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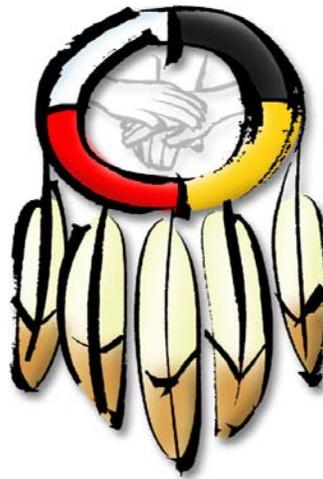
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# *International Comparison of Indigenous Policing Models*



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## Introduction

This paper provides a brief review of current policing programs and initiatives relating to Indigenous peoples in Canada, the United States, Australia and New Zealand. These countries were selected due to similarities in their colonial history, laws, political structures and the socio-economic outcomes of their respective Indigenous peoples. The purpose of the report is to facilitate opportunities to allow for the exchange of information on Indigenous policing models, research and policy issues. The report, therefore, is not an attempt to present an exhaustive overview of all Indigenous policing initiatives, but an attempt to commence the process of information sharing, and enhance cross-national opportunities for communication and discussion in this critically important area.

This paper has been subdivided into five sections:

- The first section deals with Aboriginal policing in Canada, and the application of a national and comprehensive First Nations Policing Policy by the Canadian government in partnership with provincial governments and First Nations communities;
- The second section analyzes the American tribal experience in the development of their own police services since the inception of tribal policing in the late 19th Century, which were aimed at dealing with issues of lawlessness on newly created Indian reservations;
- The third section provides an overview of Indigenous auxiliary policing in the six Australian states and two territories. In addition, it provides a brief description of the Anunga Rules regarding police interrogation of Indigenous prisoners;
- The fourth section deals with the New Zealand Police's attempt to deal with Māori overrepresentation within the criminal justice system, and their pioneering work in Restorative Justice Programs for Māori youth; and
- The final section provides a discussion of Indigenous policing initiatives in the four countries, as well as policy and research implications concerning the future of Indigenous policing, and the need to develop more opportunities for cross-national communication and discussion fora in this area.

Throughout this report, the general term "Indigenous" is used to describe the Aboriginal, North American Indian, First Nations, Inuit, Māori, and Torres Strait Islander populations of the four countries. The only exception was made when discussing specific national programs and approaches that use specific terminology for a specific ethnic group.

## Section I: Aboriginal Policing in Canada

### Overview

In Canada, there are 614 federally recognized “Indian” bands, also referred to as First Nations. To date, the Canadian First Nations have been awarded about 2.95 million acres of trust land (“reserves”) for their own use (DIAND, 2004).

Section 35 of the *Constitution Act* recognizes the “Rights of the Aboriginal (Indigenous) People of Canada,” and provides a definition of Aboriginal peoples of Canada. Pursuant to the Act, Aboriginal peoples of Canada include the “Indian, Inuit and Métis peoples of Canada” (Canada, 1982). Similarly, the Canadian census form mirrors the constitutional definition and uses the terms North American Indian, Métis, and Inuit, and allows each individual respondent to self-identify with the group they belong to.

According to the 2001 Census, the term “North American Indian” refers to persons who consider themselves as part of the First Nations of Canada, whether or not they are registered (that is, have legal Indian status) pursuant to the *Indian Act* with Indian and Northern Affairs Canada (INAC). “Métis” refers to people of mixed Aboriginal and non-Aboriginal ancestries who identify themselves as Métis. The Inuit are Aboriginal people who originally lived north of the tree line in Canada, and who self-identify as such (also sometimes referred to as “Eskimos”).

### Demographics

According to the 2001 Census, 976,300 people in Canada identified themselves as “Aboriginal,” up 22% from 799,000 in 1996. In comparison, the non-Aboriginal population grew by only 3.4% during same period. Of the total number:

- 608,850 identified themselves as North American Indian (62%);
- 292,310 as Métis (30%); and
- 45,070 as Inuit (8%).

People who identified themselves as Aboriginal accounted for 3.3% of the nation’s total population in 2001, compared with 2.8% in 1996 (Statistics Canada, 2003, Siggner, 2003).

Aboriginal peoples have a young and growing population, as children aged 14 and under represented 33% of the Aboriginal population in 2001, far higher than the corresponding share of 19% in the non-Aboriginal population. Although the Aboriginal population accounted for only 3.3% of Canada’s total population, Aboriginal children represented 5.6% of all children in Canada (Statistics Canada, 2003).

## **Social and economic statistics**

The Aboriginal unemployment rate is almost three times higher than the non-Aboriginal rate (19.1% compared with 7.1%). The Aboriginal labour force participation rate is 61.4%, whereas, the Canadian average is 66.5%. Of all Aboriginal groups, North American Indians have the lowest labour force participation rate at 57.3%, and the Métis have the highest rate at 69.1% (CCJS, 2001).

In recent years, steady improvement in the educational attainment for registered Indians (both on and off reserve) has been achieved. Specifically, more First Nations peoples are completing their education, and for those 15 years and over, the proportion with a university degree increased from 2% in 1991 to 3% in 2001. Of those 15 years and over, about 16% were attending school full time or 5% more than the non-Aboriginal population (CCJS, 2001).

## **Aboriginal crime statistics**

According to the Canadian Centre for Justice Statistics (CCJS, 2006), Aboriginal peoples have the highest rates of actual offences, arrest and incarceration of any group in Canada. In 2004, the on-reserve crime rate was about three times higher than rates in the rest of Canada. Critically, the violent crime rate was even greater at eight times higher than the rest of the country. For specific offences, the on-reserve crime breakdown was as follows:

- The homicide rate was seven times higher than the Canadian average;
- The assault rate was eight times higher than the Canadian average;
- The sexual assault rate was seven times higher than the Canadian average;
- The mischief (vandalism) rate was six times higher than the Canadian average;
- The rate of total property offences was comparable to the Canadian average;
- The rate of disturbing the peace was 12 times higher than the Canadian average;
- The offensive weapons rate was seven times higher than the Canadian average;
- Breaking and entering (burglary) was the single most frequent youth offence type, followed by mischief and theft; and
- Violent crimes tended to be committed by someone known to the victim (56%) such as a relative, friend, or acquaintance, compared with 41% in cases of violence committed against non-Aboriginal people.

## History of Aboriginal policing in Canada

Historically, the Canadian Federal government—through the Dominion Police and later the Royal Canadian Mounted Police (RCMP)—provided policing services on reserve, because of the prevailing view that the federal government was fully responsible for all aspects of Indian affairs and had sole jurisdiction for all Indian reserves (the federal enclave theory). The federal enclave theory began to give way in the 1960s and 1970s as a result of several studies, task force reports and Supreme Court decisions that constitutionally sanctioned extensive provincial jurisdiction over Indians both on and off reserve (DIAND, 1990).

The RCMP began to withdraw from policing reserves in Ontario and Quebec as the federal role began to evolve from providing direct police service delivery in favour of providing financial support for on-reserve policing. In the mid-1960s, DIAND commissioned a study by the Canadian Correctional Association. The report, *Indians and the Law*, submitted in 1967, made numerous recommendations relating to the improvement of the policing services provided to First Nations communities, including the expansion and improvement of the band constable system. DIAND subsequently obtained Treasury Board approval to develop a more elaborate program, which was published as Circular 34 on April 28, 1969. The program resulted in an increase in the number of band constables from 61 in 1968 to 110 at the end of March 1971. The cost of this program was borne entirely by DIAND. This program was further defined by means of Circular 55 issued September 24, 1971, which—among other things—provided that the objective of the program was to supplement the senior police services at the local level, not supplant them. The jurisdiction of the band constables remained quite limited, as they received little or no training. Generally, band constables are not allowed to carry firearms, and are empowered to handle only band bylaw enforcement and matters of a civil nature (Canadian Correctional Association, 1967).

In 1973, a second more broadly based study, *Report of the Task Force: Policing on Reserves*, examined ways and means to improve policing services for First Nations communities. The Task Force focused on the Band Constable Program and the employment of Aboriginal people in a comprehensive policing role, and proposed the expansion and improvement of the Program (DIAND, 1973).

In connection with the development of fully empowered police officers, the 1973 Task Force examined three basic options, the first two of which were based on band council or municipal policing. Option 3(a) proposed the establishment of autonomous Aboriginal police services, while option 3(b) proposed the development of an Aboriginal special constable contingent within existing police services. The Task Force recommended that option 3(b) be made available to interested First Nations (DIAND, 1973).

