreement and often with the support of the Force as a whole. I am providing three example that reveal slightly different ways in which the police become ‘directed’ to police in certain prescribed ways by the political masters.

### **The ‘Hippie Threat’**

“These youngsters go out and they take these rides...[trips, *whispered Margaret Campbell*]...take these trips---that’s right---and they contribute nothing to society...My opinion is that they are all a bunch of bums—there’s no doubt about that opinion”. (Controller Allan Lamport <sup>78</sup>)

In the 1960’s we watched the police go from disregarding Yorkville as a location requiring targeting by the police—to a point of implementing the harassing move-along-tactics, saturating the area with undercover police, and assisting in directing fire-trucks down the pedestrian filled streets. This was all carried out to the beat of Controller Allan Lamport criticizing the ‘inactivity’ of the police, the courts, and the legislators for being slow to react to *his* calls for action. The police were initially quite vocal in maintaining that Yorkville was not a significant policing problem area. This all changed as the Yorkville Hippies were raised by political voices to the level of a moral panic. The driving force was not the police, but rather the politicians.

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<sup>77</sup> *Toronto Star*, “Politicians Divided on Givens Police Job”, August 25, 1977, B-1, Metro News.

<sup>78</sup> Controller Allan Lamport. 1967. Recorded at a Board of Control meeting and reported in the *Toronto Star*, September 21, 1967, p.41.

This era in Toronto—like several of the other periods, revealed that the defining of ‘dangerousness’ is not the simple prerogative of the police but rather involved all segments of the society that have the power to make their views known. While the police voice was non-existent at the beginning, the politicians (except for people like Donald MacDonald from the New Democratic Party) were developing a picture of an enticing, evil location that drew innocents to it. By June a *Toronto Star* editorial was critical of what was openly referred to as harassment of Yorkville by City Hall. Mention was made that Toronto developers were interested in putting high-rise buildings where the small coffee shops were located and the development would be impossible unless the city was able to expropriate large sections of Yorkville. Money, politics and the police make for a powerful combination.

Urged by Controller Lamport, the Toronto Board of Control decided to send extra policemen into Yorkville to check on ‘overcrowded living quarters’. *The Toronto Star* questioned why the City government did not care more about the involuntary overcrowding in slum areas rather than the voluntary overcrowding in Yorkville. Lamport’s response was that Yorkville was a ‘blot on the City’ and he accused the magistrates of ‘mollycoddling’ these youth. The interference of the Board of Control into matters of law enforcement was hereby supplemented by their interference into judicial decision-making. It was not until July of that year that the RCMP and the Toronto Police actively responded to Yorkville.

1967 was the year of the President's Crime Commission in the US and the rhetoric over the border was increasingly of drugs, and organized crime. Driven in part by the visits to Toronto of the US organized crime 'experts', the police began to link drug and 'mob' rhetoric with the Yorkville hippies. The next stage involved a partnership between the police and politicians in encouraging the use of old laws such as the vagrancy laws to pile up long lists of vagrancy charges. In addition, they created new licensing regulations that meant that any coffee house that charged admission had to be licensed as a public hall—which meant that as a public hall they had to close at 1:00am.

Eventually the police took a stand to resist at least some of the pressures from the politicians. Rights of citizens seemed clearly at risk during this period. In mid-summer Lamport argued that there ought to be an 8 pm curfew in Yorkville and that youths should have to carry curfew cards. The Police Commission rejected these ideas plus they rejected his plan to create a special police outpost in the 'hippie' area.<sup>79</sup> The editorial the following day stated:

“He wants to turn Toronto into a miniature police state to get a few ‘pot’ and ‘acid’ heads...not even the police share his alarm”.<sup>80</sup>

Initially urged on by the politicians to treat Yorkville as a 'threat', by August the police were being accused of brutality in their interactions with the Yorkville youth. By November, with winter coming the hippie 'problem' faded.

According to Chief Mackey the problems in society could be fixed by making Sunday school compulsory. Rather than this notion of a single agreed upon morality, the law

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<sup>79</sup> *Toronto Star*, “Lampy Fails to get Yorkville Curfew”, August 4, 1967, p.23.

<sup>80</sup> *Toronto Star*, “Yorkville Isn't Stalin's Moscow”, August 5, 1967, p.6

enforcement issues had never been so political: civil disobedience, marijuana, the sexual revolution, Vietnam. Law enforcement was itself an explosive political issue during these years.<sup>81</sup> The broader political nature of the Yorkville activities escaped Chief Mackey who linked the disorder to “world-wide moral breakdown”.

### **The ‘Yonge Street Clean-up’**

“It was in terms of the ‘doctrine of clear and present danger’ that the control agents operated and it was the logic of their own definition of the situation which forced them to escalate the measures they took and proposed to take to deal with the problem.” Stanley Cohen *Folk Devils and Moral Panics*<sup>82</sup>

Ten years later the politicians had a different policing cause to push. The history of the Yonge Street Cleanup represents a complex story of manipulation for political mileage, rather than as a response to community deterioration. The main ‘crusaders’ were the city politicians and most specifically Mayor David Crombie. Paul Rock outlines the characteristics of a successful moral entrepreneur for government policy change and the picture is one of steadfast focus upon one single issue, endless speeches, writing and commitment to one concern.<sup>83</sup> David Crombie’s behaviour qualifies as a moral entrepreneur in Rock’s sense. Yvonne Chi-Ying Ng traces some of the political manoeuvring around the Yonge Street ‘crisis’ and quotes an advisor to Crombie declaring that following the death of the twelve year old shoe-shine boy, Emanuel Jaques, they no longer had to search for an incident to lend support to their clean-up campaign:

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<sup>81</sup> *Globe & Mail* “Law Beyond the Law” January 31, 1969.

<sup>82</sup> Stanley Cohen *Folk Devils and Moral Panics: The Creation of the Mods and Rockers*, Martin Robertson, Oxford, 1980, P. 87

<sup>83</sup> Paul Rock. *A View from the Shadows: The Ministry of the Solicitor General of Canada and the Making of the Justice for Victims of Crime Initiative*, Clarendon Press, Oxford 1986.

“Ironically, we didn’t have to develop one. The murder accomplished that. Three weeks ago Crombie was a fascist for trying to clean up the street; now he’s ineffectual for not doing it sooner”.<sup>84</sup>

Not unlike the Yorkville clean-up/ clean-out political activity, lurking behind the Yonge Street crusade were political ambitions in partner with economic interests that felt themselves better served by the replacement of the sex shops with ‘legitimate’ businesses. In 1977, the large Eaton’s centre complex opened in the middle of the controversial strip. Eliminating the existing residents and clients was the larger aim. Rhetoric of crime, danger and dirtiness was the vehicle.

These objectives were advanced by the next phase, which involved evoking the dangers of organized crime to provide the final push. A committee of three aldermen was formed to study the situation and concluded the area was “...a dying business area dominated by organized crime.”<sup>85</sup> A former Ontario Attorney General (Allan Laurence) found that pornography in a bookstore was distributed by two major organized crime families in New Jersey and Louisiana.<sup>86</sup> The timing was perfect. Two days later, CBC’s *Connections* program on organized crime was released. The circle was complete. As Hall et al said: “Now the demons proliferate.”<sup>87</sup>

By the end of July 1977. City Council and the Mayor were launching a ‘major campaign’ on the downtown sex industry. The politicians used in part the justification that they had

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<sup>84</sup> Yvonne Chi-Ying Ng. 1981. *Ideology, media and moral panics: An Analysis of the Jaques Murder*, MA Dissertation, Centre of Criminology, U. of Toronto, November, 1981.

<sup>85</sup> *Toronto Star*, “Toronto’s Tenderloin and organized Crime” June 13, 1977, c-3

<sup>86</sup> *ibid*

<sup>87</sup> S. Hall, C. Critcher, T. Jefferson., J. Clarke and B. Roberts. 1979. *Policing the Crises: Mugging, the State and Law and Order*. London, Macmillan Press.

received over 400 letters from the public concerning the area—they ignored the years of attempting to convince the public as to those dangers via the media. So this time—we have the politicians saying:

“The community has indicated forcefully it’s time to do something about Yonge Street and we as the City must act”.<sup>88</sup>

Private meetings were held between Mayor Crombie, Attorney General Roy McMurtry and Deputy Chief Jack Ackroyd plus other city officials, the business community and the church. A ‘new plan’ was devised. They were using the term ‘council of war’ to describe their plans. Meanwhile the media was extremely critical of the draconic approach that was being developed. An editorial argued: “we are a society of laws, not a community where even well intentioned leaders can exercise arbitrary powers”.

In a dramatic fashion, Mayor Crombie sent a letter by car to Premier William Davis demanding ‘immediate action’. The Premier responded that he had ‘immediately’ sent the letter forward to the Attorney General’s office to be dealt with in the usual manner.

Crombie responds:

“In other words, Mr. Premier, our concerns about cleaning up the yawning cesspool on Yonge street are lumped together in an administrative review of municipal authority to license chestnut vendors”.<sup>89</sup>

Describing the Aldermen at a special meeting of city officials David Lewis Stein, reporter for the *Toronto Star* stated:

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<sup>88</sup> *Toronto Star*, “Crombie’s Answer to City’s Sex Shops: Lock ‘Em Up”, July 22, 1977. p.1

<sup>89</sup> *Toronto State*” Davis Dallying on Sex Clean-up: City”. July 26, 1977, B-1.

“...of course they all protested they didn’t want to go back to the bad old ‘blue-stocking days’. But the more they protested, the more they sounded like as committee of zealots looking for a witch to burn”.<sup>90</sup>

By August 5, 1977, politicians were holding secret meetings and were reported to be plotting what they termed a ‘secret war’ on the sex shops. Metro Chairman Godfrey referred to plans to imaginatively use some new and some not so new laws. Calls for the return of the death penalty and demands that Ottawa bring back the vagrancy laws were part of this crackdown.

Metro hired a special lawyer (Morris Manning) to prosecute sex shop operators *and* owners. Special court time and special judges were set-aside to cooperate with the provincial government. Manning was encouraging a seldom-invoked ‘disorderly houses act’ which allows a county judge to close a premise if anyone there has been charged within the last three months of being a keeper or inmate of a common bawdy house. This statute had not been used since 1945. He referred to this measure as being one of a number of ‘tactics’ he was considering. An Assistant crown-Attorney was assigned the task of handling morals charges that were to be laid by a special Metro police task force. Operating within this new structure, Metro police set up a special task force that would target the sex-shops. A daily accounting of the number of arrests and charges were offered to the political masters and to the reading public each day. By-law officers travelled with the police and acted as customers to prove prostitution. Chief Adamson

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<sup>90</sup> *Toronto Star*, “City Authorities are getting Serious About Yonge Street—For better or Worse”, July 28, 1977.

had forbid his officers to undress during these undercover operations and therefore the licensing inspectors were used because they had no such restrictions on their behaviour.<sup>91</sup>

One gets the picture of a street saturated with strolling aldermen, undercover ‘everybody’, back-room special lawyers, prosecutors and judges, prepared to pounce on all charges, while pondering new laws and new used for old legislation. It was an era of Anita Bryant and the religious rights opposition to homosexuality. This opinion was shared by key columnists in the papers as evidenced by the opinion by *Star* reporter Robert Nielson who resented the involvement of homosexuals in the recent election and expressed his obvious inability to separate homosexuality for paedophilia:

“Some male homosexuals would dearly love to have a legal carte blanche to seduce young boys...it would be dubious law that would compel a landlord, hotel keeper ort salon keeper to let his place become a hang-out for homosexuals.”<sup>92</sup>

There were exceptions to the government’s campaign to clean up the sexual conduct of the citizenry. Efforts in Ottawa and on Toronto to reduce prostitution began to include the charging of the male clients of female prostitutes. Almost immediately allegation of a cover-up arose during an investigation of organized prostitution in Ottawa. The names of four officers who were listed in a prostitute's ‘trick book’ were not processed because they were deemed to be not actual clients of the woman. While one recognizes that here could conceivably be work-related reason why the names might be there, this did not appear to be the case with these officers. The editorials of the day emphasized the importance of fair and equal treatment against both client and prostitute. This prompted a

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<sup>91</sup> *Toronto Star*, August 13, 1977 A-6. “Paul Godfrey had ordered the licensing inspectors who posed as clients not to talk to the press”.

<sup>92</sup> *Toronto Star* "Opinion" June 15, 1977, B-4. Critical responses followed such as “No Stopping Homosexuals from Winning Rights. He says” June 21, 1977, p. Letters to Robert Nielsen

‘review committee’ to be formed by Attorney-General Roy McMurtry and on December 1977 he concluded:

“The police have a duty to protect the politician, members of the press and prominent businessmen who are listed in the ‘trick books’ ...”<sup>93</sup>

Directed by politicians, the police had many ‘duties’ during these years—to follow and carry out the directions of their political masters in their enthusiasm to ‘clean-up’ any sexual conduct defined as unacceptable while, in the process, protecting the reputations of police, politicians and prominent businessmen who might stray!

Beginning in the early 1970’s what Gerry Woods said was true in the US was also true in Canada. A new kind of politicisation of the police became apparent: “Professional policemen now organize for overt, aggressive political action, supporting or opposing candidates and lobbying at all levels of government”.<sup>94</sup>

### **‘Policing’ the Gay Community**

The interweaving of political demands with law enforcement interests never comes closed than during the 1980’s. I shall analyse in some detail what became known as the ‘Bathhouse raids’. On February 2<sup>nd</sup> 1981 the following quote from Chief Jack Ackroyd appeared in the *Toronto Star*:

“We can’t force people to give up their prejudices or their biases, not even policemen. But a cop has to be prepared to be professional. ...I might have some personal prejudices about the lifestyle choice of homosexuals, but that cannot

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<sup>93</sup> *Toronto Star*, December 24, 1977, A-3.

<sup>94</sup> J.G. Woods. 1973. *The Progressives and the Police...* Ph.D Thesis, Univ. of California, p. 14.

enter into my work. Legally and morally, they are entitled to the protection of the police department”.<sup>95</sup>

Three days later, approximately 300 police officers raided four steambaths. This simultaneous night-time raid with tools for breaking down walls against these establishments was unique in terms of its size and aggressiveness. Verbal insults, and publicity via press photos added to the ‘punishment’ administered that night. In total 289 men were charged as found-ins, 20 with being ‘keepers’, one with assault and a few other minor charges. The following day 3,000 people marched in protest of the scale and form of the police action against the gay community. The police were accused of engaging in selective policing and systematic harassment of this one specific community. The police intelligence bureau that was responsible for co-ordinating the raids were called an ‘army of goons’. There were allegation of verbal abuse and unnecessary violence by the police. The Chairman at that time was Godfrey who supported the police action and Mayor Flynn said it looked ‘like a good bust’. The Chief claimed that police investigations had indicated that there were criminal code violations, charges could be laid therefore:

“I, as Chief, have no other course of action but to *go along with the direction of the Crown Attorney*”.<sup>96</sup> [emphasis mine]

The notion of the Crown Attorney dictating the raid to Police Chief Ackroyd is an interesting passing on of responsibility. However, in May, Attorney General McMurtry denied all allegations that the size, timing, and nature of the raids had been discussed in

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<sup>95</sup> *Toronto Star*, “Ackroyd still wants to be a ‘better’ cop” February 2, 1981, p. A-9.

<sup>96</sup> *Toronto Star*, “Protests Mount Over Police Raids on Homosexuals”, February 10, 1981, p. A-13.

his office. McMurtry did confirm that a York Assistant crown Attorney “was consulted in respect to some aspects of the raid”.<sup>97</sup> As Alan Borovoy stated:

“Nowhere in his letter does he (Ackroyd) answer why it was necessary to mount such an enormous operation for people who are nothing more than found-ins... ..an incident like this, coming in a sequence of events, where police officers were openly involved in election campaigning against gay rights activities, is bound to generate considerable disquiet in the gay community”.<sup>98</sup>

Controversy that might have waned, sparked again in March when a photograph of a protest rally revealed that the four ‘protestors’ at the head of the march carrying a large banner that read “Enough is Enough. Stop Police Violence” were in fact, undercover policemen who were later photographed making an arrest.<sup>99</sup> Police were now accused of being *agents provocateurs*—Ackroyd’s response was that “anyone who doesn’t understand the police blending into the crowd to keep the peace, doesn’t understand police work”.<sup>100</sup> The Chief appeared to not understand the difference between ‘blending’ versus ‘leading’!

Now—how does this example relate specifically to politicisation of the police? Like many of the police activities that *appear* to have been affected or determined by politics, the evidence remains inconclusive because the form that the political ‘direction’ takes is not usually a verbal command. Rather it requires an analysis and understanding of the ‘collegial’ partners that may form between political officials and the police. Questions were asked as to why a relatively new but very astute Chief would willingly inflict upon

<sup>97</sup> *Toronto Star*, “Didn’t Plan Police Raid: McMurtry”, May 15, 1981, p.A-11

<sup>98</sup> *Toronto Star*, “Civil Rights Body Wants Raid probe”, February 25, 1981, p. A-5.

<sup>99</sup> *Toronto Star*, “Police led Homosexual March: Star Photos Show”,

<sup>100</sup> *Toronto Star*, “Police Won’t Charge ‘Embarrassed’ Marchers”, March 18, 1981, A-3.

himself such an uproar and outrage that he had to know would follow the raids. An analysis of the bathhouse raids however points to police motivations that link more to election politics rather than to order, protection or justice. Ironically, as part of a celebrity profile on Ackroyd, in response to the question: ‘Behind my back my friends say...?’, Ackroyd, responded, “My position has become too political”.

It is important to place the decisions regarding the timing and nature of the raids into the context of the prevailing political circumstances.<sup>101</sup> The investigation by the intelligence squad and the raids were located tightly between two elections. The six months of lead-up investigations into the bathhouses would have placed the initial concern by the police during the depths of the campaigning for the Municipal elections that took place in November of 1980. The actual raids took place on the first day of the 44 ]day election period leading up to the mid-March, 1981 provincial elections.

The significance of the Municipal elections rests with the police reaction to, and intense lobbying against John Sewell, the incumbent candidate for Mayor. Sewell was a vocal critic of police treatment of minorities—most specifically blacks and gays. In addition, Sewell aligned himself with George Hislop who ran for Alderman on a platform that included protection of Gay Rights. During the campaign the police union had actively campaigned against Sewell and Hislop. Anti-gay pamphlets were openly displayed in one police division.<sup>102</sup> In February 1980, the president of the Police Association announced in *News and Views* (the police magazine) that in all likelihood the Police Association

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<sup>101</sup> *Toronto Star*, Mar 20, 1983. “Close-Up” a celebrity profile

<sup>102</sup> *Toronto Star* “Not after Sewell or Hislop Police Union Boss Insists”, October 21, 1980 p. A-3 and “Police Display Anti-Homosexual leaflets”, October 24, 1980, P. A-16.

would endorse candidates in the November municipal election. Both of these candidates lost the election. The thinking was: The gay community had been given an opportunity to vote for two candidates that supported their demands for equality and the community did not come out in support—there was little evidence of gay ‘community’ participation in the electoral process. The Police Association, big business and the developers were fully behind Art Eggleton who won.

In 1981, candidates prepared themselves for the Provincial elections. Certain factors are key to our appreciating the context. The Conservatives (Tories) had been in office in Ontario continually since August 17<sup>th</sup> 1943. They had not however had a majority government since 1975, and a majority was very much what they now wanted. Premier Davis wanted to be able to take an active role in the big national issues relating to energy and the constitutional debate. The Conservatives needed to be able to take seats away from the New Democratic Party and the Liberals. The previous election had indicated that the Conservatives had little to gain and much to lose if they support the Gay community. An attack on that community however might win them some Liberal votes and a few non-gay NDP votes. In addition, another ‘voice’ that was being heard was the ‘Christian Right’ that had voiced a concern about Premier Davis’ government. Advertisements began to appear in newspapers across the country and their view was very clear:

“Having homosexuals in the school is the same as having a drunk drive the school bus”.<sup>103</sup>

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<sup>103</sup> *Toronto Star*, “Moral Majority Hit America (and the Ontario Elector as Well)” March 1, 1981, P. B5

In Ontario a coalition entitled “Pro-Family Political Action Committee” was formed to make morals the basis of who should rule. Campaign Life, Family and Freedom, renaissance International, and Positive Parents, combined to form this lobby. They were powerful and were seen to be powerful. The Director for the progressive Conservative Party in Metro Toronto advised the federal Conservatives that they “would profit by turning to the right”.<sup>104</sup> During 1981, the vice-president of the Progressive Conservatives in Metro was a staunch supporter of Campaign Life. A Metro Tory official had to resign when it became known that he had helped found the right wing Edmund Burke Society and had publicly advocated the supremacy of specific races. Therefore—alienating the gay activists would not cost the party a block of votes nor significant campaign funds but would serve to ‘locate’ the Conservative Party on one of the few issues where it was safe to be distinct from the other two parties—homosexual rights. The gamble was correct—the voters gave the Tories their majority.

Okay---that might be why the political party was please about the raids and their ability to ‘stand behind’ the judgement of the Police Chief. Why would the police participate in this? Here is where simplistic answers do not work. The police were not likely ‘told’ to do the raid and to do them in a manner that was sure to provoke controversy. But in place of a clear directive we have a net-work of factors:

First, politics and the Metro Police were close in part because of who the players were. Every Tuesday morning, Chief Ackroyd, Solicitor General/Attorney General Roy McMurtry and the head of the Police Commission met for breakfast at the Park Plaza

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<sup>104</sup> *Toronto Star*, “Tories in Metro Lurch to the Right”, June 19, 1981, A-10.

hotel. Chief Ackroyd could be seen as a ‘colleague of the Tory political core concerned with issues of state rather than as a fellow police officer managing his men/women. One can not assume that Chief Ackroyd—or any specific Chief—will carry out the role according to ‘traditional’ methods—i.e. Ackroyd was not the same type of Chief as Adamson, Mackay or Chisholm before him. As J.Q Wilson states: the most important way in which the political culture affects police behaviour is through the selection of the Chief and through the moulding of the expectations surrounding his role”.

Aligning oneself socially, politically, and economically with the political elite can only serve to bring the interests of one’s own group into line with the interests of the other—whether appropriately or not. The political issues had to have ‘become’ policing issues. The priorities of the political masters would very likely have been shared by Ackroyd. Chief Ackroyd was Chairman of the Canadian Association of Chiefs of Police during these years. The documents submitted by Ackroyd very often indicate the support of McMurtry on issues related to both legislative lobbying , policies and practices of the police.

Second, many of the police—and Ackroyd as well by his own admission—held a view as to the expendability of the bathhouse segment of the gay community. Police officers in the 1980’s, and likely also today, tend to be conservative in belief and in their voting behaviour. Police ‘culture’ is conservative and under a Conservative government is rewarded for being so. Twenty years later, during another Conservative political era, the Toronto police again raided a gay bathhouse. In this incident five male police officers confronted several hundred half-naked women. The Ontario Human Rights Commission

concluded in a ‘case analysis report’ that these women were the targets of discrimination on the basis of sex and gay sexual orientation. A public inquiry has now been called.<sup>105</sup>

The point is made by Peter Manning and others that actors in any organization create and recreate their social worlds—and hence they define the threats to which they will respond and those that they will and can ignore. Likewise the shape and changing nature of the mandate of an organization is also socially constructed and historically rooted.<sup>106</sup>

The needs of any organization according to Isaac Balbus include the accomplishment of a task, legitimation within the system, and the growth and the maintenance of the organization itself.<sup>107</sup> Therefore, given the conservatism of the culture, the desire to fight boredom, the requirements of the organization itself—requirements that include resources—then politically targeted ‘threats’ that can be readily ‘handled’ by the police are seen (and are welcomed) as actual enforcement problems. In some cases in the Toronto policing history, offences were seen to be committed, even if the law had to be re-defined, new laws created, or old laws rescued in order to make it so! Hence, Ackroyd’s claim that “the law was violated. I had no choice”.

Third, Roy McMurtry was for five years (1978-1982) wearing two hats—hats that many people viewed as being in conflict. As Solicitor General of Ontario the provincial and municipal police forces are responsible to him As Attorney General, he is responsible for the administration of justice—including decisions such as charging police officers and

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<sup>105</sup> *Toronto Star*, June 17, 2002. “Inquiry ordered in bathhouse raid” p. A1 and A23.

<sup>106</sup> Peter Manning *The Narcs’ Game*, MIT press. 1980, p. 19.

<sup>107</sup> Isaac Balbus *The Dialectics of Legal Repression*, Transaction Books, 1982.

determining the legality of specific police techniques. As one Editorial stated (with reference to a RCMP matter):

“Policemen are supposed to obey the law and if they don’t private citizens may lay criminal charges against them...But, Solicitor General Roy McMurtry has been using his power as Attorney general of Ontario to disrupt this process”.<sup>108</sup>

Fourth, the Chairman of the Board of Commissioners of Police at virtually every period—including the era of these raids—has been seen by some as a controversial appointment. The Chairman of the Commission during these years as we acknowledged received his position as a result of a political deal. While this position is *supposed* to isolate the Chief from the elected officials, in this case, and some periods since that time, the Chairman’s position has actually served to *unite* the Chief with the political masters. Rather than any notion of ‘balance’, the media accounts during this period of the raids in Toronto reveal a three-member triumvirate composed of the Chief of Police, the Chairman of the Police Commission and the Attorney General/ Solicitor General.

Unraveling why the police would ‘go along’ with the advancement of political careers involves many tangled strings. In some cases the advancement of police careers were at stake. At other times the same ideological positions as to the moral worth of alternative life-styles would be shared between the police and the city officials. The most obvious explanation is that these political demands usually meant increased police resources and profile. These resources allowed the police forces to glow in manpower, technological advancement and legislatively granted police powers. A related reason reflects the dependence of the police on the good will of the politically influential members of the

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<sup>108</sup> *Toronto Star*, “McMurtry Errs on RCMP Suit” Editorial, July 11, 1981, p. B-2.

society. ‘Proof’ of the need for more resources is less likely to get those resources, as are close friendly ties to the political masters.