In 1973, the federal Cabinet approved the Indian Special Constable Program and authorized the Minister of Indian Affairs and Northern Development to enter into agreements with the provinces to share the cost (on a 60% federal and 40% provincial

ratio) of employing “Indian Special Constables” to provide on-reserve policing as part of provincial policing services (DIAND, 1973).<sup>1</sup>

A 1978 evaluation of the RCMP 3(b) program concluded that the program was relatively successful in achieving its goals and should be expanded as rapidly as possible to include more communities that were reporting a need for increased police services. In addition, the report indicated that community members felt that the RCMP special constables were better trained and supervised than other police officers available on reserve at that time, that the attitude of regular RCMP members towards First Nations had improved and that they were developing better relationships with First Nations peoples (DIAND, 1983).

In June 1991, after extensive consultation with the provinces, territories and First Nations across Canada, the federal government announced a new on-reserve First Nations Policing Policy (FNPP). Following a joint recommendation by the Minister of Indian Affairs and Northern Development and the Solicitor General of Canada, the First Nations policing program was transferred to the Department of the Solicitor General of Canada in 1992 to take advantage of the Department’s policing expertise.<sup>2</sup> The Aboriginal Policing Directorate (APD) was created and given responsibility for the implementation, maintenance and development of the First Nations Policing Program within the framework of the FNPP.

The Program was successfully implemented across Canada through tripartite agreements negotiated between the federal government, provincial or territorial governments and First Nations, to provide police services that are effective, professional and tailored to meet the needs of each community. Tripartite agreements stipulate that the federal government pays 52% and the provincial or territorial government 48% of the cost of First Nations policing services. The APD also provides limited funding to promote effective policing for Aboriginal people living off reserve.

### **Aboriginal policing agreements in Canada**

Demand for First Nations police services has grown exponentially over the years. As of August 22, 2007, the federal and provincial governments fund 162 tripartite policing agreements throughout Canada. This includes 46 First Nations self-administered policing agreements, 106 Royal Canadian Mounted Police community tripartite agreements (RCMP CTAs), and 10 RCMP First Nations community police service framework agreements.

A First Nations self-administered policing agreement is a policing arrangement between Canada, the participating province or territory, and the First Nations community. In these arrangements, the First Nation develops, manages and administers its own police service under provincial legislation. Independent police commissions provide for the impartial

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<sup>1</sup> In 1978, the cost-sharing formula was revised to 46% federal and 54% provincial funding. This is still the current cost-sharing formula.

<sup>2</sup> The APD is now part of the Department of Public Safety.

and independent oversight of police operations, and the police chief is responsible for the management and administration of operations of the police service.

The RCMP CTAs are negotiated between the federal government, the participating province or territory and the First Nations community. To this end, the First Nation is policed by its own dedicated contingent of Aboriginal RCMP officers. In addition, community advisory bodies are established to act as the conduits between the community and the RCMP.

Framework agreements are bilateral agreements signed by Canada and participating provinces or territories. They provide the administrative and financial framework for individual RCMP CTAs, and must be in place prior to the negotiation of CTA agreements.

As of August 22, 2007, about 402 First Nations communities out of the eligible 657 are covered under the FNPP. This represents about 66% (310,625) of the eligible on-reserve First Nations population. The number of Aboriginal police officers funded under the FNPP is 1,197. Out of this number:

- 819 officers work for First Nations self-administered police services;
- 346 officers for RCMP CTAs; and
- 32 officers for the RCMP Provincial Framework Agreements.

In addition, under pre-FNPP policing arrangements (legacy programs), the Program funds 197 Aboriginal officers through the following programs:

- 112 band constables; and
- 78 RCMP Aboriginal officers under the RCMP Aboriginal Community Constable Program (RCMP ACCP).

For the 2005–2006 fiscal year, the federal government’s total contribution to First Nations policing was \$97 million. Of this amount, 61% was for the First Nations self-administered police services, 24% for RCMP CTAs and framework agreements. Expenditures for the pre-FNPP policing arrangements comprised 9% of the budget allocation.<sup>3</sup>

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<sup>3</sup> Estimated provincial FNPP expenditures were \$76 million. The total federal and provincial/territorial First Nations policing FNPP expenditures were \$173 million.

## **Evaluation of Canadian Aboriginal policing programs**

Inherent in the inception of the FNPP by the Canadian government was the idea that Aboriginal officers and services would be more effective in policing the on-reserve population than non-Aboriginal police officers and services. This was going to be achieved through the establishment of policing agreements. Also inherent in the program was the commitment for evaluation to see whether the program met its objectives and to what extent; and, if it did not, to determine why the goals had not been achieved.

In 1995, an evaluation of the FNPP produced ambiguous results primarily because the methodology relied too heavily on anecdotal information sources. The evaluation concluded that evidence from case studies suggested that Aboriginal communities were either more satisfied with the services provided under the program than they were with the previous arrangements, or they saw no change (Jamieson, Beals, Lalonde & Associates, 1995).

Currently, several attempts have been made at the local level to assess the levels of satisfaction with police services in Aboriginal communities. The results of these surveys suggest that there are large amounts of variation in the ratings of policing services by Aboriginal peoples. Two surveys in Quebec and Six Nations suggest levels of satisfaction with policing that more closely mirror those of the Canadian population at large. In the Quebec survey, 71% of the on-reserve respondents indicated that the police were doing a very “satisfactory/very effective job” and 83% in the Six Nations survey (Quebec, 2003 and Six Nations, 2003).

In 2005, the Government of Canada participated in a syndicated research study of First Nations living on reserve to explore the state of affairs on reserves. The objective was to obtain the point of view of the residents themselves and to find out what issues were important to this unique segment of the Canadian population and what kinds of programs they felt they needed. This study involved two telephone surveys of about 4,000 First Nations residents living on reserve. Following the surveys, a series of eight focus groups were conducted throughout Canada. Half of these groups were conducted with youth, while the other half was conducted with adults (25 and over) (Ekos, 2005).

The results of these surveys show that, on the positive front, respondents did indicate that FNPP policing provided better response times and community coverage than non-FNPP policing (such as provincial policing services). In general, however, the study discovered that, except for the province of Quebec, First Nations people living on reserve did not rate the performance of their local police service very highly; only 43% of reserve residents rated their local police favourably. Due to the geographic isolation of many First Nations communities, a large portion of First Nations people believe that there are too few police visible in their communities.

## **Section 2: American Tribal Policing**

### **Demographics**

In the United States, there are 561 federally recognized tribes (sometimes referred to as “nations”). Of these, about 100 in the lower 48 states have substantial land holdings, mostly in the form of reservations, but also off-reservation interests. About half of all tribes live in Alaska, in the form of villages. It is important to note that the areas of a few reservations are bigger than certain states, while others are the size of large counties, and others are like cities and towns (BIA, 2002). The technical term for reserve land is “Indian Country,” which comprises approximately 56 million acres, with the majority located west of the Mississippi River.

According to the 2000 U.S. Census, the number of people indicating American Indian and Alaska Native (AIAN) ethnicity was 2,475,956, representing 0.9% of the total U.S. population. Of this number, approximately, 1.4 million reported that they lived on a reservation. An additional 1,643,345 people indicated that they were American Indian plus another race. In total, the combined population was 4,119,301 people or 1.5% of the total U.S. population (Ogunwole, 2002).

### **Crime Trends**

In 1997, the Executive Committee for Indian Country Law Enforcement Improvements revealed “there is a public safety crisis in Indian Country.” The Committee also added that “Law Enforcement in Indian Country, as it presently exists, often fails to meet basic public safety needs (U.S., 1997, p. 4).” This was followed-up by a study by Greenfield and Smith (1999) for the Department of Justice (DOJ), which analyzed the rate of victimizations on tribal land per 1,000 persons age 12 or older for the years 1992 to 1996. They discovered that the violent crime rate for American Indians (124 violent crimes per 1,000 AIANs) was more than twice the rate for the United States as a whole (50 per 1,000 persons). In other words, American Indians experience per capita rates of violence at more than twice the rate of those of the general U.S. population. In addition, the rate of violent crime experienced by AIAN women is nearly 50% higher than that reported by Black males (DOJ, 2000; Greenfield & Smith, 1999; Minton, 2002; and U.S., 2001a).

### **Legal status of American tribes**

The U.S. Constitution recognizes three levels of government: federal, state and tribal. There are consistent patterns and some hard rules concerning the jurisdictional authority of all federally recognized tribes. These are reflected in federal policies, treaties, statutes, executive orders and case law. The U.S. government’s relationship with federally recognized tribes is one of “government to government.” As such, American tribes have extensive experience in the internal management of their political affairs, as they have been empowered to develop their own institutions, constitutions, law codes, tribal courts, police services, correctional facilities, and to enact civil laws to regulate conduct and commerce.