This history links us back to Dianne Martin’s accountability focus and brings us up to McMurtry’s response to the threat posed by what Police Commissioner Phil Givens referred to as “Vigilante activists who could hold their meetings in a telephone booth”—i.e. Citizens Independent Review of Police Activities (CIRPA).<sup>109</sup> The appearance of CIRPA (and the rogues that were a part of it!) caused attacks from all of the groups that were supposed to have been interested in police accountability—and neutral/ objective regarding the police. McMurtry appointed Sid Linden to head a new Commission to hear citizen complaints.<sup>110</sup> As Dianne Martin said:

“Godfrey’s tactics [to malign CIRPA] are terribly reminiscent of those employed by Phil Givens, head of the police commission, and Solicitor General/Attorney General Roy McMurtry, and indeed reflect a larger problem with the people who direct the police.”<sup>111</sup>

What I have been attempting to illustrate with this example, is the contradiction of the police wanting political independence and then actively seeking out political roles and/or identifying their interest with the interests of the political masters. Likewise, the politicians appreciate the influence and strength that the police can offer to their issues. In combination, the notion of ‘independence’ is pretty shallow. Toronto is not unique, and the decades we were looking at are not unique. Gerald Woods makes the following point pertaining to his analysis of the ‘professionalization’ of the US Los Angeles Police Department (LAPD) and their victory to become ‘independent from politics’:

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<sup>109</sup> “Citizens Independent Review of Police Activities”—Dianne Martin was one of the founding members of this oversight committee.

<sup>110</sup> *Toronto Star*, “Sid the ‘softy’ is talking tough” July 21, 1981, A-1.

<sup>111</sup> *Toronto Star*, “Citizens’ Group being Maligned”, letter by Dianne Martin, October 17, 1981, B-3.

“...the department is apparently unsatisfied merely to be placed outside the legal control of elected politicians. It now takes an overt, aggressive role in city and country elections. ...Formal and informal police organizations campaign for conservative office seekers. Threats have been issued that the election of certain candidates will result in mass resignations from the police force. ...the powerful police lobby exerts considerable influence over municipal, county and state politicians. Thus the police hinder and occasionally obstruct the democratic process”.<sup>112</sup>

Michael Brogden speaks of the political interventions by the police in the UK being ‘commonly dressed in the allegorical language of moral concerns’.<sup>113</sup> Further, according to T. Bowden:

“When the police become active as politico-moral censors, their political penetration of society is enhanced. By disguising political statements as views on social morality...they enlist the moral support of the population...”<sup>114</sup>

Michael Foucault argued that the sovereign state behind conventional power and control had dispersed into an infinite network of sites and processes of discipline and control. As he states, power becomes exercised not “by right but by technique, not by law but by normalization, and not by punishment but by control”.<sup>115</sup>

### **Chief McCormack and Susan Eng**

“I attributed some of the stress to the emerging profile of the Police Commission—later the Police service Board...not that I in any way objected to the notion that the police ought to be accountable to the public they serve. But I was becoming increasingly concerned by the presence on the Commission of

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<sup>112</sup> Gerald J. Woods. *The Progressives and the Police: Urban Reform and the Professionalization of the Los Angeles Police*, PhD. Thesis submitted to University of California, LA, 1973, p. 6.

<sup>113</sup> M. Brogden. 1982. *The Police Autonomy and Consent*, Academic Press, N.Y., p. 153

<sup>114</sup> T. Bowden. 1978. *Beyond the Limits of the Law*, Penguin Harmondsworth. p. 81. Taken from Brogden, 1982, p. 153.

<sup>115</sup> M. Foucault. 1977. *Discipline and Punish: The Birth of the Prison*. N.Y. Pantheon.

certain members who appeared determined to bring the force to heel.... One of the people I was particularly concerned about was Susan Eng.”<sup>116</sup>

What had to have felt like friendly accommodating oversight, ended with the election of the NDP in September 1990. If policing was truly ‘independent’, one might not expect such a difference in the relationships between the police and their account ability masters depending on which party was in power. A chapter in Chief McCormack’s book that he has called “Bob Rae’s Kind of People” sums up his lack of appreciation for the new people which whom he had to interact! Susan Eng received the brunt of his various self-serving attacks. Unlike her predecessor, June Rowland, Eng had been tasked with a strong provincial mandate to bring about fundamental changes and to no longer serve as a rubber stamp for the Chief.

At the 1992 annual Ontario Police Association meeting held in Ottawa, 21,000 police officers passed a non-confidence motion against the New Democratic Party—the political party in power in Ontario. Their ‘Resolution’, dated August 11, 1992 states:

“Whereas the Premier, on behalf of his Government, has indulged in malicious statements implying that police in the province are racists and want to shoot people—instead of being supportive of law and order and racial harmony.... the delegates representing 21,000 member of the police service in Ontario ...unanimously declare a lack of confidence in Mr. Bob Rae and his government...”<sup>117</sup>

This ambiguous declaration was prompted by the release of the Provincial Task Force on Race Relations and Policing by Clare Lewis, that recommended among other things that the government should tighten up conditions in which a police officer could use deadly

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<sup>116</sup> William McCormick and Bob Cooper. 1999. *Without Fear or Favour*, Stoddart. P. 219

<sup>117</sup> Police Association of Ontario, *Resolution*, August 11, 1992.

force (the fleeing felon controversy) and also that the police should file a report when they draw or discharge their firearms. This 'Resolution' was reproduced as an open letter in the Ottawa newspapers. Rae countered by accusing the police of 'playing politics' in order to resist any of the police reforms that the government was advocating.<sup>118</sup> The outcome, was a case of the 'dueling Lewis's'. Given the degree of angst apparently felt by the police at Clare Lewis's recommendations pertaining to greater accountability of police discretionary powers, Doug Lewis, Solicitor General of Canada, seeing perhaps a valuable constituency, chose to confuse the situation further with a politically advantageous statement of his own saying that his government should oppose anything "which would cause police officers to become apprehensive and compromise the safety of themselves or the public".<sup>119</sup>

The Ontario Provincial Police (OPP), too saw the benefit of taking their opposition to the public and playing politics with their demands. In 1992 the Ontario Provincial Police Association held a series of simultaneous news conferences and produced a 15-minute video detailing their anger with government cutbacks. The following year the Montreal Urban Community Police brotherhood staged a 'slow-down' in order to take their demand to the public. As Chief St. Germain stated: "From 12:30 or 1 pm I realized very clearly that as Chief of police I no longer had any control of public security on the territory of the MUC. All the responsibility, all the work of public security had been taken away from me and was now in the hands of the president of the brotherhood."<sup>120</sup>

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<sup>118</sup> *Toronto Star*, "Police Ads on Reforms out of Line Rae warns", August 14, 1992, p. A5.

<sup>119</sup> *Ottawa Citizen*, "Hostility Hampers Dialogue", August 12, 1992, p. A10.

<sup>120</sup> *The Ottawa Citizen*, "Police slowdown leaves Montreal chief powerless", Friday July 9, 1993, p. A5.

This degree of political involvement by the police was perhaps, as Susan Eng claimed, the result of new freedoms that the police gained in Ontario in 1991 to engage in political activities.—i.e. to campaign for politicians during off-hours and to run for political office during leaves of absence.<sup>121</sup> The friction between Eng and McCormack never let up and ended only with the Chief's retirement in 1995 and Eng's departure from the Board. In the Chief's 'long-goodbye' speech—given in October 1994, announcing his retirement in June 1995, he stated:

“I find it incomprehensible that a Chief of Police should be compelled to discharge his or her duties in an environment which is characterized by impertinence, disrespect, ignorance and capitulation by political appointees to the transitory whims of special interests. ...I am concerned that continued political pressures being brought to bear by the individual vested interests of Board members through the media are resulting in very serious concerns for confidentiality and good working conditions between the Board and Command officers”.<sup>122</sup>

In an open letter to Chief McCormack, Alan Borovoy characterized this speech by McCormack as “heaping public scorn of your civilian masters” and as proof that the Chief had failed to grasp the simple fact of his having been accountable to his Board.<sup>123</sup> The tension continued as the Police Association gained strength during the period that David Boothby served as Chief. While there was less overt friction with the Board, the police force, that had learned bullying and intimidations tactics from the ‘top’, was now moving out of control. The corruption inquiries and charges and convictions during 2004 may prove to be partially the consequence of the McCormack era.

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<sup>121</sup> *News Release* “Solicitor General Announces Discussion Paper on Political Activity Rights for Police Officers”, June 24, 1991. See also *Toronto Star*, “Police-NDP Tensions keep Escalating”, August 15, 1992, p. D5.

<sup>122</sup> *Toronto Star*, “My Concern is...a spirit of mistrust”, October 13, 1994. p. A25.

<sup>123</sup> *Toronto Star*, “Talking Point: Hanging on just corrodes a worthy career”, November 2, 1994, p. A21.

All political attempts to hold the police to account appeared to vanish with the election in 1995 when Mike Harris's right-wing Progressive Conservatives defeated the left-wing New Democrats. His government implemented a neo-liberal program of cuts to social spending and taxes (the "Common Sense Revolution") but with a strong 'law end order' policing orientation. The political position of the police changed dramatically with this victory of the Conservative Harris Government, the election of Mel Lastman as Mayor, and the appointment of Norm Gardner as head of the Police Service Board with Craig Bromell as head of the police association. The result was a system of oversight that has been correctly described as 'outrageously tilted towards the cops'.<sup>124</sup> We now must follow with interest the 'panic' of the police in the face once again of a regime that is intent on holding the police to some degree of accountability.

In the Ontario general election, 2003, Mike Harris, Ernie Eves and the Progressive Conservatives were defeated, and Dalton McGuinty's Liberals won a majority government. With Dalton McGuinty as the new Premier, David Miller as the new Mayor, and Alan Heisey appointed to and then resigned from the position of Chair of the Police Service Board, and the Police Association (Union) in ruin from corruption allegations, the game is less certain. So 'uncertain' that it appears the police have taken matters into their own hands to leak memos to the press in the attempt to undermine Heisey's authority. While he claimed personal and professional reasons, a split in the Police Board and the unprofessional conduct of two members who left a meeting rather than participate in a vote that might have seen an external investigation into the Metropolitan Police force, caused Heisey to step down, leaving a gaping hole in an obviously important

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<sup>124</sup> Rosie DiManno "Police Board needs new direction, and some luck", *Toronto Star*, Wednesday June 16, 2004, p. A2.

position.<sup>125</sup> As John Barber, reporter for the *Globe & Mail* said; "...the Toronto police board stumbles from scandal to scandal, its credibility sustaining ever-greater damage as more traps and tricks waylay both reformers and old guard alike."<sup>126</sup>

*If* the police were truly autonomous and 'independent' these changes in governments would reflect rather minor changes in policies but not nearly the police angst or empowerment that each change brings.

### **Degrees of Vulnerability to Political Involvement: Vulnerable Offences and Vulnerable People**

By reviewing the evidence presented by Toronto's history it becomes obvious that it is the so-called consensual or victimless crimes that are the more easily manipulated by politicians, supported and assisted by a horde of moral entrepreneurs. Drugs, vagrancy, prostitution, gay baths, and pornography—all held center stage for the antics of moral outrage and political maneuvering. These are the offences that demand or at least allow for the widest discretionary policing. Due to the nature of these offences, all occurrences cannot be reacted to by the formal criminal process and therefore decisions regarding when to react, and with what force, and against who becomes dependent on extra-legal factors. Here is where politics plays its most prominent role. While Alan Grant has observed that among the 'regular' policing activities, politics may dictate a focus on predatory rather than white-collar fraud or corruption (at least prior to the Enron-type

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<sup>125</sup> John Barber. *Globe & Mail*, "Decency Destroyed at the Toronto Police Board" June 12, 2004, p. M2

<sup>126</sup> *Globe & Mail*, "Decency Destroyed at the Toronto Police Board", June 12, 2004, p. M2.

massive crimes), we find in Toronto that political decisions reached through a broader range of major police initiatives. As the research shows, it was the ‘newsworthy’ political personalities who dictated much of the large-scale policing actions. It must be acknowledged that this political influence extended well beyond ‘policy’ discussions deep into the operational aspect of policing.

Much of the ‘political policing’ I have been discussing placed more emphasis on the ‘doing’ rather than the ‘results’---i.e. what is ‘political’ is often *being seen* to be engaging in the enforcement activities that accompanied the political platforming. The results were of less importance. For example, Yorkville would necessarily calm down with the coming of Winter. The clean-up of Yonge Street allowed for development to occur—development that would have likely followed the same course without the political and policing ‘war’. The outcome of the bath-house raids was greater friction between the police and not only the homosexual community but also a wider sense of marginality by most ‘marginal’ groups including race and ethnic communities.

Crime control strategies and political interventions cannot be applied indiscriminately against the entire population due to the need to maintain broad public support and limited resources to launch a massive targeted enforcement effort. The criminological research of people such as Clifford Shearing, Richard Ericson, John van Maaned, Wilbur Miller, Allan Silver, and the *Commission on Systemic Racism in the Ontario Criminal Justice System*<sup>127</sup> suggest the importance of an outsider or ‘non-respectable’ segment of the

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<sup>127</sup> See C. Shearing .1981. “Subterranean Processes in the Maintenance of Power: An Examination of the Mechanisms Co-ordinating Police Actions”, *Canadian Review of Sociology ad Anthropology*, 18 (3); R. Ericson. 1981. *Making Crime: A Study of Detective Work*, Toronto. Butterworths: J. Van Maaned

population that can serve as the focus of crime-control strategies without threatening the acceptance of the police by the ‘significant’ members of the society.

The police in the various research studies even had a name for these ‘non-worthy’ members of the public. In Shearing’s study the police differentiated between the ‘scum’ a compared to the ‘public’; Ericson speaks of the police designation of a ‘puker’ class; while in Van Maanen’s research the police refers to the ‘ass-hole’ group; and Silver’s research specifies policing of the ‘dangerous classes’. While, when it is the marginal members in the policed community that are responding to questions of equal treatment, there may be a difference between *perception* of discriminatory treatment versus the *reality* –or the view from the police or political perspective. For example, the *Commission on Systemic Racism in the Ontario Criminal Justice System* conducted a study in which a majority of Black, Chinese and White Toronto residents did not believe that the police treated everyone equally.<sup>128</sup> This study also revealed a belief in a hierarchy of negative treatment, one in which Blacks received the worst treatment, followed by Chinese and then Whites. The overall impression of unequal treatment revealed in the Commission’s findings also confirmed earlier studies, such as the Clare Lewis Task Force on Race Relations and Policing from 1989. And these attitudes remained largely unchanged by the time of a 1998 survey by Grayson at the Institute for Social Research, which revealed that 38 percent of respondents in Toronto believed that the “police did not

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1978.”The Asshole”, In P. Manning and J. Van Maanen *Policing: A View from the Streets*, Santa Monica, California: Goodyear Publ.; W. Miller 1977. *Cops and Bobbies: Police Authority in New York and London 1830-1870*. Chicago: Univ. of Chicago Press; A. Silver 1967. “The Demand for Order in Civil Society: A Review of Some Themes in the History of Urban Crime, Police and Riot”, taken from D.J. Bordua, *The Police: Six Sociological Essays*. John Wiley and Sons; *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System*. 1995. Toronto: Queen’s Printer for Ontario.

<sup>128</sup>Commission on Systemic Racism in the Ontario Criminal Justice System. (1995). *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System*. Toronto: Queen’s Printer for Ontario. P. 341.

treat all racial and economic groups fairly”.<sup>129</sup> Once again, in 2003, we see an identical pattern in the Ontario Human Rights Commission *Paying the Price: The Human Cost of Racial Profiling*.<sup>130</sup>

As argues by Harry Glasbeek, the criminal justice system perpetuates existing inequalities and power imbalances because of its inherent interest in protecting the status quo.<sup>131</sup> As their most visible agent, the police are empowered to enforce the moral, political, economic and social consensus as determined by the legislative and criminal justice systems. Charged with a mission of imposing order on chaos, and mythologizing themselves as the “thin blue line” protecting the democratic consensus of acceptable behaviour from those who would seek to challenge it, it is unsurprising that police behaviour appears discriminatory to those who remain outside of the status quo.<sup>132</sup>

In addition to racial, ethnic or sexual ‘threats’, the ‘dangerous classes’ may also be largely invisible such as organized criminals, drug dealers or political activists. The early history of the RCMP saw ‘foreigners’ radical labour unions and Bolshevism as the dangerous groups and throughout the next 125 years, different groups—but usually always some identified group—was granted this title of dangerous, often alien, threat. Together, these are the groups that the police and politicians can do things *to* rather than *for*.

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<sup>129</sup> Henry, Frances, Tator, Carol, Mattis, Winston, & Rees, Tim. (2000). *The Colour of Democracy. Racism in Canadian Society*. Toronto: Harcourt Brace & Company. P. 173.

<sup>130</sup> Ontario Human Rights Commission (2003, December). *Paying the Price: The Human Cost of Racial Profiling*. [www.ohrc.on.ca](http://www.ohrc.on.ca)

<sup>131</sup> Glasbeek, Harry. (1993). *Police Shootings of Black People in Ontario*. Toronto: Queen’s Printer for Ontario. Pp.27-31. (Taken from a draft report prepared by Catherine Tuey)

<sup>132</sup> Glasbeek, Harry. (1993). *Police Shootings of Black People in Ontario*. Toronto: Queen’s Printer for Ontario.

Different periods during the history of the Metropolitan Toronto Police Service revealed different degrees of blatant discrimination. My task here is not to reproduce all of the literature on racism and the Canadian police, but merely to reflect on some of the key ‘moments’. For example, in 1979 the Police Association’s official internal publication included articles attacking gays as well as articles against Catholics, Blacks, Pakistanis and Jews.<sup>133</sup> With a circulation to over 6000 police officers, this ‘minority’ obviously felt confident that it had the support, or at least the tolerance, of the majority. Gays, blacks, hippies might be all seen as ‘expendable’ during the periods of time that they were the focus of so much policing activity.

James QW. Wilson discusses some of the dynamics of policing and governing heterogeneous communities where one group of voices can gain precedent over all others.<sup>134</sup> The police may feel themselves to be under intense political pressure to solve, or at least settle, the competing demands from usually ‘unequal’ segments of the society. As the police begin to work ‘deeper’ inside the community via a community-policing model, the more they and their political masters may hear the voices of the most powerful or the most politically astute.

A number of studies of community policing point to the difficulty being that there is seldom *one* community but rather several—of unequal power. In his study of Bill C-49

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<sup>133</sup> Police Association, *News and Views*, March 1979. “The Homosexual Fad” by Tom Moclair, S/Sgt. 14<sup>th</sup> Division.

<sup>134</sup> J. Q Wilson. 1976. *Varieties of Police Behaviour*, Atheneum Press, NY.

pertaining to the development and implementation in 1985 of changes to Canada's Criminal Code dealing with prostitution, Nick Larsen states:

“The controversy and conflict regarding street prostitution intensified in 1987 despite much more aggressive enforcement of Bill C-49. The Toronto police formed the Police-Community Prostitution Liaison Committee to facilitate cooperation and information sharing with residents, business owners, the Crown Attorney's office and local politicians. The one group which was not included were the prostitutes themselves, ...”<sup>135</sup>

He concludes that several different factors determined the ‘control’ of prostitution including public pressure, corporate and redevelopment interests, and the ‘political’ activity of the Toronto Police. The most vocal groups were listened to while simultaneously an attempt made to subvert local political activity to serve the interests of the police. Most specifically in order to lobby for increased police staffing, which, in some cases, was not used in prostitution enforcement. As Benedikt Fischer found in, community policing became an exercise in which community spokespersons together with the police with the support of the politicians determined which undesirables should be eliminated from the ‘community’. The task became ‘social ordering’ along the lines of good/bad/ crime/safety/ community/outsider etc.<sup>136</sup> While recognizing that all crime as a political aspect to it, here. The reach is beyond crime to ‘undesirability’. To some scholars, the *Safe streets act* and its targeting of ‘squeegee kids’ is the best example of this partnership for orderliness.<sup>137</sup>

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<sup>135</sup> Larsen, E Nick. *Canadian Journal of Urban Research*. “Urban Politics and Prostitution Control: A Qualitative Analysis of a Controversial Urban Problem”, June 1999. Vol. 8, Iss. 1, pp 28-46.

<sup>136</sup> Benedikt Fischer, Ph.D. 1998. P.

<sup>137</sup> See for example, Patrick Parnaby. 2003. “Disaster through Dirty Windshields: Law Order and Toronto’s Squeegee Kids”, *Canadian Journal of Sociology*, 28, 3, Summer pp.281-307.

Although the perspective from the ‘two-sides’ might be different, community policing does not just impact the citizens being policed but also the police and perhaps in particular, the Chiefs of Police who are engaged in this style of police work. A US study of 115 chiefs of small town police agencies indicated that 44% of their predecessors had left their positions due to political pressure.<sup>138</sup> While direct political involvement in policing may typically be more evident in the United States than in Canada however, Canadian police executives across the country acknowledge that they operate in a small ‘p’ political atmosphere. They claim further that the movement toward community policing has increased this politicization of their work:

“To manage community policing effectively, police executives must build alliances with the community and win support for police strategies. Working like this is a delicate balancing act between competing demands. Police leaders must avoid offending some constituents while satisfying the demands of others. They must also apply the different policies of three levels of government, comply with the direction of a local civilian governing authority, and submit to one or more police oversight body...maintain good relations with police unions, senior managers and operational officers...take heed of the courts, understand the criticism of academics, implement the management policies of finance departments, resolve the conflicting demands of different interest groups, advocate the rights of minority groups, and be ready to speak when the media requires it.<sup>139</sup>

Community Policing—however it is being put into operation, involves a different relationship with the public and a different relationship between the police and their political masters. In response to a hostile question in the House of Parliament, asking the then Solicitor General of Ontario why he did not get rid of Susan Eng in order to stop the

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<sup>138</sup> Kenneth Tunnell and Larry Gaines 1992. “Political Pressures and Influences on Police Executives: A Descriptive Analysis” *American Journal of Police* Vol. X1, No. 1, 1992, pp 1-16. (Quotes from Police Futures Group Study Series No. 3. p. 11

<sup>139</sup> Police Futures Group Study Series #3 *Police Executives under Pressure: A Study and Discussion of the Issues*, Ottawa 2000, A CACP Publication (prepared by Frederick Biro, Peter Campbell, Paul McKenna and Tonita Murray), p. 11.

friction between the Police Commission and the Police Chief McCormack, the Hon Mr. Christopherson stated:

“These are extremely difficult times. We are very much moving to community-based policing, a relatively new philosophy that requires a new dynamic between police and police services. The Metro leadership, given the circumstances that are in front of them and the difficulties they have faced, are doing as good a job as one can expect. In many ways, the work they are doing on a day-to-day basis is pioneering the new kind of community-based policing that is supported all across North America”.<sup>140</sup>

## **Current and Future Pressures and Influence from the Executive**

### ***Resource Dependency and Political Influence***

Among all of the other factors, resource dependency is a crucial factor over police practices. As the Police Futures Group argue: “...through the power of the purse, governments have gained a much firmer control over policing and are more effective than formerly in holding police executives accountable”<sup>141</sup> Related to this is the impact that this government influence has on the dynamics within the police service. The new roles and responsibilities of police executives are not necessarily understood by the rank-and-file within the police organizations:

“The executive may be perceived as ‘selling out’, or being ‘weak’, ‘political’ or even corrupt by those police officers who do not understand the relationship of police to government”.

<sup>140</sup> [http://www.ontla.on.ca/hansard/house\\_debates/35\\_parl/session3/1110.htm#P148\\_44603](http://www.ontla.on.ca/hansard/house_debates/35_parl/session3/1110.htm#P148_44603), maybe 1994.

<sup>141</sup> Police Futures Group Study Series #3 *Police Executives under Pressure: A Study and Discussion of the Issues*, Ottawa 2000, A CACP Publication (prepared by Frederick Biro, Peter Campbell, Paul McKenna and Tonita Murray) p. 12.

We will acknowledge the increasing role of Treasury Board in determining police operational practices, but in more general terms, research emphasizes the critical role that the ‘control’ over the financial resources plays in police operations. As government funding of the police tighten and become more ear-marked for specific policing activities, the distinction between direction and interference blurs or vanishes. As Michael Brogden states:

“When resources are tightly defined and monitored centrally—where for example a fixed formula governs resource provision—the police institution is in a directly dependent relationship. Where, however, the factors determining resource provision are vague, and subject to modification by the police institution itself, a more independent relation can be said to exist.”<sup>142</sup>

Alan Grant has argued that much of what is seen to be “police discretion” is in fact “political discretion”<sup>143</sup>. Through resource allocations, political decisions and preferences can directly or indirectly encourage the police to focus on particular types of “threats” and away from other offences. It is not so much a matter of the police deciding to enforce or not to enforce certain laws, but rather that they have the capability--granted through resources including facilitating legislation—to target a segment of all offenders. Because academics and the media concentrate on *how* police carry out their functions rather than *why* they are doing what they do the link to political direction remains hidden.

The blanket term ‘policy’ direction is also insufficiently studied—especially since it is the distinction between ‘policy direction’ and ‘operational decisions’ that rests at the core of our discussion. As the police themselves acknowledge, there are many layers of policy:

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<sup>142</sup> Michael Brogden. 1982. *The Police: Autonomy and Consent*, Academic Press. London, p. 98.