As of 2000, the U.S. federal government's relationship with the tribes is one of "government to government" as required by Executive Order 13175 (U.S., 2000). Each federal agency has a duty to establish a consultative relationship with the tribes on matters that have substantial direct effects on one or more tribes, on the relationship between the United States and tribes, or on the distribution of power and responsibilities between the United States and the American tribes. In addition, federal courts have an expectation that consultations will be evident in matters that affect the tribes.<sup>4</sup>

The government-to-government relationship between the U.S. government and the American tribes is not new. There are more than 500 years of history concerning the Native peoples of North America and their relationship with non-Natives. The relationship began as a political and military reality in the 18th century with the signing of treaties between sovereign nations. In the 19th century, the relationship was strained as the United States varied its approaches from co-existence to subjugation to assimilation. In the 20th century, the relationship went from reorganization to termination to *de facto* federal control, and more recently to federal support for self-determination and self-governance.

### **History of tribal policing**

In 1824, the Bureau of Indian Affairs (BIA) was established within the War Department to deal with American Indian affairs. The U.S. Army was tasked to police reservations with the overall policy aim of subjugating and assimilating the "Indians," and to make sure they remained in their newly created reservations (Barker, 1998).<sup>5</sup> Crime-related problems on reservations—due a breakdown of traditional social controls—and the harsh treatment of American Indians by often-intoxicated Army personnel tended to create chaos, unrest, and a general state of lawlessness on tribal land. In the late 1860s, several BIA Indian agents developed local BIA police services at their own initiative to deal with the general state of lawlessness on reservations (Young, 1969). Organizationally, the peace officers were Indigenous persons under non-Indigenous management. The first BIA-organized Indian tribal police service was established on the Apache reservation in 1868; this service, incidentally, was instrumental in apprehending the famous Apache Chief, Geronimo (BIA, 1975).

In 1883, the U.S. Congress officially recognized the importance of this program by authorizing funding for 1,000 privates and 100 officers. Organizationally, this was followed up in 1907 by the wholesale adoption of the professional policing model with the creation of a specialized criminal investigation branch, service training for BIA police officers, and the development of a central headquarters in Washington, D.C. This was the high-water mark in funding of BIA tribal policing. By the 1920s, tribal policing was severely hampered by a lack of adequate resources to provide effective police services.

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<sup>4</sup> The aim of Executive Order 13175 is to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes.

<sup>5</sup> In 1949, reflecting the changing U.S. government attitudes and policy toward American tribes, the BIA moved to the Department of the Interior.

For example, most reservations had one or two officers responsible for patrolling vast tracts of land (BIA, 1975).

From the late 1960s and early 1970s, due to increased Indian activism and militancy (for example, Wounded Knee), the Civil Rights movement, and positive changes in social attitudes towards minority rights, U.S. government policy towards its Indigenous peoples shifted from *de facto* control to one of support for tribal self-determination and self-governance. Government funding for tribal policing was increased, which provided for the development of the Indian Police Academy in Artesia, New Mexico (BIA, 1975).

In 1975, on the legislative front, the U.S. Congress enacted Public Law 93-638 (P.L. 93-638), the *Indian Self-Determination Act and Education Assistance Act*. Under this legislation, the American tribes acquired significant control over legislative authority, law enforcement and courts, education, taxation, economic development and environmental policy. P.L. 93-638 allows tribes to contract with the federal government to deliver their own services that were offered by the BIA and other agencies, including contracting to deliver their own police services. This was followed-up in 1994 by the Congressional enactment of the *Indian Self-Determination Act*. Under this Act, the Secretary of the Interior was authorized to grant funds to tribes for the express purpose of strengthening tribal government, including the provision of policing services; it is up to each tribe to determine the exact nature of policing required (Lunna, 1998).

### **Organization and management**

American tribal law enforcement consists of five models: 1) Public Law 93-638; 2) Bureau of Indian Affairs; 3) self-governance agreement; 4) tribally controlled; and 5) Public Law 83-280. By far, the two most important are the tribally controlled police agencies and those affiliated with the BIA. These agencies are not mutually exclusive and often operate simultaneously within the boundaries of a given reservation.

There are about 154 tribally operated police/investigative programs for the tribes that have exercised their rights under P.L. 93-638 and the *Indian Self-Determination Act of 1994*. The tribes, under these arrangements, have taken over law enforcement functions—in whole or in part—from BIA law enforcement agencies, although the BIA still provides funding for these programs. Both laws allow tribes to contract with the federal government to deliver their own police services, as well as other services operated by the BIA. This is the most popular and fastest-growing tribal policing model.

The BIA operates 47 police and investigative programs. This policing model is funded and administered by the federal government through the Department of the Interior. Consequently, the police officers are federal employees with little or no accountability to tribal governments or the people they police. The long-term trend is to decrease the number of BIA agencies as tribes begin to assume control of the law enforcement function in their territories.

Unfortunately, American police statistics do not provide a breakdown of the number of police officers employed by type of tribal policing model, but at the aggregate level, according to a 2000 DOJ census of state and local law enforcement agencies, there were approximately 2,584 officers policing tribal lands (U.S., 2000a; U.S. 2000b). Of this total, the tribal police agencies employed 2,303, and the BIA 281 officers (Reaves & Hart, 2001, and Reaves & Hickman, 2002).

### **Staff and personnel**

According to Wakeling et al. (1997), 100% of tribal police officers have a high school diploma, and 85% have graduated successfully from police training academies. Approximately two thirds of the officers are American Indian, and of these, 56% police their own tribes. Only 13% of all officers speak the local language, and 12% are women. A similar study in Canada by Clairmont and Murphy (1996) revealed that 80% of First Nations officers had a high school education (20% do not), 44% had some university or community college background, and 4% had a university degree. About 90% of Canadian officers were Indigenous. Of these, 54% could speak their own Indigenous language, and 47% were policing their own home communities.

### **Facilities and equipment**

A survey of facilities and equipment of tribal police services indicated that accommodations are often inadequate, poorly maintained, and badly designed. For example, jail and detention space is overcrowded and in very poor shape. In addition, police vehicles are old (more than three years old), and the technological capabilities of tribal police services are outmoded and are not at par with new developments in police science. This is due to an inadequate funding for a capital budget and equipment (Wakeling et al., 1997).

### **Funding**

Funding has often been characterized as inadequate for effective policing on tribal land, as reflected by the chronic understaffing of policing personnel. For example, statistics provided by the Executive Committee for Indian Country Law Enforcement Improvements (1997) show 2.3 officers per 1,000 people in non-Indian communities. In comparison, on tribal land, the ratio was 1.3 officers per 1,000 residents. This represents almost half the per capita coverage in communities outside tribal lands. The Committee also added that remoteness, poor roads, relatively small police services, and no backup not only result in poor service to reservation residents, but also to stressful and dangerous jobs for the tribal police officers.

### **Evaluation of American tribal policing**

A 2001 report by the National Institute of Justice, *Policing on American Reservations*, indicated that reservation policing is in crisis; specifically, the studies have discovered that there is poor employee morale and a high attrition rate among police officers, which

often results in a deficiency in qualified and experienced officers in tribal police services. According to the study, tribal police services tend to emphasize the more traditional crime control model of policing. In addition, they tend to have flawed management structures, which fail to provide effective supervision of ordinary police officers. In general, poor investigative practices lead to poor service results for tribal land residents.

Jurisdictional confusion is also a major law enforcement problem on tribal land. Many enforcement problems arise, in part, from this confusion. For instance, many reservations are geographically remote and involve enormous tracts of sometimes non-contiguous land. Tribal officers must comply with traffic laws, restrictions on vehicle markings and other laws while off reservation. Thus, tribal officers must cover their emergency light bars and comply with speed limits when traveling on non-reservation lands, even if in pursuit of a suspect, or when responding to an emergency on a part of the reservation that requires the use of non-reservation roads (Giokas, 1992).

The power of tribal officers over non-Natives on reservation lands has been described as essentially a citizen's powers of arrest. Tribal officers may detain, but not arrest, non-Natives on reservations, and they may not pursue non-Natives off-reservation. They also must turn them over to state or local authorities as soon as possible, as there are time limits that tribal officers may detain non-Natives. If local authorities do not arrive in time, tribal officials must release the suspect or else face a lawsuit for false imprisonment (Giokas, 1992).

Initiatives have taken place to try to rectify the jurisdictional issues between tribal and state governments through cross-deputization agreements that allow tribal officers to enforce state law and local enforcement officials to enforce tribal law under specific conditions. In addition, there is statutory deputization, which allows states to authorize the deputization of qualified tribal officers as state peace officers; this is very similar to the Canadian model where provinces swear Aboriginal police officers as provincial peace officers (Lunna, 1998).

## Chapter 3: Indigenous Policing in Australia

### Overview

In Australia, there are two ethnically and culturally distinct groups of Indigenous peoples, each with a different history and culture: the Aboriginal peoples and the Torres Strait Islanders. It is difficult to know for sure how many Indigenous people lived in Australia before the inception of colonization in 1788, but it is speculated that there could have been from 750,000 to 1 million. Australian Indigenous peoples were not “one country,” but consisted of up to 300 Indigenous nations, speaking approximately 250 languages and many more dialects (Samuelson, 1993).