<sup>143</sup> Alan Grant. 1980. *The Police—A Policy Paper*, A Study Paper prepared for the Law Reform Commission of Canada. Minister of Supply and Services, Canada.

“There is framework policy, which is often expressed in legislation, by-laws, regulations and so on of governing bodies. These may be social, legal, economic, financial or administrative and generally they are understood as providing direction for actions. Then there are more specific policies on how certain things will be done. Both governing bodies and police agencies make policies at this level. For example, governments have issued quality standards for police operations, while police services have made policies on community policing. Where one starts and the other ends is often not easy to determine.”<sup>144</sup>

The transitory membership on some of the Police Boards, the replacement of senior police officers, and the ‘rotation’ of Federal Solicitors General (now called Ministers of Public Safety and Emergency Preparedness) means that there is not always ‘corporate’ knowledge within either government nor within the various police departments to be adequately attuned to the division between appropriate and inappropriate government involvement.

During the 1980's, there were approximately six Solicitors General of Canada, followed by another eight up to 2004.<sup>145</sup> While there is often a frequent turnover in this portfolio, the 1980's were particularly unstable. Five of these belonged to the same party and quickly succeeded each other in the last half of the decade. Each of them had his own set of priorities. One concentrated on police conduct and powers post the Macdonald Commission of Inquiry<sup>146</sup> and the creation of the Canadian Security Intelligence Service, another on missing children, yet another on the suppression of the illicit drug trade, and another on international terrorism. A close examination of the numerous policies

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<sup>144</sup> Police Futures Group. 2000. *Police Executives Under Pressure*, CACP. P. 55.

<sup>145</sup> Warren Allmand, Robert Kaplan, Elmer McKay, Perron Beatty, Pierre Blais, Pierre Cadieux and James Kelleher, followed by Doug Lewis, Andy Scott, Herb Gray, Lawrence MacAulay, Wayne Easter and Anne McLellan as Minister of Public Safety and Emergency Planning Canada.

<sup>146</sup> Government of Canada, Report of the Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police, Ottawa, 1981.

developed during this period would reveal that some had very little impact on the police or on society as a whole.

Sometimes governments decide on a policy ostensibly for one purpose but in reality to achieve a quite different objective. For example, a Toronto Mayor seeking re-election may choose to launch a campaign to clean up a sleazy part of Yonge Street and directed the police to concentrate their attentions on the area. The question remains whether this was legitimate policy direction to improve a social problem or political interference with the police to gain a personal advantage. Likewise, a decision to build a prison or an RCMP detachment in a certain location may have more to do with boosting the local economy or, ensuring the return of a local member to parliament by providing a constituency with a political favour, than achieving operational aims; yet, if there is a failure to achieve the stated policy, it is likely to be the correctional or police officials who are criticized, not the policy decision-makers. For example, major government policing-related initiatives that were funded during the 1990's included among many others:

- Child Sexual Abuse Initiative
- Missing Children
- Family Violence Initiative
- Canada's Drug Strategy
- Brighter Futures
- Aboriginal Justice Initiative

In each case there were direct implications for police operations as well as policy—if the police wanted to benefit from the additional resources! Looking at just one of these initiatives reveals the operational changes that were 'thrust' upon the police following the approval of Canada's Drug Strategy. While the police—in this case the RCMP—have

input, Treasury Board approval will only be granted for politically significant initiatives. The promise of funds is overwhelmingly attractive and serves to sway the preferences of the department who must vie for resources.

Canada's original National Drug Strategy in 1987 included 51 separate initiatives providing resources for specific enforcement activities, prevention activities, and international activities. A specific focus on this strategy, pertaining to policing, was the government's objective of being seen to create a "made in Canada" approach to the control of drugs. The rhetoric spoke of an essential balance between demand reduction versus supply reduction. As a consequence, the RCMP assumed a much larger, and better funded, 'prevention' role with obvious direct operational implications. Funding was provided for drug prevention training programmes, the development of lesson plans for use in schools, the development of a specific programme called PACE (Police Assisting Community Education) and specific funding for police work with youth 'at risk'.

As part of this Strategy, on the 'supply reduction' side, Bill C-61 *Proceeds of Crime Act* was passed making money laundering a criminal offence and giving the Crown powers to seize and forfeit the proceeds from designated drug offences and from approximately 24 additional 'enterprise crimes'. The addition of these 'Enterprise Crimes' within the Canada's Drug Strategy was another 'political' aspect. The provinces would never have agreed to the Proceeds of Crime Bill if as a result only the Federal government (via the prosecution of drug offences) would profit from the seizures of the illicit proceeds. Therefore, since the provinces would be involved in the prosecution of the 'Enterprise Crimes', they too would profit and hence would see the merit in the passing of this

significant piece of legislation. This brought the police at all levels into the ‘proceeds’ investigation approach to law enforcement.

The National Drug Strategy became ‘Canada’s Drug Strategy’ when it was renewed in 1992. This strategy has been renewed approximately every 5 years up to the present. In 1992, the renewal included \$33million for the creation of three Integrated Anti-drug Profiteering Pilot Units—three located in Toronto, Montreal and Vancouver. In a further renewal, these three sites were expanded to thirteen. Money laundering investigations have become a main policing strategy against organized crime and one could argue this operational commitment was driven by Treasury Board and Ministerial direction through the approval of the Memorandum to Cabinet submissions.

***Police---Operational Direction from International ‘Political’ Masters***

In stark contrast to the account given by McDougall regarding the local constabulary who was largely limited to enforcing the law on his neighbour, when required by social outcry,<sup>147</sup> policing today must ‘march’ to many international masters. Within a framework of globalization, we recognize the need for a degree of uniformity in law enforcement across jurisdictions in order to attempt to target transnational criminals. Pressures are put on countries to meet new international standards and to put into force legislation that is compatible with the laws and procedures in place in other jurisdictions.

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<sup>147</sup>Allan McDougall. *Policing in Ontario: The Occupational Dimensions to Provincial-Municipal Relations*, Univ. of Toronto, Ph.D. 1971, p. 418.

Joint force operations between forces within Canada get supplemented by operations between Canadian police and foreign police agencies. Several of the biggest organized crime cases that Canada has successfully completed, have involved policing agencies from Canada together with the US working collaboratively—very often with policing officials from several other jurisdictions involved. Summer 1998 cases such as the arrest of the Sicilian Cuntrera-Caruana family members<sup>148</sup>, and historic cases such as “Operation Green Ice”<sup>149</sup> involved close and long-term partnerships between the RCMP and US agencies such as the FBI, DEA, US Customs as well as police forces around the world.<sup>150</sup>

It is important to recognize that policy and practice are intimately related to the cultural norms and mores of a society. Canada and US have very distinct historical roots, different experiences of state-formation and statehood, and enjoy vastly different positions within the international arena. Simply put, the law, its enforcement, as well as how the law is interpreted relates to historic traditions and notions of what is deemed an acceptable intrusion in the lives of the people by the state. What happens to these cultural differences under political pressures to ‘harmonize’?

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<sup>148</sup>.The Canadian RCMP together with the Montreal Urban Community Police and the Surete de Quebec worked for over two years with the US FBI, DEA, Customs, Texas DPS plus the Italian Raggruppamento Operativo Speciale-Carabinieri and the Servizio Centrale Operative of the State Police and Mexico Procuraduria General de la Republica and Federal Anti Drug Task Force on “Project Omerta”. On July 15, 1998 key members of the Cuntrera-Caruana Sicilian organized crime family were arrested. At least 14 arrests took place in North America including the arrest of Alfonso Caruana the alleged mob king-pin.<sup>149</sup>.”Operation Green Ice” was headed by the DEA and involved collaborative police work from Canada, Italy, Spain, Costa Rica, Colombia, UK and the Cayman Islands. The objective of this case was to infiltrate money laundering enterprises of targeted organized crime operations headed by the major Colombian cocaine cartels. One phase of this investigation culminated in a \$1,075,000 seizure by the RCMP on September 24, 1992. This case was deemed important since it was one of the first to establish the links between Colombian cocaine cartels and the Mafia operating out of Italy. See *Criminal Conspiracies* by Beare, 1996. p.131

<sup>150</sup>. These cases are distinct from cases such as “Operation Casablanca” which was characterized by distrust between the US and Mexican Government and Mexican law enforcement. “Operation Casablanca” is discussed later in this article. In this case, the Mexican officials were not informed about the US investigation for fear of “compromising the operation and placing the lives of US agents in danger”.

In several notable cases, the lead (formally or informally) on international enforcement oriented committees or in the various policing operations is taken by the United States. Ethan Nadelmann<sup>151</sup> describes the global US police presence that includes a vast array of law enforcement representatives in foreign countries, a multitude of separate law enforcement agencies, each with their own reasons for operating abroad, and the US linking of their “war on drugs” with “national security” which served to “export” criminal investigatory techniques. This influence of the US upon Canada is not always merely passively received or resisted but is also often actively sought by Canadian law enforcement. Canadian police officers attend training courses within the US, belong to associations such as the International Association of Chiefs of Police, and attend conferences such as the International Asian Organized Crime Conference, which moves between Canada and the US for their annual meetings. Policing weaponry is advertised in Canadian police magazines and is displayed at policing conferences within Canada and serves as the basis for some of the arguments put forth by the police for enhanced fire power, wider diversity of weapons and in some cases even the appearance of the uniforms.<sup>152</sup>

To return to Brodeur’s characteristics of *high* versus *low* policing, the American-model of police work emphasizes those ‘high policing’ strategies: storing of intelligence within a

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<sup>151</sup> Ethan Nadelmann *Cops Across Borders: The Internationalization of US criminal Law Enforcement*, Pennsylvania State University Press, 1993.

<sup>152</sup>. The Ontario provincial Police have adopted a new uniform and hat that looks like a US trooper uniform. The Summer 1998 Canadian Police Chief Magazine tells the Canadian police that “the look of authority Starts at the Top”--an advertisement for Stratton Hats from Illinois. The same magazine includes an advertisement for a firm out of California that will provide the written tests to enhance the capability of the police to hire appropriately. A number of the advertisements present “tactical and survival” gear, body armour wear and video-based training courses.

massive financial intelligence system (FinCEN) system; a blurring of the enforcement and the sanctioning of suspects via a focus on both civil and criminal forfeiture; and an extensive use of undercover stings and reverse sting strategies. As these policing strategies spread internationally—and most definitely across the US/Canadian border, ‘normal’ policing strategies will emulate ‘high policing’ techniques that bring domestic policing closer into the political arena.

Not only are there international joint force operations, but also there are internationally agreed-to Conventions, protocols, and treaties in addition to a maze of bi-lateral and multi-lateral agreements. Most of these have direct implications for the police and many of them are signed by un-elected officials on behalf of governments (or not) or are the product of equally un-elected bodies set up to address specific ‘global problems’—as defined by themselves. Hence, to question the relationship between ‘police’ and ‘politics’ becomes a much wider question—with in some cases the ‘police’ *are* political

The police may on occasion participate in these processes but not always and not usually as the driving force behind the operational consequences that are to be delivered via the enforcement efforts that are scripted. Bodies such as the Financial Action task force (FATF) would be but one example but an example that has had significant impact in dictating specific legislation and police powers and policing strategies and targets. In the ‘battle’ against money laundering for example, in addition to the FATF, there is the UN (including UNICRI, UN ODCCP and the Security Council), IMF, World Bank, the Egmont Group, OECD, Council of Europe, European parliament, World Customs Organization, Basle Committee, *all* have taken a position on how to control money

laundering. Each group or organization has either drafted its own recommendations or concurred with the recommendations of others as to the harmonization of laws, policies and most germane to our discussion—police practices. While some of these international groups operate by way of persuasion (mutual evaluation by all partner states) other groups employ a more aggressive “black-listing” approach. The result becomes accusations across borders as to who is or is not meeting their responsibilities in adequately responding to transnational criminal activities.

The result is that an increasingly wide array of agencies do ‘policing’ both within and between nation-states. Domestically, a large, and increasingly broad array of domestic policing tasks are being done by private security ‘police’ forces—not just security and night watching work but policing tasks that are in competition with public police in municipal communities. Their duties increasingly involve street patrol and criminal investigations, on occasion sharing the same jurisdiction with the public police. Personal shifts between the two types of ‘policing’ agencies—either permanently as career moves, or with various forms of pay-duty (public to private) and contracted paid duties (private to public). These private ‘police’ and the ‘policed populations’ remain largely invisible—the poor and otherwise marginal populations are invisible in high-density low-cost housing and are ‘policed’ while the elite are invisible behind their gated enclaves and receive the ‘policing’ services. Internationally the ‘policing’ arena is filled with government officials, non-government officials, private contracted ‘policing’ persons, joint-force operations involving multi-jurisdictions, plus the ‘new’ entities such as Europol along with Interpol. Untangling the political ‘directives’ now involves many

different sources of political influence from the local to the national and into the realm of the international political players.

***Role of the Increasing ‘Securitization’ of Policing Post 9/11.***

Post September 11, ‘security’ has become the objective with additional funds pumped in to alleviate some of the drought law enforcement had been experiencing. This is the category of police work that most naturally adheres to Brodeur’s ‘high policing’ model with direct political policing implications. Somewhat peculiarly, the police rather than CSIS benefited the most from the additional resources. Immediately following September 11<sup>th</sup>, the RCMP received \$59 million ‘in support of its fight against terrorism’. In December the 2001 Canadian federal budget supplemented this amount to a total of \$576 million to fund 17 “initiatives dedicated to national security efforts”.<sup>153</sup> As Errol Mendes states:

“In this new battlefield between crime and war, the governments and citizens of the leading democratic societies in the world raced to enact new legislation or strengthen existing legislation that aimed at providing enhanced security to its citizens”.<sup>154</sup>

There has been a blurred conceptualisation between organized crime, terrorism and ‘ordinary’ criminal code violations *and* a blurring of the control agencies that address these separate forms of criminality. While everyone might agree that duplication of effort is wasteful and perhaps even counter-productive, some of the newer partnership

<sup>153</sup> RCMP site *Post-Sept 11<sup>th</sup> – The Fight Against Terrorism*  
<http://canadaonline.about.com/gi/dynamic/offsite.htm?site=http%3A%2F%2Fwww.rcmp-grc.gc.ca%2Fnews%2F2002%2Fnr-02-18.htm> (accessed 09/02/03)

<sup>154</sup> Editor-in-Chief’s Introduction, page 1, *Between Crime and War: Terrorism, Democracy and the Constitution*, Special Issue, National Journal of Constitutional Law, Vol. 14.1 Thomson/ Carswell, 2002.

arrangements and shifting mandates have been implemented devoid of a policy debate or decision, with low visibility and too often low accountability. Traditional public policing is becoming increasingly intermingled with private ‘security’ policing, with national ‘security’ CSIS activities, and with military ‘security’ activities.

National security offences were traditionally seen to be distinct from criminal code offences such as ‘organized crime’ or drug enforcement and at least in Canada were assigned to a separate body—specifically because of some of the problems that can arise when citizens are subject to surveillance by an agency that shares the mandate for both policing and national security. Some examples of blurring across mandates in Canada include the following three shifts and each brings the domestic police closer to the political machinery.<sup>155</sup>

First, our public police—particularly the RCMP—have adopted ‘national security’ as a priority for the coming years. This of course is predictable. As we saw with the other Treasury Board driven policing initiatives, the potential for additional resources brings additional police ‘commitment’ to those activities. However, questions are being asked whether the RCMP are in fact the best agency to develop the specialized political knowledge and language skills to deal with sophisticated international terrorists.<sup>156</sup> They do not have a good record of being able to distinguish dissent from terrorism—whether the CSIS has a better record is perhaps also questionable. The enhanced post September 11<sup>th</sup> enforcement funding contributed to the creation of the Integrated National Security

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<sup>155</sup> Taken from *Policing with a National Security Agenda*, paper prepared for Heritage Canada by M. E. Beare, 2003.

<sup>156</sup> Kent Roach. 2003. *September 11: Consequences for Canada*, McGill-Queen’s University Press, p. 194.

Enforcement Teams (INSETs); the Integrated Border Enforcement teams (IBETs); technological enhancements; Chemical Biological Radiological Nuclear Response teams (CBRN); and a Financial Intelligence Branch to target terrorist funding. Most of these teams and initiatives involve collaboration across control agencies—including CSIS, DND and in one case U.S. Department of National Defence.

Second, our national intelligence agency (CSIS) has declared organized crime to be a ‘national security’ threat and thus organized crime and drugs has becoming a topic of increasing CSIS concern and involvement. Domestic intelligence gathering is by law restricted to very specific ‘national security’ related activities. What then happens when drugs and ‘organized crimes’ are declared to be ‘national security’ threats? All serious crimes are then re-defined as appropriate fodder for our intelligence agency. The relationships between the RCMP and CSIS converge over these offenses.

Third, the military in Canada are being increasingly brought in to at least ‘stand-by’ in what is traditionally the ‘policing’ of domestic unrest situations—OKA standoff (aboriginal community protest in Quebec) and later the anti-globalization demonstrations i.e. APEC in BC, Quebec City trade meeting. Mandates between military and domestic policing are very different and purposely so. The military also has a different relationship with the political masters. One looks at a Seattle or Quebec protest and you see military strategies and responses that impact directly on the responses of the police—the consequence being a tendency to forget the democratic right to protest.<sup>157</sup> The increasing

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<sup>157</sup> See for example, Peter B. Kraska (ed). 2001. *Militarizing The American Criminal Justice System*, Northeastern University Press, Boston.

appearance of ‘swat-wear’ and intimidating technology and ‘control’ equipment used by the police in protest situations may be an indication of this militarization of the police.

### **Conclusion:**

The relationships between the police and politics are deep, varied, and sporadic. Political ‘enforcement’ campaigns are very useful to politicians and likewise political involvement in policing issues often means more resources and greater profile. Acknowledging these links is critical to any approach that aims to bring predictability, accountability, let alone ‘independence’ to this ongoing interchange.

The search and possibly the discovery of ‘evidence’ of the police being directed by politicians to take or not take a particular policing operational action ignores the context within which policing decisions are made—and likewise the limited alternative tools at the disposal of politicians to deliver on the various promises that they have made. The police are very *useful* to politicians and will remain so. The police, politicians, along with the media, are locked into a mutually exploitable relationship. Is it possible to limit this relationship and in that way enhance the independence of the police? More visibility and more accepted procedures may assist:

- All guidelines, policies or legislation must acknowledge (rather than continue the pattern of denying) the factors that bind the police to politics.

- Political patronage must play no role in the assigning of police related ‘plums’ although no one near Toronto now considers the Police Board as a ‘plum’!
- The media could play a role in assisting the public to be wary of the ‘war’ rhetoric around crime—once a community or a jurisdiction commits itself to the ‘war on prostitution’, the ‘war on drugs’ or any other clean-up/ clear out ‘war’ campaign, the police will be marching side by side with politicians. Law enforcement in the sense of community safety will be secondary.
- Numerous Royal Commissions and Task Force reports have documented the racial discrimination and class bias within Canadian society. Neither police *nor* the politicians are exempt from providing their quotient of discriminatory individuals. Decisions that effect the policing of citizens must acknowledge this potential bias and those responsible must be held to account in cases of violation. This becomes one of the important reasons for curbing political interference into police work. When faulty decisions are made, it will be easier to find the source if there has not been the addition of political hype and media hysteria.
- Operational policing decisions are being made ‘outside’ of Canada with seemingly little Canadian policy or operational debate concerning these changes. This speaks to the need for wider and different accountability mechanisms regarding the pressures for specific police operational responses that come from international agencies and organizations to which Canadian political masters may at some different level be aligned. Canadian officials join or sign international

initiatives for a host of different purposes. The fallout may include less than carefully considered policing directives.

- The post 9/11 ‘security’ roles being assumed by the RCMP will follow Brodeur’s ‘high policing’ model. Here the links with politics will be particularly close and less easily ‘detached’. Visibility and greater accountability—and possibly a re-think as to the appropriate RCMP vs. CSIS roles may be in order.

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## COMMENTARY BY TONITA MURRAY

On

**"The History and the Future of the Politics of Policing" by Margaret Beare**

### **Politics in policing**

One of the difficulties in examining the question of politics in policing, as Dr. Beare has done, is to define what we mean by "politics". Some of the papers presented at this symposium have done a good job of carefully defining "independence", "accountability" and "governance", but "politics" is used in relation to all of these as if it had a fixed definition. It is one of those words that we use a lot in very imprecise ways. Even the *Oxford English Dictionary* has nearly three pages devoted to nuanced definition of the root word "politic", so perhaps we can be forgiven for not using the term very precisely.

For example, we use “political direction” in one sense to mean “direction by a duly elected government”, but also in the sense of meaning “directed by partisan political interests”.

Margaret Beare has presented some vivid accounts of the second definition of the term. She has shown how the police were part of a number of political storms during the last 50 years or more; but what is not so clear is whether the police were integral or merely incidental players in the larger political drama. That assessment might require a more in-depth exploration and analysis of the political dynamics than Dr. Beare has provided. There may be other interpretations of the role of the police and the politicians in the events she describes.

A case in point is the linking of the former Commissioner of the Royal Canadian Mounted Police (RCMP), Norman Inkster, with political interests. I was working at the corporate level of the RCMP when Norman Inkster was Commissioner and saw first-hand some of the *causes célèbres* of the day that she and others at this symposium have described. I do know that he operated on a belief that the police had a social duty to serve all Canadians, including aboriginal people, women, visible minorities, and gays and lesbians. He introduced community policing into the RCMP, and he instituted the internal Cogger Inquiry because he was concerned that due process and the rule of law had been breached in an RCMP investigation. He believed strongly in accountability to the community and to Parliament, both through the Minister responsible for policing and through the parliamentary committee for justice and legal affairs, which comprises representatives of all political parties. His term in office could be characterized as

enlightened and progressive. That there was a Conservative government in office for most of tenure was coincidental and hardly reason to suggest that in taking its legitimate policy direction he was unduly influenced by party politics.

### **Police view of politics**

But what Dr. Beare has been able to show in her paper is how easy it is for the police to be drawn into a political maelstrom. The possibility of political influence over doctors, teachers, lawyers, correctional staff or other agents who have control over our minds or bodies does not have the same ability to raise the social temperature. Nor do we spend so much time agonizing about the governance, independence or accountability of other branches of the executive arm of government as we do the police. Generally, once we have set up the legal and accountability mechanisms, we leave other public sector institutions to function without a great deal of external oversight. This is sometimes puzzling, particularly in the case of regulatory agencies at either the federal or provincial levels, since their employees often possess some of the same powers as police officers.

Generally, the police are well aware of their vulnerability to being drawn into political controversy, but are not always able to do anything about it. For example, when governing bodies make faulty policing decisions the police often have to suffer in silence because, as agents of the executive arm of government, they cannot criticize their masters publicly. As a consequence of such circumstances, police officers are often wary of legitimate political direction. Particularly at the municipal level and within police unions, the degree of suspicion of politics can extend even to describing their own chiefs as 'political' when they see them implementing government policies, balancing interests,

prioritizing resources, or making objective decisions that do not necessarily support the views of their employees. This has led to something of a gulf between police chief executives and rank and file police.

An excessive suspicion of politics may be partly driven by fear of being unduly influenced, but also by lack of knowledge of how government works and the place of the police in government. Usually recruit training does not provide the degree of knowledge and understanding necessary for police officers to have a clear appreciation of their relationship to government, so it is only those relatively few police who reach the higher ranks who learn much about the constitutional relationship between the executive arm of government and the police. Many police officers see themselves as solely accountable to the law and more independent from government than they are. Consequently, the tendency is to view any policy direction as political interference. The danger is that they can become cynical about the motives of government and become reluctant to implement legitimate government policies.

### **Governance**

Of course police suspicion of governance is not always misplaced as Dr. Beare and others have discussed in their papers. We have a very patchy system of police governance. Ministers may be good governors or not, but if their appointed staff lack experience or do not understand the nature of the role and responsibilities of police, the direction from the executive of government will be largely ineffective because they will be unable to translate policy into police action.

The quality and effectiveness of municipal police services boards, which are the buffer between the police and elected officials are particularly variable. While there are some knowledgeable and highly effective police board members, many newly appointed members frequently have little knowledge of police roles and responsibilities and, by the time they acquire sufficient knowledge to be wise governors, their time is up and they are replaced by other new, inexperienced members.

Reasons for becoming members of police boards are also sometimes at odds with good policing. I have observed a significant number of members, such as small business owners, who are intent on holding down the cost of policing and thus municipal taxes rather than promoting good policing. Others come with other agendas for changing the police. Their intentions may range from the idealistic to the grinding of personal axes. In recent years there have been some good police services boards that have searched for and identified good chiefs to appoint. But in an appreciable number of cases, when progressive chiefs have run into trouble in implementing reform, the boards have capitulated to the critics and withdrawn their support from the chief.<sup>158</sup>

In the last decade, police governing bodies have shifted their focus from police conduct to police performance. This has been as a result of the new public administration where fiscal has tended to dominate social policy, and where accountability has been required for the results rather than the means. Oversight of police conduct has largely been left to *Charter* interpretation by the courts, and to the external oversight bodies, while

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<sup>158</sup>Frederick Biro, Peter Campbell, Paul McKenna and Tonita Murray, *Police Executives Under Pressure: A Study and Discussion of the Issues*, Police Futures Group Study Series No. 3, Ottawa: Canadian Association of Chiefs of Police, 2000.

governments have tended to concentrate more on cost-effectiveness, organizational streamlining, efficiency and budget cutting than on overseeing policing according to democratic principles. The trend is evident in the footnotes to the papers presented today. Many of the citations for the seminal studies on police accountability and conduct are dated in the 1970s and 1980s.