The basis for the European takeover of the continent was the doctrine of *terra nullius* (land belonging to no-one). This meant that Indigenous lands were Crown lands in the eyes of British law. The premise that Australia belonged to no one was not because the British did not see Indigenous people living on the lands, but because Indigenous peoples did not seem to cultivate land or build permanent dwellings, as Europeans did (Samuelson, 1993).

*Terra nullius* meant that the land had no sovereign owner, and on this basis, Britain took possession of Australia without a treaty. There was also a prevailing (European) belief that colonization was in itself a “peaceful settlement.” Effectively, Indigenous peoples became trespassers on their own lands. In 1992, this concept was eventually overturned in a landmark decision by the Australian High Court concerning the Mabo Case, which recognized Indigenous title to land as part of the common law (Samuelson, 1993).

As in the other three countries analyzed in this report, Australian statistics document the fact that Indigenous peoples are overrepresented in the criminal justice system. In addition, there has been a common element of institutionalized racism since colonization, and the historical role of the police as agents of colonization. As well, there is a common element of poverty, alcohol and alienation.

In Australia, as in the other three countries, explicit government policy generally assumed Indigenous people would eventually assimilate. For example, the *Aboriginals Protection and Restriction of the Sale of Opium Act, 1897* recognized that the population of Indigenous people was diminishing and moved them (sometimes forcibly) on to reserves. Consequently, the Australian Indigenous population dropped from approximately 750,000 to 1 million before 1788 to approximately 81,000 by 1933 (Samuelson, 1993). However, the 2001 Census has revealed that the Indigenous population has rebounded and there are currently about 410,000 individuals identified as Indigenous. This represents about 2.2% of the total Australian population (Australian Bureau of Statistics, 2002). According to Samuelson (1993) and Ross (1999), the following are the historical highlights of Indigenous peoples legal status from the time Australia became an independent dominion to the present:

- 1901 – the colonies federated as the Commonwealth of Australia, and the Indigenous people were written out of the constitution
- They were not counted in the consensus and Federal parliament did not have power to make laws for them
- Indigenous people did not have the right to vote in federal elections until 1962
- 1967 Referendum – Indigenous Australians gained full citizenship rights and started being counted in the national census (it also gave the federal government power to legislate in relation to Aboriginal affairs)
- Prior to 1967, the Australian Constitution was interpreted quite narrowly, so that “Aboriginal” was taken to mean persons with more than 50% Aboriginal “blood”
- 1972 – the abolition of the White Australia Policy
- Until 1972, the Indigenous peoples of Australia were excluded from voting, the public service, the armed forces and pensions.

## **Demographics**

According to the 2006 Census, Australia has a population of approximately 19.9 million people, including 455,031 Indigenous people. Most of Australia’s Indigenous people (70%) live in the remote rural areas, while most of the total population (85%) live in coastal areas, principally in seven cities. In the Northern Territory, about 1 out of every 4 people is Indigenous but in New South Wales, only 1 out of every 50 people is (Australian Bureau of Statistics, 2006).

Just like Canada and the United States, the growth rate of Indigenous population is 2.2%, nearly twice that of Australian growth rate. Much of the Indigenous population has a young age structure, as the median age of natives was 20 years, compared to 34 for the total Australian population (Australian Bureau of Statistics, 2006).

## **Crime and victimization**

Indigenous peoples have the highest rates of actual offences, arrest and incarceration of any group in Australia. According to Mouzos (2001), Indigenous Australians—although making up only about 2.2% of the Australian population—accounted for 15.1% of homicide victims and 15.7% of homicide offenders over an 11-year period from 1989 to 2000. The actual homicide rate for Indigenous Australians varied from about 9 to 14 per 100,000, compared with 1.3 to 1.8 per 100,000 for non-Indigenous Australians over the same 11-year period.

The findings from an Australian national police custody survey revealed that Indigenous people were more likely than non-Indigenous people to be in custody for public order (for instance, while intoxicated), violent and justice offences, while non-Indigenous persons were more likely than Indigenous persons to be in custody for traffic and drug offences.

The study concluded that Indigenous people continue to be detained at higher rates than non-Indigenous people. About 26% of all custody incidents involved Indigenous people, meaning that Indigenous people were 17 times more likely to be involved in a custody incident than non-Indigenous people.

Of all the jurisdictions, Western Australia had the highest overrepresentation ratio (Indigenous people were 27 times more likely to be in custody than non-Indigenous people), followed by South Australia (25 times more likely). Tasmania had the lowest overrepresentation ratio (Taylor & Bareja, 2005).

In terms of victimization, Indigenous Australians are at a higher risk of being victims of violence, and experience greater economic and social disadvantage (Cunneen, 2001).

### **Indigenous policing**

Unlike Canada and the United States, Australia has a relatively highly centralized policing system comprising of eight major police services—one for each state and territory—and a federal department. In Australia, as in the United States, each state can enact criminal laws, and there is no federal-state split in sentences or correctional institutions, as there is in Canada. Indigenous policing programming, therefore, falls primarily under state jurisdiction.

Throughout the course of Australian history, police services were used to apply various government policies and laws to Indigenous people. This treatment culminated in the 1987 Royal Commission Into Aboriginal Deaths in Custody (RCIADIC), a federal inquiry comparable in significance to the Royal Commission on Aboriginal Peoples (RCAP, 1996) in Canada. The RCIADIC was a watershed event in the relationship between Indigenous Australians and the justice system, and propelled wider discussions of Indigenous self-policing, hiring Indigenous police officers in the various police services, and attitudes toward Indigenous people by police personnel, others in the criminal justice system and Australians in general (Samuelson, 1993, Cunneen, 2001).

Australian Indigenous policing initiatives tend to focus on relations between Indigenous people and the justice system, especially the police, and—unlike Canada and the United States—not on the development of independent stand-alone police services. No such services exist, but there have been attempts to develop contingents of Indigenous auxiliary/liaison police officers within existing state and territorial police services. The following section will be a descriptive examination of the various Indigenous-policing initiatives in each state and territory.

## **New South Wales: Aboriginal community liaison officers**

New South Wales (NSW) has a total population of 6,549,177. Of that number, about 138,506 (2.1%) people self-identified as being of Aboriginal origin in the 2006 Census. This represented an increase of 19,000 people (16%) since the 2001 Census, and an increase of 68,866 people (99%) since the 1991 Census (Australian Bureau of Statistics, 2006).

The New South Wales Police have been actively working to develop a better understanding between police and the Aboriginal community. To this end, the NSW Police have undertaken to provide Aboriginal people culturally sensitive policing through the employment of Aboriginal community liaison officers (ACLOs) and a new Aboriginal policy. This policy was formed following close consultation between police and the Aboriginal community (NSW, n.d).

The ACLO's role is to assist police resolve issues affecting Indigenous people. ACLOs aim to improve Aboriginal-police relations by improving the channels of communication. ACLOs were first employed by the Bourke Police detachment in December 1986. Following their success, many other detachments with local Aboriginal communities introduced ACLOs (NSW, n.d).

In total, 55 ACLOs are currently working throughout the state in 38 rural, outback and city police detachments. These officers have an extremely important role in maintaining friendly relations and fostering understanding between police and Aboriginal people. Their responsibilities include establishing effective communication and rapport with local Aboriginal communities, mediating disputes, providing assistance on visiting procedures to relatives of Aboriginal prisoners, and attending interviews that involve Aboriginal juveniles. The work of the ACLOs facilitates Aboriginal communities' efforts to reduce crime, particularly by juveniles. They also attempt to reduce tension between police and Aboriginal peoples (NSW, n.d).

## **Victoria**

Victoria has a total population of 4,932,422, but only 30,141 people (0.6%) self-identified as being of Indigenous origin in the 2006 Census. This represented an increase of 5,063 people (20%) since the 2001 Census, and an increase of 13,412 people (80%) since the 1991 Census (Australian Bureau of Statistics, 2006).

As the Indigenous population in Victoria is relatively low, the Victoria Police Department does not have any specific Indigenous programming. It does, however, provide Indigenous cross-cultural training to its officers.

## **Queensland**

Queensland has a total population of 3,904,532, and about 127,578 people (3.3%) self-identified as being of Indigenous origin in the 2006 Census. This represented an increase of 14,806 people (13%) since the 2001 Census, and an increase of 57,476 people (82%) since the 1991 Census (Australian Bureau of Statistics, 2006).

The Queensland State Police Department employs 8,368 total police personnel (including trainees). About 1.3% of all personnel (117) are employed as police liaison officers (Queensland Police, June 2002). The role of police liaison officers to Indigenous and ethnic communities is to promote trust and understanding through their liaison role by assisting the community and police to reduce and prevent crime, divert Indigenous people from the criminal justice system, advise and educate police officers on cultural awareness and local issues, and improve community knowledge about policing services (Queensland Police, June 2002).

Police liaison officers cannot detain, arrest or search a person; however, they assist police officers by acting as liaison with Indigenous communities, and advise on the cultural beliefs, needs and protocols of the community in which they work. In addition, they advise the police service on preventing crime in Indigenous communities, facilitate communication between the Indigenous peoples and police, and facilitate the improvement of community access to policing services (Queensland Police, June 2002).

### **Training**

Police Liaison Officers are provided an induction workshop upon commencement of duties. This course is to inform new police liaison officers of their rights, entitlements, duties and obligations as an unsworn officer of the Queensland Police Service. This course also provides instruction in communication and conflict resolution, custody awareness, protocols, police powers, defensive skills training, driver training, radio procedures, first aid and domestic violence. In addition to the induction course, police liaison officers are encouraged to continue training through the Queensland Police Service and from other sources (Queensland Police, June 2002).

## **South Australia**

According to the 2001 Census, South Australia's total population was 1,514,337, of which about 25,557 people (1.6%) self-identified as being of Aboriginal origin. This represents an increase of 2,132 people (9%) since the 2001 Census and an increase of 9,334 people (58%) since the 1991 Census (Australian Bureau of Statistics, 2006).

### **Aboriginal Police Aide Scheme**

In 1986, the Aboriginal Police Aide Scheme commenced in the Pitjantjatjara Lands in the remote northwest of South Australia (Maling, 1996). The selection of police aides in the Pitjantjatjara Lands is an attempt to involve as many members of each community as possible. This is achieved through a public meeting and members are invited to nominate anyone they consider suitable to occupy the position of police aide. The Police Aide

Coordinator has the task of making a selection and submitting it to the Commissioner of Police for approval. The police aides in the Pitjantjatjara Lands and at Yalata on the west coast of South Australia carry out most of the tasks of a fully sworn police officer (Queensland Police, June 2002).

### **Urban police aides**

In 1990, following successful implementation in the Pitjantjatjara Lands, the Police Aide Scheme was piloted in urban areas. Elizabeth, just north of Adelaide, and Port Augusta, at the top of Spencer Gulf, were chosen. Further expansions of the Police Aide Scheme have since taken place across South Australia. In its 10th year of operation, the Scheme employed 32 positions within the South Australia Police (Maling, 1996).

Prior to the inception of the Scheme, there were only a small number of Aboriginal people employed within the South Australia Police, where they mainly carried out a general policing role. There was little time for the very important role of community policing. The establishment of urban police aides has seen Aboriginal police aides given much greater flexibility to interact with the general Aboriginal community (Maling, 1996).

### **Western Australia**

According to the 2001 Census, Western Australia's total population was 1,959,088, and about 58,711 people (3%) self-identified as being of Aboriginal origin. This represented an increase of 215 people (0.4%) since the 2001 Census, and an increase of 16,942 people (41%) since the 1991 Census (Australian Bureau of Statistics, 2006).

Western Australia's criminal justice data show that Aboriginal people are 16 times more likely to be a victim of homicide and 6.5 times more likely to report to police crimes against person than non-Aborigines. In addition, Aboriginal offenders are 9.2 times more likely to be arrested, 6.2 times more likely to be imprisoned by lower courts, 22.7 times more likely to be imprisoned as an adult, and 48.3 times more likely to be imprisoned as a juvenile than non-Aboriginal people (Taylor & Bareja, 2005).

The Western Australia Police Service (WAPS) has developed an extensive array of strategies to improve its service delivery to the Aboriginal community. Considerable support has been directed to develop Aboriginal community justice initiatives such as Aboriginal community patrols and special constables or wardens in remote Aboriginal communities. Aboriginal police liaison officers (APLOs) have formed a significant part of WAPS strategies for improving Aboriginal-police relations and providing better police services (WAPS, n.d.)

### **Aboriginal police liaison officers**

The WAPS has been appointing Aboriginal people as police aides since 1975. The program was aimed at providing policing services in remote parts of the state a means of improving their understanding of problems facing them in providing a service to the Aboriginal community. The difficulties of policing in a cross-cultural setting had led to

difficult situations. Originally, eight people were appointed as Police Aides and provision for these appointments was made pursuant to the *Police Act* (WAPS, n.d.).

Currently, there are 104 Aboriginal people appointed in these positions around the state and since 1975 there have been a number of reviews that have resulted in changes to the program. Aboriginal police aides are now called Aboriginal police liaison officers (APLOs). The APLOs are appointed pursuant to the *Western Australian Police Act 1892* and have limited police powers, but a range of responsibilities very similar to other APLO schemes in other states (WAPS, n.d.).

## **Tasmania**

Tasmania has a total population of 476,481, and about 16,767 people (3.5%) self-identified as being of Aboriginal origin in the 2006 Census. This represented an increase of 994 people (6%) since the 2001 Census, and an increase of 7,885 people (89%) since the 1991 Census (Australian Bureau of Statistics, 2006).

Tasmania Police have developed an Aboriginal Strategic Plan, which was created in consultation with relevant stakeholders. The Plan seeks to build on experiences in order to develop better relationships with the Tasmanian Aboriginal community. The Plan provides a framework by which Tasmania Police focus on the development of relationships with the Aboriginal community to ensure that, through consultation, all reasonable expectations can be met (Tasmania Police, n.d.).

Under the Plan, police assist in identifying ways in which support can be given to the Aboriginal community to enhance recognition of the rights of Australian Aboriginal people. The police are exposed to extensive cross-cultural training to become aware of obligations to people in custody and, in particular, the duty of care to be provided to Aboriginal people who are considered to be at greatest risk. In addition, the Tasmanian Police Department is committed to ensuring that Aborigines are appropriately represented in recruitment, and have established a network of Aboriginal liaison officers throughout the various detachments in the state (Tasmania Police, n.d.).

### **State Aboriginal liaison officers**

This strategy has been authorized by the Commissioner of Police for use by the Police Aboriginal Liaison Coordinator and the district police Aboriginal liaison officers, who have responsibility for liaison and advisory matters between Tasmania Police and the Aboriginal community (Tasmania Police, n.d.).

The functions of the Police Liaison Aboriginal Liaison Coordinator are primarily to assist other police officers concerning their dealing with Aboriginal peoples, to act as liaison between police and Aboriginal organizations, and to provide information to Aboriginal groups on police practices and procedures (Tasmania Police, n.d.).

The functions of the district police Aboriginal liaison officers are primarily to coordinate and develop police-Aboriginal liaison committees, to provide advice on police-

Aboriginal issues, and to assist, as required, with the development and delivery of training programs for both police and the Aboriginal community (Tasmania Police, n.d.).

### **Northern Territory**

Northern Territory has a total population of 192,898, and about 53,662 people (28%) self-identified as being of Indigenous origin in the 2006 Census.<sup>6</sup> This represents an increase of 2,877 people (6%) since the 2001 Census and an increase of 13,769 people (35%) since the 1991 Census (Australian Bureau of Statistics, 2006).

#### **Aboriginal community police officers**

The Aboriginal Community Police Officer (ACPO) Scheme (formerly known as “aides”) began in 1979, initially as a form of coastal surveillance to report unauthorized landings and illegal fishing and to liaise with police patrols of remote areas. There are now 53 ACPOs in the Territory, with 45 attached to police stations in remote and urban areas and another 16 in remote communities that have no other police presence. Their functions have been expanded and they now act as law enforcement officers and as intermediaries between police and Aboriginal communities (Northern Territory Police, n.d.).

While ACPOs generally have limited powers of arrest under their instruments of appointment, those powers vary according to individual ability and the availability of regular police officers and facilities to provide for prisoners. Where no other policing services are available, the police aides have considerably enhanced power to enforce the law and maintain order (Northern Territory Police, n.d.).

As their mandate has developed, one of the key roles of the ACPO is now to assist in maintaining order in the communities. They normally act in particularly autonomous fashion; they may call upon a police department for assistance, if necessary, but in practice they rarely do, except in cases of real need (Northern Territory Police, n.d.).

### **Australian Capital Territory (Canberra)**

Canberra’s population is 324,034, and about 3,873 people (1.2%) self-identified as being of Indigenous origin in the 2006 Census. This represents an increase of 297 people (8%) since the 2001 Census and an increase of 2,281 people (143%) since the 1991 Census (Australian Bureau of Statistics, 2006).

The Australian Federal Police (AFP) provides local police services in Canberra. In 1992, to provide the Indigenous population with culturally appropriate services, the AFP established the “Aboriginal Interview Friends” program as a result of *Anunga Rules*—which are guidelines, not rigid rules, on how police ought to handle Indigenous peoples at the interrogation stage and the admissibility of statements.<sup>7</sup> Furthermore, since 1998, the

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<sup>6</sup> The highest percentage of Indigenous peoples of all state or territorial jurisdictions.