In this respect Margaret Beare's view that the tenure of Norman Inkster as RCMP Commissioner during the late 1980s and early 1990s marked the beginning of closer ties to government may be true. And the same observation might be made of other Canadian police services. This was a period when Canadian governments became preoccupied with budget control, value for money, performance and achievement of results. On those occasions when extra resources were made available for policing, they were often earmarked for the support of particular government policy objectives. Through the power of the purse, governments were able to gain more policy direction of the police and bring them more closely in line with other government departments. In Manitoba, this extended even to police chiefs reporting to a city manager rather than a board or council. While this trend in public administration was seen by many observers as an expression of neo-liberal ideology, it still represented legitimate government direction and was practised by governments of many different political stripes.

There are then many inconsistencies and problems with police governance. In general, it can be said to be ineffective, sometimes misdirected and often so weak as to be almost no governance at all. It is hardly surprising then that events such as Ipperwash or APEC were thought by many to have been mishandled by the government. Nor is it any wonder

that police, who are suspicious of politics, tend not to make a distinction between politics and legitimate direction by a governing body.

### **Conclusion**

The problem simply put is that police tend to be unduly suspicious of even legitimate political direction while governing bodies are inherently weak in providing good direction. Police governance may well be in a crisis of failure. That accountable policing has not broken down completely can be credited to the courts, and to police leaders who have come through the 1980's and know that public confidence depends on police observing human rights and not abusing their powers. Nevertheless, every one of us here today could list a number of breaches of this record and I would hazard a guess that there have been more in the last decade since ends became more important than means, than in the previous decade.

### **COMMENTARY BY COMMISSIONER R.H. SIMMONDS (RETIRED)**

#### **“The proper relationship between the police and the political structures to which they must account”.**

In 1985 I felt the need to publicly outline my views with respect to the issue of police independence on a single narrow issue. I am attaching a copy of that paper as my views on that issue have not changed in any way.

I refer to that incident as a - *single narrow issue* - as that is exactly what it was. There are however quite a number of other circumstances in which the political level and

the police interact, and about which I shall comment briefly based upon my experience gained in over forty years of police service, all as a member of the RCMP, with the last ten years as Commissioner of the Force.

In the Canadian context I have always thought that the concept of police independence should receive a rather narrow interpretation, at least as far as the RCMP is concerned. Some of my comments may be viewed a bit differently by local Police Chiefs, depending upon the statutory provisions contained in the various Provincial Municipal Acts, Provincial Police Acts, City Charters, and City Ordinances by which they are bound. It is also important to keep in mind that the RCMP is not a unionized organization, nor are there any bodies or structures between the Force and the Ministry, such as a Police Board or a Police Commission, and therefore the relationships of the Force vis-à-vis the political level are on quite a different footing than are most other Canadian police forces, whether they be Provincial or Municipal organizations.

The Constitution is silent on the matter of policing, however it is the responsibility of the Canadian Parliament to ensure *Peace, Order and good Government* through the enactment of legislation within their area of jurisdiction. One such piece of legislation is the *Royal Canadian Mounted Police Act*, which provides for the establishment of a Police Force and the appointment of a Commissioner who acts under the direction of the Minister with respect to the *control and management of the Force and all matters connected therewith*. The Act goes on to outline the duties of members of the Force who are *Peace Officers*, and who, upon taking their oath at the time of enlistment, are bound to act accordingly. While acting in their Peace Officer capacity their activities

are subject only to the orders of the Commissioner and are not to be influenced by the whim of any Minister (*my interpretation, not necessarily agreed upon and accepted by everyone as indicated in the attached paper*). It is my view that it is only on this narrow issue concerning the *sworn duties of a Peace Officer* that independence from the political level can be claimed.

When examined from a historical prospect it will be seen that from 1873, when the North West Mounted Police was established, that the Force has often been used as an instrument to assist in meeting Government policy objectives - a few examples

*i) The very purpose in establishing a Constabulary Force was to settle issues in Western Canada so that the territory could be opened up for colonization. In carrying out that responsibility members undertook duties that were far removed from that of a traditional police officer.*

*ii) The role of the Force during times of war, starting with the so called rebellion in Western Canada (1885). The war in South Africa at the turn of the previous century. World War I (1914-18). Imagine an RNWMP Cavalry Troop at Vladivostok ready to take on the revolutionaries until cooler heads prevailed World War II (1939-45). No.1 Provost Company recruited from the RCMP, and all the Force's aviation and sea going assets seconded for military duty.*

*iii) The Winnipeg General Strike and riots of 1919.*

*iv) The On to Ottawa Trek and Regina Riot of 1935.*

v) *The enforcement of special back to work legislation when enacted by Parliament to end Labour strife when deemed necessary to protect the national interest.*

These are but a few examples to illustrate that the Force has often been called upon to act under the direction of Government, without the issue of police independence being raised. In my view all of the above activity was quite legitimate, and it serves to illustrate why I believe the question of *police independence* should be given a narrow interpretation and should only be invoked to prevent unacceptable political meddling with respect to who can, and who cannot, be subject to police investigation and prosecution within the context of current law, which in itself is perhaps the ultimate reflection of government policy. The only other area that I would argue is sacrosanct to police judgement is that of determining the methods and timing of operations needed to carry out a legitimate objective, subject always to having to operate within the law and policy guidelines.

While researchers and professors may speculate endlessly with respect to the concept of police independence, the police themselves do not have that prerogative as they must comply with the law as they find it in terms of their duties and to a large extent their deployment (i.e. Policing contracts, memoranda of understanding between agencies, both domestic and foreign, and other instruments in place) and it is therefore not an issue which is debated at length within the police service. Having said that, I am pleased to see the issue studied in a forum such as this as it is a matter that deserves to be better understood at the political level, at the operational police level, and by the public at large when it becomes a matter of public interest as a result of some incident that has occurred

and finger pointing is taking place. It is difficult to find a great deal of literature on the subject, and the papers prepared for this exercise go a long way toward filling that void. Whether or not any change, or codification, of these issues result, a greater knowledge and awareness of the subject and the pitfalls attendant thereto is a worthwhile endeavour.

The question to be asked then is, in what form should government policy wishes best be communicated to the police, and to what level of detail should government officials be allowed to influence field activity? Once again I shall restrict my comment to RCMP activity in its' role as Federal Police, and to its' role in provincial and municipal policing under contracts between governments. I would just point out, that when performing regular police duties under the terms of a contract, when a member refers to "The Minister", he/she generally has in mind the Provincial Attorney General or Solicitor General as the case may be.

My view of the correct relationship has always been quite simple. While keeping firmly in mind the two principles mentioned above, which must not be breached, I have always believed that mature and experienced persons, possessed of good judgment and common sense, can resolve and successfully deal with almost any problem that might be encountered in the field of law enforcement. That is not to say that there will always be agreement, but a good deal of accommodation can be reached without any of the parties feeling that their responsibilities and their professional judgment have been compromised.

I see no problem with a good deal of discussion between Ministers of the Crown and the Commissioner of Police when a large event, or series of events are at the planning stage, or are being actively dealt with. In fact I believe it essential that Ministers with political responsibility and the Commissioner of Police with operational responsibility, have a clear understanding of the problems and concerns as seen by all sides. However, once the police have been tasked with the wide array of responsibilities that go with any major event, particularly if it is one with difficult security issues attached, and with national or international ramifications of concern, the political level must defer to the professional judgment of the police in the planning and the execution of the tasks for which they are responsible. The professional judgment of the police must take into account the rights of citizens to lawful assembly and protest, however, their first concern must be directed to assuring the security of the venue and the participants, and accomplishing that with the least degree of force and disruption possible. From a police perspective this of course is where the difficulty arises, and most assuredly there will be those who feel that the police have been overly protective or aggressive in their conduct, even in the face of severe provocation, and on occasion, with benefit of hindsight, such sometimes appears to be the case.

In a large and highly decentralized country much of the planning, and virtually all of the on site activity, is in the hands of local or regional personnel, and here difficulties occasionally arise. At large events at which the government is the host there will be always be ministry officials present during the planning phase and during the execution of the plan. On occasion these officials will attempt to go beyond their proper consultative and information sharing role and will invoke the name of the Minister, or

even the Prime Minister, to try and get their way. If such occurs the Officer in charge should politely but firmly advise the official that if the Minister has a problem he should take it up directly with the Commissioner, and he, the Officer in charge, will take his direction from that office through the chain of command. Such advice will generally end the problem as it is unlikely that the Minister would even be aware of the officials' concerns, and if he were made aware it is unlikely that he would approach the Commissioner unless he felt strongly that there was a major problem that required higher level intervention. Ministry officials should not be permitted access to command centres while operations are underway, and if they choose to be out where the action is taking place they should be treated as any other citizen. It must be borne in mind that if problems develop the ministry official is not the person who will be held to account. Again there is room for a good deal of discussion and dialogue among all the parties in the work up and planning stages and seldom does the situation lead to the scenario suggested above, but should it do so there must be no doubt about how it should be handled, and there must be no doubt in the minds of all personnel committed to the operation just who is in charge. In this respect I am in complete accord with the comments found in para's 31.3.1 to 31.4 of the Hughes report with respect to the APEC Conference, cautioning only that should these principles be subject to written codification they be carefully worded so as not to prevent the free flow of information and discussion up to the point where the bar is set.

In a similar vein, I see no threat to police independence if there is quite detailed discussions with the Ministry regarding national priorities and concerns in the area of criminal activity and crime suppression programmes, bearing in mind that there will

never be enough resources to deal with all the problems. This type of discussion is particularly vital if amendments to the law are being recommended.

There are occasions on which it can be quite galling to have to dedicate resources to investigating what in the overall scheme of criminal activity are rather minor offences, but because they involve parliamentarians or government officials are given high priority. To that I can only say that given the role of Parliament and the need for good governance any sensible Commissioner would move quickly to have these matters investigated in order that the affairs of the nation can be dealt with in an orderly fashion and that public confidence be maintained in the institutions of governance. This type of incident will often generate a good deal of comment, some high drama and plenty of rhetoric, which will occasionally include suggestions that the police are being used for partisan political purposes. In these cases the police must proceed expeditiously and professionally, and be scrupulously careful to ensure that no Minister be kept apprized with respect to their findings until the appropriate moment, which will generally be at the time that charges are preferred, or the matter is concluded for want of evidence or is determined to be unfounded. During my tenure as Commissioner never did I experience any interference or improper comment from any Minister or any official in cases of this nature, although on one occasion a highly partisan Parliamentary Committee attempted to have me divulge the contents of an ongoing investigation which, despite threats to my liberty, I refused to do.

In reading the papers prepared for this consultation, I note some comment with respect to the issue of information sharing vis-à-vis attempts to influence the investigative

process. Again I do not see any problem in this area provided that the exchange of information is between persons of good judgment who have a proper understanding of their role. In matters of significant interest the Minister should not have to rely upon the daily media as his source of knowledge, and particularly so because in the Canadian Parliamentary system then he or she will surely be bombarded with questions by opposition members during the Question Period, and he should be in a position to at least state that the Commissioner has informed him that an investigation is/or is not underway and the results will be discussed with Crown Counsel at the appropriate time.

Furthermore, ministerial support is a prerequisite in submitting budget requirements in the estimates process, in memoranda to Cabinet, in Treasury Board submissions, in negotiating certain contracts and so on. All of these procedures require a good deal of discussion, and supporting data to make the case, and thus there must be ongoing dialogue between the Minister and the Commissioner, and between relevant departmental officials and relevant officers of the Force. None of this discussion will include details of matters under investigation, but it does illustrate the need for open dialogue with respect to current needs and perceived future needs as identified through the planning process, and in these activities the police cannot proceed independently.

One other comment is relevant to the matter of information exchange. During the ten years that I was the Commissioner of the RCMP there were seven Solicitors General and four Prime Ministers (one of them twice). Each of these gentlemen had a different background of experience and brought different priorities to the table. On occasion the new incumbent had little experience or knowledge with respect to the subtleties of the

Justice System and the role of the police within that system. This resulted in an inordinate amount of time being spent in briefing sessions with respect to the work of the Force, historically, currently and futuristically, and likewise in determining the interests and concerns of the new incumbent. I see no alternative to this procedure given the responsibility of the government for peace, order and good government, and for the Minister's role as outlined in the RCMP Act. I only point this out because some observers tend to characterize this activity as an indication that the police leadership is somehow becoming too close to the political level, whereas the exact opposite is actually the case as all this activity is undertaken to ensure that there is a proper understanding of roles, hopefully leading to a productive relationship with respect to the work and the needs of the police community.

On a more general theme one can state that factual police independence has been eroded over a period of years by what is generally considered to be progressive reform (especially by lawyers), and often with the full acquiescence of the police. Perhaps the most obvious example is in the area of the prosecution of common crime. When I first entered the police service there were many jurisdictions in which Magistrates Courts were commonly referred to as Police Courts. In these Courts all charges were preferred by the police and all prosecutions were conducted by police prosecutors, up to and including preliminary hearings. Now, in many of these same jurisdictions, no charge can be preferred unless approved by a city prosecutor, or crown counsel (although I maintain that this is a matter of practice and not a matter of law). Information's are seldom laid by the investigating officer, and such officer will probably not even know the results of the case unless he deliberately seeks it out. Frequently, the work of the police officer

handling the case at street level is completed with the submission of his report on the incident, and others decide what, if any, follow up there should be. All this has taken place in the name of efficiency and so called professionalization, however an unintended result has been the lowering of knowledge and understanding of court procedures and the presentation of evidence on the part of Constables. While one would not argue that the old systems should be reintroduced it must be stated that these changes, along with a number of others, have had the effect of lowering the so called independence of the police.