<sup>7</sup> The *Anunga Rules* (1976) were established by the Supreme Court of the Northern Territory and held that an interpreter should be present, if necessary; where practicable “a prisoner’s friend,” whom he or she has confidence in, should be present at interrogation. Care should be taken to administer a caution in simple

AFP has employed Indigenous community liaison officers (ICLOs), recognizing the importance of this role in coordinating and monitoring Aboriginal and Torres Strait Islander community activities within the federal territory. In addition, the ICLO liaises with the Indigenous community and the AFP to establish and maintain positive relationships and foster mutual understanding (AFP, n.d.).

### **Evaluation of Australian Indigenous policing initiatives**

Australia, due to its relatively centralized policing structure, does not have independent Indigenous police services as they exist in Canada and the United States. Police services in Australia have specially appointed officers to work specifically with multicultural and Indigenous communities. Depending on the state or territory, these officers are called Aboriginal police aides, Aboriginal community liaison officers, or Aboriginal/Indigenous community police officers. Information on their relative merits and effectiveness is quite limited, and anecdotal in nature. These quite limited sources stress that the strengths and weaknesses of these programs are as follows:

#### **Strengths**

- High level of commitment and motivation by the auxiliary officers;
- Perception within most jurisdictions of these programs as an essential resource in fighting crime, facilitating public safety and finding local solutions to local problems; and
- Strong links with community networks.

#### **Weaknesses**

- Need to enhance community and police awareness of the skills and functions of Indigenous auxiliaries and liaison officers;
- High attrition rates and problems of recruiting qualified candidates;
- Lack of suitable career paths and limited training opportunities;
- Suspicion and lack of trust in Indigenous auxiliary or liaison officers among Indigenous community members because the officers are employees of the police service;
- Poor supervision, which often reflects limited understanding among immediate line managers of the purpose of the various Indigenous-specific programs;
- Limited variety of work tasks;
- Lack of budget allocation to support resource requirements, especially in technology, availability of vehicles and office space; and

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terms; care should also be taken in formulating questions that do not suggest answers. If requested, reasonable steps should be taken to obtain legal assistance for the prisoner. However, these are guidelines, not absolute rules.

- Lack of comprehensive and methodologically systematic evaluation of the various programs (Australasian Police Multicultural Advisory Bureau, 2003).

Overall, Cunneen (2001, p. 216) stresses that these police aide and liaison officer schemes “cannot be categorized as being either a success or failure. The results have been mixed, much depending on utilization at the local level.”

## **Section 4: Māori Policing in New Zealand**

### **Background**

Polynesians first settled the islands of New Zealand about 800 to 1,000 years ago. Their descendants are the Māori. The first European settlers came from the United Kingdom, arriving in increasing numbers after New Zealand became a colony of the British Empire in 1840.

In 1840, the Māori chieftains entered into a treaty with Great Britain, the Treaty of Waitangi, in which they ceded sovereignty to the British Crown while retaining territorial rights. However, a series of land wars between the Māori and the British from 1843 to 1872 ended with the defeat of the Māori.

Until the mid-20th century, the non-Māori population of New Zealand was predominantly European in origin. Since then, many people have migrated from the Pacific Islands and Asia, and the ethnic composition of the country has become diverse. In 1907, New Zealand became a self-governing dominion within the British Empire. Now an independent nation, New Zealand maintains close ties with the United Kingdom as a full member of the Commonwealth of Nations, but increasingly, it sees its identity as a nation in the Pacific and Asia.

### **Demographics**

According to the 2001 census, New Zealand has a population of 3,820,749. The country has a low population density, with an average of 15 persons per square kilometre (39 per square mile). About three quarters of all New Zealanders live in the North Island, even though it is smaller than the South Island, because the largest cities and industries are located there (Quinn & McGregor, 2002).

About 86% of the people of New Zealand live in urban areas. More than half of the urban population lives in the country's five largest cities—Auckland, Wellington, Christchurch, Hamilton and Dunedin. New Zealanders of European descent, who are often known by the Māori name Pākehā, comprise about 75% of the population. They are usually described as the largest ethnic group, but in fact they are ethnically mixed. People of English, Scottish and Irish descent comprise the largest groups (in that order), but there are also people of German, Australian, Scandinavian, Croatian and Dutch descent (Quinn & McGregor, 2002).

Māori are the largest non-European group. Their share of the population declined precipitously in the 19th century, after European colonization of the islands, but it rebounded dramatically during the 20th century from less than 5% in 1900 to about 15% (604,110) according to the 2001 Census (Quinn & McGregor, 2002).

English and Māori are the official languages of New Zealand. Māori was recognized as an official language in 1987. A small percentage of the total Māori population is

considered fluent in Māori, but the language is being revived in early-childhood programs known as *kohanga reo* (“language nests”).

In recent years, Māori culture and perspectives have experienced a sort of renaissance in the predominantly white society. Māori views on the colonial past have gained some mainstream acceptance, especially in regard to land grievances in the courts, and Māori arts are shown prominently in the Te Papa national museum in Wellington. Māori themselves have made sustained and vigorous efforts to stem the loss of their traditional ways of life, or Māoritanga. Social inequities remain a problem, however, as Māori remain underrepresented in higher levels of education and in the professions.

### **The Treaty of Waitangi**

Britain acquired nominal sovereignty over New Zealand in 1840, by proclamation and by agreement with many Māori. The Treaty of Waitangi, signed at Waitangi in February 1840, and elsewhere later that year by Māori chiefs, established British sovereignty. British officials eventually collected 512 Māori signatures, and on May 21, 1840, New Zealand’s North Island was declared a British colony. On neighbouring South Island, however, they did not collect enough signatures to establish a British colony by treaty. In June 1840, British officials simply annexed South Island and declared it part of the colony (State Services Commission, 2005).

Although the treaty is considered somewhat enlightened for its time, it has been the subject of much criticism. Several important chiefs refused to sign it or were absent when it was read. Furthermore, European concepts of “kingdom” and “sovereignty” could not be translated accurately into the Māori language. It is likely the Māori thought they were agreeing only to British rule of British subjects in New Zealand, not to British rule of the Māori as well. Nevertheless, most modern-day New Zealanders recognize the Treaty of Waitangi as an agreement between the races and consider February 6 to be the birth date, if a controversial one, of the nation. The Treaty has evolved over time, and the New Zealand Courts have upheld that the Treaty is of the greatest constitutional and continuing importance to New Zealand (State Services Commission, 2005).

### **Māori crime statistics**

Criminal justice statistics show that the Māori are overrepresented within the New Zealand criminal justice system. In 1998, they were 3.3 times more likely to be apprehended for a criminal offence than non-Māori. They were 3.6 times more likely to be prosecuted, 4.1 times more likely to be convicted, and 1.5 times more likely to be sentenced to imprisonment. The result was that although Māori made up about 15% of the total population, they represent about half of the prison population (Doone, 2000).

A 1998 Ministry of Justice study found that the New Zealand criminal justice system was not working adequately for the Māori. According to the report, responses of the criminal justice system were perceived as unhelpful for many Māori offenders and victims. In addition, the report noted that the court system is meaningless to many Māori; they tend

to receive poor quality legal advice; prosecution practices for Māori differ from that of non-Māori; culturally inappropriate behaviour of lawyers, court staff, and the judiciary; and inappropriate sentencing of Māori offenders (New Zealand, 1998, pp. 9–10).

## **Māori policing**

From a North American perspective, New Zealand has a highly centralized policing system comprising of one major police service, the New Zealand Police that provides policing services throughout the country.<sup>8</sup> In 1996, the police service commenced the Māori Responsiveness Strategy to address the overrepresentation of Māori within the criminal justice system. This requirement had its origins in the 1980s, when successive governments defined policy parameters for appropriate cultural Māori responsiveness for government departments. To this end, for the New Zealand Police, the broad objectives of the Strategy were to:

- Gain a greater understanding and acceptance of the significance of the role of the Treaty of Waitangi to the Māori;
- Develop a greater capacity for bringing the voice and aspirations of Māori into policing decisions and operational procedures;
- Consult effectively with Māori to identify, design and implement strategies that reduce the incidence and effects of offending by Māori;
- Develop accountability mechanisms for measuring Māori responsiveness performance; and
- Develop an internal infrastructure including a National Manager of Cultural affairs and a network of district Iwi liaison officers (ILOs) (that is, Māori police officers) (New Zealand, 2000)

Currently, the New Zealand Police Service, as part of the effort to a better understanding between police and the Māori community, employs about 39 ILOs.<sup>9</sup> The ILOs operate at the community level and concentrate on improving police-Māori relationships. To this end, they provide advice concerning the Māori Responsiveness Strategy and on appropriate Māori customs and protocol, and act as liaison with Māori peoples and organizations (New Zealand, 2000).

In addition to the above, the New Zealand Police have attempted to improve police-Māori relations by training their officers in Māori culture and protocol, actively recruiting Māori to enter into a policing career; developing Māori youth

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<sup>8</sup> For operational purposes, the New Zealand Police is subdivided into 12 policing districts.

<sup>9</sup> Iwi are the largest everyday social units in Māori society. In pre-European times, “Iwi” was synonymous with “nation”; it described fully the people to whom a person belonged and owed allegiance. With the development of New Zealand, a much bigger social unit, the meaning became analogous to that of tribe or clan (Wikipedia).

education programs, and working closely with safer community councils and Māori wardens in the area of youth suicide prevention (New Zealand Police, n.d.).

Finally, the New Zealand Police have also pioneered the implementation of the restorative justice philosophy (family group conferencing) to deal with Māori youth crime. Essentially, selected sworn police officers, called youth aid officers, participate in discussions and deliberations concerning the actions required to restore the sense of community balance upset by the actions of juvenile offenders (Windfree Jr., 2004). Evaluation research on family group conferences have shown that a significant proportion of victims felt positively about the process and were satisfied with the outcomes; reconviction rates were no worse and may be better than for court-based samples. In addition, factors in restorative justice processes may be linked to a lower probability of reconviction (Morris & Gabrielle, 1998)

### **Evaluation of Māori policing initiatives by New Zealand Police**

Evaluation of the relative merits and effectiveness of police-initiated programs concerning the Māori population is limited to public opinion surveys concerning Māori attitudes towards the police. A 1999 survey showed that 48% of Māori had trust and confidence in the police, compared with 61% of the general population. This is a difference of 13 percentage point between the general population and the Māori. However, it appears that this gap is narrowing, as the equivalent gap was 22 points in 1997; Māori levels of trust and confidence have risen over the period when the New Zealand Police implemented substantial Māori responsiveness initiatives (New Zealand, 2000).

Variables that affect Māori attitudes about police include respondents' knowledge about the policing function, previous contact with the police, the perceived role of the police within the criminal justice system, and police response to crimes committed against them. Of significance, the survey discovered that Māori respondents tend to have more favourable and positive encounters with older police officers (those 30 years and over), who were perceived to be less offensive as they were more experienced in dealing with stressful situations, and had more life and communication skills than their younger colleagues (New Zealand, 2000).

## **Section 5: Discussion and Conclusion**

The aim of this paper was to provide a brief overview of Indigenous policing in four different national contexts. The comparative methodology that was used provides an invaluable tool for broadening knowledge, and explaining similarities and differences across societies. This comparative study clearly demonstrates that there has been an effort in all four countries to improve policing services for their respective Indigenous peoples during the last twenty years.

Canada is alone in having a comprehensive and national policing program (FNPP) for its Aboriginal peoples. Its tripartite nature (the partnership between the federal and provincial governments and Aboriginal communities) is a unique element that has not been duplicated in other jurisdictions. In other words, the effectiveness of the FNPP depends on the three partners fulfilling their respective roles within their area of jurisdiction, and reflects the shared jurisdictional nature of the Canadian criminal justice system.

In the United States, tribal policing evolved out of the forceful removal of the Indigenous population in the 19th century, which led to the breakdown of traditional social controls. Into this void, tribal policing developed out of the dire need for some sort of law enforcement endeavours to deal with grave crime-related social problems existing in the newly created reservations. Out of this, a decentralized model of tribal policing has evolved over time.

Relative to the decentralized nature of the North American model of policing, Australia and New Zealand have developed models of Indigenous policing that are highly centralized. Currently, there are no autonomous Indigenous police services as they exist in Canada and the United States. Police services in Australia and New Zealand tend to have specially appointed officers to work specifically with Indigenous communities in a liaison officer or police aide role.

The differences between policing practices in Canada, the United States, Australia and New Zealand with regard to their respective Indigenous peoples tend to reflect the political organization and historical tradition of each country. However, this does not mean that one approach is superior to another, as it is quite evident that all four countries have produced comparable poor results concerning the overrepresentation of their Indigenous populations within their respective criminal justice systems. Additionally, it is important to note that the Indigenous peoples in all four countries suffer from very high violent crime rates, especially among the most vulnerable groups—women and children.

As outlined in previous sections, it is important to note that the Indigenous populations in all four countries are projected to grow at a substantially higher rate than the general population. As such, it is important to acknowledge that the Indigenous peoples will continue facing the challenge of ever-increasing crime-related problems when traditional policing responses are becoming less effective. Therefore, it is incumbent on governments to identify the need to reduce crime-related problems in Indigenous

communities as a high priority policy area, and make a strong commitment to undertake projects that address this critical issue.

The recommended framework for government crime prevention strategies regarding Indigenous peoples should contain the following key elements:

- Community focus;
- Indigenous involvement and input;
- Partnerships and coordination;
- Support for effective and innovative programs; and
- Enhancing knowledge.

The broad objectives of this strategy would be fourfold: 1) to foster partnerships and collaboration between Indigenous peoples and government; 2) to empower community-based and community-driven crime reduction and prevention solutions; 3) to acknowledge that the strategy will develop reflecting local culture and needs; and 4) to promote a comprehensive approach with both short- and long-term goals.

As a first step, proactive efforts should be made to enhance and promote knowledge. This could be accomplished by research and evaluation activities to be undertaken to provide information about the extent and nature of crime problems, the issue of crime prevention and its effectiveness in Indigenous communities. This will assist in developing an understanding of the underlying factors concerning crime related problems, and identify “effective practices.”

To this end, there is a critical need for further empirical research in this area and more information sharing, cooperation, and cross-national exchanges. This is important from a policy perspective as the existence of effective and culturally appropriate policing provides a strong foundation for healthy, prosperous, and sustainable Indigenous communities. Indeed, an often-neglected aspect of socio-economic development, both at the community and national levels, is the crucial role of effective policing in shaping economic expansion. Therefore, vigorous and on-going research and data collection methods must be used to support Indigenous peoples in this regard.

## References

Australian Bureau of Statistics (2002). *2001 Census Basic Community Profile and Snapshot*. Canberra: Australian Bureau of Statistics, Retrieved November 28, 2005, from <http://www.abs.gov.au/Ausstats/abs%40census.nsf/4079a1bbd2a04b80ca256b9d00208f92/c5e603bbbe532a7aca256c63007c0cbc!OpenDocument#Indigenous> .

AFP (n.d.). Retrieved December 12, 2005, from <http://www.afp.gov.au/afp/page/ACT/>.

Australasian Police Multicultural Advisory Bureau (2003). *Report on Inaugural Workshop for Police Multicultural Liaison Officers Sydney Police Centre March 6&7, 2003*. Sydney: A Joint Initiative by Australasian Police Multicultural Advisory Bureau & New South Wales Police.

Barker, M. (1998). *Policing in Indian Country*. New York: Harrow and Heston Publishers.

BIA (1975). *Indian Law Enforcement History*. Washington, D.C.: Division of Law Enforcement Services, Bureau of Indian Affairs.

BIA (2002). Retrieved September 29, 2005, from <http://www.doiu.nbc.gov/orientation/bia2.cfm>.

Canada (1982). *The Constitution Act, 1982*. Retrieved December 5, 2005, from [http://www.laws.justice.gc.ca/en/const/annex\\_e.html#II](http://www.laws.justice.gc.ca/en/const/annex_e.html#II).

Canadian Correctional Association (1967). *Indians and the Law*. Ottawa: Department of Indian Affairs and Northern Development.

CCJS (2001). *Indigenous Peoples in Canada*. Ottawa: Canadian Centre for Justice Statistics, Statistics Canada.

CCJS (2006). *Victimization and offending among the Aboriginal population in Canada*. Ottawa: Canadian Centre for Justice Statistics, Statistics Canada.

Census (2001). Retrieved November 3, 2005, from <http://www.statcan.ca/english/Pgdb/demo40a.htm>.

Community Policing Consortium (2002). *To Protect and Serve: An Overview of Community Policing on Indian Reservations*. Retrieved September 23, 2005, from [http://www.communitypolicing.org/pf/am\\_ind/refs.html](http://www.communitypolicing.org/pf/am_ind/refs.html).

Cunneen, C. (2001). *The Impact of Crime Prevention on Indigenous Communities*. Unpublished manuscript, University of Sydney, Institute of Criminology, Law Faculty.