My comments are not particularly weighty when compared to the work that has gone into the preparation of the papers being discussed today, but rather are just the personal views and comments of a former senior police official. I certainly make no attempt to speak for the Force today as such would be quite inappropriate and well beyond my mandate. In fact in this entire exercise my greater interest is centered on the issues for which the Ipperwash Inquiry was created as during my police career I was, at times, quite involved in dealing with problems centered on the concerns of Native Canadians and the difficulties which flow there from, and in that respect have firm views with respect to the way in which they should be handled. I find that to be a much more interesting topic than do I find the somewhat theoretical question of police independence. I thank you for including me in your deliberations.

**COMMISSIONER R.H. SIMMONDS (RETIRED)****ADDENDUM to report on RCMP investigation of the HATFIELD Case.**

1. In para.54 (vii) I outlined that no minister, nor any other person, in either the Federal or Provincial Administration, attempted to give any improper direction or in any way influence the police decisions that had to be made as this case progressed. I had been on leave for two weeks during the latter part of January and early February, 1985. When I returned to duty on February 11th I found that the media was a-buzz with respect to a meeting that had taken place between the Hon. Elmer MacKay and Premier Hatfield at Ottawa on the 7th October, 1984. It was being suggested that the Solicitor General may have given improper direction to the Force as the result of that meeting.

2. As the Solicitor General had maintained a perfectly proper position vis-à-vis the Force throughout this investigation I felt compelled to speak out, entirely of my own volition, to set the record straight. This I did through several telephonic discussions with print, T.V. and radio personalities on the 11th February. I made two principal points. Firstly, that the Solicitor General had not in any way influenced our work or our decision making, and secondly, that had he attempted to do so it would not have been accepted as it would have been an unacceptable interference with the principle of police independence and discretion. Such being the case and, as at the time the Minister met with the Premier, no charge had been laid, I did not find that the meeting was offensive or dangerous insofar as our work was concerned. It had absolutely no effect on what we were doing.

3. At a meeting of the Justice and Legal Affairs Committee on the 14th "March, 1985, the Honourable Bob KAPLAN made the following comment and posed the following question;

"Thank you, Mr. Chairman. I have a lot of subjects I would like to cover, but I have no doubt that the most important to me is a difference that has been expressed between you, Mr. Minister, and me about the powers and responsibilities of the Solicitor General. I would like to take a few minutes to clarify that. I find myself also on this occasion, which is a very rare one, in almost complete disagreement with some statements attributed to the Commissioner of the RCMP, and so what I would like to do is refer to those statements and set out for you the theory on which I believe the Solicitor General is accountable to Parliament for the operations of the RCMP and have your views about it.

You have been critical of a position I have stated on a number of occasions that I think what is described in section 5 of the RCMP Act is the position-and it is to be taken literally-which is that the Commissioner operate under the direction and subject to the direction of the Solicitor General. Now, I interpret that to mean that if the Solicitor General gives a direction to the Commissioner and that direction is lawful, it is to be obeyed. Of course, if it is unlawful, it is not to be obeyed. No official can obey an unlawful order. So if you tell the Commissioner to send some people to beat up some of your enemies, that order should be disobeyed, but if you tell the Commissioner to discontinue an investigation or to begin an investigation, I consider that to be a lawful order.

Now, I want quickly to add that I consider that to be an improper order in normal circumstances. I consider that to be an order which flies in the face of the tradition of the RCMP, which is a tradition of independence and a tradition which the Solicitor General must respect, at his peril. But when in an appropriate case he intervenes, if the Commissioner... I believe I can quote him. He says:

"In the end, we have our independent right to conduct investigations based on reasonable grounds, and no Minister can order us not to."

If that is an accurate statement of the position, then we live in a police state. We live in a state where the police can defy a lawful order from the civilian authority.

Now, I think a responsible and sensible Commissioner who received an improper order-close this file or layoff so and so- a Commissioner who received an order such as that would perhaps think twice before replying. I would think, for example, it would be entirely proper for him to call on the Prime Minister and say: Your Solicitor General has given me this order; what are your views about it? In circumstances such as that, the Prime Minister could say he would speak to him about it or that he has to go if that is the kind of order he is giving, or the Prime Minister could say: Do it; he is the Minister.

In a case such as that, I think a Commissioner of the character of the present Commissioner would probably resign, in the way Mr. Nicholson resigned when he

received a lawful order from John Diefenbaker with which he did not agree. I do not want to get into the history of that, but there is no question, in my view, that when a lawful order is given by the Solicitor General under section 5 of the RCMP Act, it is to be obeyed.

Now, I am not surprised that this type of issue is viewed as almost theoretical, because it happens very rarely, and it should happen very rarely. But there are circumstances in which it would be right for the Solicitor General to give an order on these matters. That is the reason - and I will come to that after you have had an opportunity to comment on that - why I do not think you should sit down in normal circumstances with people who are under investigation, especially not in the kind of circumstances in which you did, where you are refusing to say what you did as a result of the meeting, where no officials were present other than a partisan appointee whose job is to make you look good. You know, the chef du cabinet who is not there representing the independent tradition of the RCMP, quite the contrary. So what I want to put to you as my first question is whether you do not agree with the version I have just outlined of your powers and responsibilities in relation to the Commissioner of the RCMP."

4. The Solicitor General provided his answer to the question and I was then invited to respond. Before having the opportunity to do so the ringing of the Division Bells brought the meeting to a close. The question was not further discussed at the next sitting of the Committee. The issue is important because, if the Honourable Mr. KAPLAN is correct, I too, would be greatly concerned if the Solicitor General were to meet with suspected or charged persons and then have it within his power to direct the police as to what they could or could not do. With the greatest of respect, however, I do not accept that his position is correct. My reasoning is as follows

(i) Section 5 of the Royal Canadian Mounted Police Act reads as follows

"The Governor in Council may appoint an officer to be known as the Commissioner of the Royal Canadian Mounted Police who, under the direction of the Minister, has the control and management of the Force and all matters connected therewith."

(ii) Section 17 of the Royal Canadian Mounted Police Act reads as follows

"(1) The Commissioner, and every Deputy Commissioner, Assistant Commissioner and Chief Superintendent, is 'ex officio' a justice of the peace having all the powers of two justices of the peace.

(2) Every Superintendent and every other officer designated by the Governor in Council is 'ex officio' a justice of the peace.

(3) Every officer, and every person appointed by the Commissioner under this Act to be a peace officer, is a peace officer in every part of Canada and has all the powers, authority, protection and privileges that a peace officer has by law.

(4) Every officer, and every member appointed by the Commissioner to be a peace officer, has, with respect to the revenue laws of Canada, all the rights, privileges and immunities of a customs and excise officer, including authority to make seizures of goods for infraction of revenue laws and to lay informations in proceedings brought for the recovery of penalties therefor.

(iii) Section 18 of the Royal Canadian Mounted Police Act reads as follows

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

(a) to perform all duties that are assigned to peace officers in relation to the preservation of the peace, the prevention of crime, and of offences against the laws of Canada and the laws in force in any province in which they may be employed, and the apprehension of criminals and offenders and others who may be lawfully taken into custody;

(b) to execute all warrants, and perform all duties and services in relation thereto, that may, under this Act or the laws of Canada or the laws in force in any province, be lawfully executed and performed by peace officers;

(c) to perform all duties that may be lawfully performed by peace officers in relation to the escort and conveyance of convicts and other persons in custody to or from any courts, places of punishment or confinement, asylums or other places; and

(d) to perform such other duties and functions as are prescribed by the Governor in Council or the Commissioner.

(iv) I accept that the Minister has broad powers of direction over the Commissioner with respect to the Commissioner's control and management of the Force, and all matters connected with that control and management. However, I do not accept that the Minister's powers of direction over-ride the inherent responsibilities, authorities and powers that are given to every member upon appointment to the office of "Peace Officer". By virtue of Section 17(3) the Commissioner, and every other regular member of the Force, is a Peace Officer.

(v) The Office of "Peace Officer" or "Constable" has its roots in the Common Law. It is not to be taken lightly and it is my belief that much of the Common Law of England applies to that position as it is understood in Canada. I have never been able to find much Canadian jurisprudence with respect to the question, however, have for some time believed that the principle to be guided by is that which can be found in the case of *R. v. Metropolitan Police Commissioner, Ex parte BLACKBURN* in which Lord DENNING, M.R. states

"The office of Commissioner of Police within the metropolis dates back to 1829 when Sir Robert Peel introduced his disciplined Force. The Commissioner was a justice of the peace specially appointed to administer the police force in the metropolis. His constitutional status has never been defined either by statute or by the courts. It was considered by the Royal Commission on the Police in their report in 1962 (Cmnd. 1728). I have no hesitation, however, in holding that, like every constable in the land, he should be, and is, independent of the executive. He is not subject to the orders of the Secretary of State, save that under the Police Act 1964 the Secretary of State can call on him to give a report, or to retire in the interests of efficiency. I hold it to be the duty of the Commissioner of Police, as it is of every chief constable, to enforce the law of the land. He must take steps so to post his men that crimes may be detected; and that honest citizens may go about their affairs in peace. He must decide whether or not suspected persons are to be prosecuted; and, if need be, bring the prosecution or see that it is brought; but in all these things he is not the servant of anyone, save of the law itself. No Minister of the Crown can tell him that he must, or must not, keep observation on this place or that; or that he must, or must not, prosecute this man or that one. Nor can any police authority tell him so. The responsibility for

law enforcement lies on him. He is answerable to the law and to the law alone. That appears sufficiently from *Fisher v. Oldham Corpn.* (14), the Privy Council case of *A.-G. for New South Wales v. Perpetual Trustee Co. (Ltd.)*(15)."

This citation is a portion of a lengthy judgment that can be found in *All England Law Reports* [1968] All E.R.

5. The Honourable Mr. KAPLAN characterizes the position that I believe to be correct as being tantamount to that of a "police state". Again, I respectfully defer. The Office of Constable, with its' original powers, seems to have been most deliberately structured as outlined to ensure that the more common definition of a "police state" not be allowed to develop. The more common definition being that a police state emerges when a Government uses its' police agencies as instruments of repression against the citizens of the state. It is against that very concern that the police are given a high degree of independence. Nor is it a dangerous degree because, after all, there are many ways that a capricious Commissioner can be called to account, or an errant Constable disciplined. The Commissioner is appointed "at pleasure". His estimates can be constrained, and the actions of every Peace Officer come under the eyes of the Courts.

6. The Honourable Mr. KAPLAN further takes the position that the Commissioner has no choice but to accept direction on all matters, including who he mayor may not investigate or charge, and if he disagrees with the direction his option is to resign. I do not necessarily agree. The Commissioner is not appointed by the Minister, but rather by the Governor-in-Council under the Great Seal of Canada. If a Minister tried to limit the Commissioner's discretion under his inherent powers as a Peace Officer, as opposed to his responsibilities for the management and control of the Force, I believe he could just ignore such direction' and let the Minister take his case to the Governor-in-Council to seek the Commissioner's dismissal. The result would be interesting to see. The case of Commissioner NICHOLSON, which was referred to by the Honourable member, is not parallel. As I understand that situation the Minister of the day refused to support the Commissioner on an administrative matter that required the Minister's consent, that being to transfer personnel between Provinces to deal with an emergent situation. When the Minister refused to give his consent, thus severely challenging the Commissioner's professional judgment and his leadership of the Force in the face of a crisis, the Commissioner did what most honourable men would do. He tendered his resignation. The distinction being, of course, that the Minister did not challenge the Commissioner's authority as a Peace Officer, but rather his judgment and leadership.

7. I have outlined my views in some detail as it puts the meeting between the Minister and the Premier in a different perspective. The Minister is not the Attorney General responsible for prosecutions, and as, if I am correct, his powers to direct are as described, it is of little importance to me, as Commissioner, with whom he meets. Had a charge been preferred, and had the meeting been with the judge on the case the matter would be quite different, but that is not what occurred. In any event the Minister described to me the tone of his conversation with the Premier and he, the Minister, gave me no direction.

8. In bringing this to a close I should make it clear that I am not a lawyer. My views have been arrived at over years as a practicing policeman and my laymans interpretation of the law as I find it. In any event I believe the question to be much more theoretical than real as there have been five honourable gentlemen who have occupied the position of Solicitor General during my tenure as Commissioner, and not once have I felt that my right to investigate, when there was a reasonable apprehension of criminal conduct, or not to investigate if I could find no grounds, has in any way been threatened at any time

R. H. Simmonds  
Commissioner