- Cunneen, C. (2001). *Conflict, Politics and Crime: Aboriginal Communities and the Police*. Crows Nest, NSW: Allen & Unwin.
- Depew, Robert (1994). Indigenous Policing: A Research Perspective. *Research Reports*. Ottawa: Royal Commission on Indigenous Peoples.
- DIAND (1973). *Report of the Task Force: Policing on Reserves*. Ottawa: Department of Indian Affairs and Northern Development.
- DIAND (1983). *National Evaluation Overview of Indian Policing*. Ottawa: Department of Indian Affairs and Northern Development .
- DIAND (1990). *Indian Policing Policy Review*. Ottawa: Indian and Northern Affairs Canada.
- DIAND (2004). *Basic Departmental Data 2003*. Ottawa: Department of Indian Affairs and Northern Development.
- DIAND (2005). *Registered Indian Population by Sex and Residence 2004*. Ottawa: Department of Indian Affairs and Northern Development.
- DOJ (2000). *Sourcebook of Criminal Justice Statistics 2000*. Washington D.C.: Bureau of Justice Statistics, Department of Justice.
- Doone, P. (2000). *Report on Combating and Preventing Māori Crime*. New Zealand Ministry of Justice (September 25, 2002).
- Giokas, J. (1992). *Indian Policing in the United States*. Unpublished manuscript, Ottawa: Department of the Solicitor General of Canada.
- Greenfeld, Lawrence and Smith, Steven (1999). *American Indians and Crime*. Washington D.C.: Office of Justice Programs, Bureau of Justice Statistics, U.S. Department of Justice.
- Jamieson, Beals, Lalonde, & Associates (1995). *Evaluation of the First Nations Policing Policy and Program*. Ottawa: Jamieson, Beals, Lalonde, & Associates.
- Luna, E. (1998). The Growth and Development of Tribal Police: Challenges and Issues for Tribal Sovereignty, *Journal of Contemporary Criminal Justice*. Vol.14, No.1 (February, 1998) pp.75-86.
- Maling, T. (1996). *A Perspective On South Australia's Indigenous Police Aide Scheme*. Paper presented at the Australian Institute of Criminology Conference First Australasian Women Police Conference in Sydney, 29-31 July 1996. Retrieved December 14, 2005 from <http://www.aic.gov.au/conferences/policewomen/maling.pdf>.

Minton, T. (2002). *Jails in Indian Country, 2001*. Washington D.C.: Bureau of Justice Statistics, Office of Justice Programs, Department of Justice.

Mouzos, J. (2001). Indigenous and non-Indigenous Homicides in Australia: a Comparative Analysis. *Trends and Issues in Crime and Criminal Justice*, no. 210. Canberra: Australian Institute of Criminology.

Morris, A. & Gabrielle, M. (1998). Restorative Justice in New Zealand: Family Group Conferences as a Case Study. *Western Criminology Review*. 1 (1). Retrieved January 12, 2006, from <http://wcr.sonoma.edu/v1n1/morris.html>.

Murphy, C. & Clairmont, D. (1996). *First Nations Police Officers Survey: User Report No. 1996-01*. Ottawa: Department of the Solicitor General of Canada.

NSW (n.d.) Retrieved December 14, 2004, from <http://police.nsw.gov.au/services/Detail.cfm?ObjectID=89&SectionID=liaison>.

New Zealand (1998). *Perspectives on Responding to the Over-Representation of Māori in the Criminal Justice System: The Views of Māori Stakeholders*. Justice Sector Policy Group, Ministry of Justice and the Social Policy Branch, Te Puni Kōkiri.

New Zealand (2000). *Report on Combating and Preventing Māori Crime*. New Zealand Ministry of Justice. Retrieved December 15, 2005, from [http://www.justice.govt.nz/pubs/reports/2000/doone\\_rpt/ex\\_summary.html](http://www.justice.govt.nz/pubs/reports/2000/doone_rpt/ex_summary.html).

New Zealand Police Service (n.d.). *About Iwi Liaison*. Retrieved December 16, 2005, from <http://www.police.govt.nz/about/iwi-liaison.php>.

Northern Territory (n.d.). Retrieved December 12, 2005, from <http://www.nt.gov.au/pfes/police/community/acpo/index.html>.

Ogunwole, S. (2002). *The Native American Indian and Alaska Native Population: 2000: Census Brief*. Washington D.C.: Economics and Statistics Administration, U.S. Census Bureau, U.S., Department of Commerce.

Quebec (2003). *Survey on Community Satisfaction With Regard to the Delivery of Police Services*. Kitigan Zibi, Quebec: Association of First Nations Chiefs of Police of Quebec.

Queensland Police (June 2002). Retrieved November 14, 2005, from [http://www.police.qld.gov.au/pr/services/statsnet/0102/pdf/12\\_Personnel.pdf](http://www.police.qld.gov.au/pr/services/statsnet/0102/pdf/12_Personnel.pdf).

Quinn, A. & McGregor (2002). 2001 Census final population counts. *Key Statistics – January/February 2002*. Social and Population Statistics group, Statistics New Zealand.

RCAP (1996). Issues in Human Rights. *Gathering Strength: Canada's Indigenous Action Plan*. Ottawa: Royal Commission on Indigenous Peoples.

Reaves, B. & Hickman, M. (2002). *Census of State and Local Law Enforcement Agencies, 2000*. Washington D.C.: Bureau of Justice Statistics Bulletin, Office of Justice Programs, Department of Justice.

Reaves, B. & Hart, T. (2001). *Federal Law Enforcement Officers, 2000*. Washington D.C.: Bureau of Justice Statistics Bulletin, Office of Justice Programs, Department of Justice.

Ross, K. (1999). *Occasional Paper: Population Issues, Indigenous Australians*. Canberra: Australian Bureau of Statistics, Retrieved December 7, 2005, from [http://www.ausstats.abs.gov.au/ausstats/free.nsf/Lookup/F791BDC99C58DD87CA256ADA000448AB/\\$File/47080\\_1996.pdf](http://www.ausstats.abs.gov.au/ausstats/free.nsf/Lookup/F791BDC99C58DD87CA256ADA000448AB/$File/47080_1996.pdf).

Samuelson, L. (1993). *Indigenous Policing Issues: a comparison of Canada and Australia No. 1993-26*. Ottawa: Ministry of the Solicitor General of Canada.

Six Nations (2003). *Six Nations Police Service Accreditation Survey: 2003*. Ohswekan, Ontario: Six Nations Police Service.

Siggner, A. J. (2003). Urban Indigenous Populations: An Update Using the 2001 Census Results. In David Newhouse & Evelyn Peters (Eds.), *Not Strangers in These Parts: Urban Indigenous Peoples*. Ottawa: Policy Research Initiative.

State Services Commission (2005). *The Story of the Treaty, Part 1, 2, & 3*. Wellington, N.Z.: The Treaty of Waitangi Information Programme State Services Commission. Retrieved January 4, 2006, from [www.treatyofwaitangi.govt.nz](http://www.treatyofwaitangi.govt.nz).

Statistics Canada (2003). Census of Population: Immigration, birthplace and birthplace of parents, citizenship, ethnic origin, visible minorities and Indigenous peoples, *The Daily*. January 21, 2003. Retrieved January 21, 2003 from <http://www.statscan.ca/Daily/English/030121/d030121a.htm>.

Tasmania Police (n.d.). Retrieved December 12, 2005, from <http://www.police.tas.gov.au/community/Indigenous-liaison>.

Taylor, N. & Bareja, M. (2005). *No. 13: 2002 National police custody survey*. Canberra: Australian Institute of Criminology.

UCR (2003). Uniform Crime Report unpublished data from the Canadian Centre for Justice Statistics, Statistics Canada.

U.S. (1997), *Report of the Executive Committee for Indian Country Law Enforcement Improvements*. Washington D.C.: Final Report to the Attorney General and The Secretary of the Interior, Criminal Division, Department of Justice.

U.S. (2000a). *Bulletin: Census of State and Local Enforcement Agencies, 2000*. Washington D.C.: Bureau of Justice Statistics, Department of Justice.

U.S. (2000b). *Bulletin: Federal Law Enforcement Officers, 2000*. Washington D.C.: Bureau of Justice Statistics, Department of Justice.  
(U.S., 2000c), *Executive Order 13175*. Washington D.C.: The Executive Office of the President. Retrieved November 14, 2005, from <http://ceq.eh.doe.gov/nepa/regs/eos/eo13175.html>.

U.S. (2001a). *Violent Victimization and Race, 1993-98*. Washington D.C.: Bureau of Justice Statistics, Department of Justice. Special Report NCJ 176354 (March 2001).

Wakeling, S. et.al. (1997). Policing on American Indian Reservations, *National of Justice Journal*. Washington D.C.: Office of Justice Programs, Department of Justice.

WAPS (n.d.). Retrieved December 12, 2005, from <http://www.police.wa.gov.au/PrintVersion.asp>.

Winfrey Jr., L.T. (2004). New Zealand Police and Restorative Justice Philosophy. *Crime and Delinquency*. New York: April 2004, Vol.50, Issue 2.

Young, R.W. (1969) *Historical Backgrounds for Modern Indian Law & Order*. Washington, D.C.: Division of Law Enforcement Services, Bureau of Indian Affairs.