

BIAS-FREE POLICING

The attitudes of police and Aboriginal peoples toward each other can be a major factor in whether a protest will remain peaceful or become violent. Problems may occur when the people facing each other see negative stereotypes instead of individuals.

Many members of the OPP who testified at the Inquiry understood the complexities of situations where Aboriginal people are engaging in a collective assertion of their rights. However, other members of the OPP showed a disappointing lack of general knowledge and understanding of Aboriginal peoples.

Ipperwash is a paradox for the OPP. On the one hand, the OPP acknowledged that the shooting death of Dudley George left a tragic mark that has “significantly and negatively impacted upon the relationship between the OPP and the Aboriginal community, requiring constant work and renewal.”¹ On the other hand, Ipperwash has been a catalyst for significant, constructive changes within the OPP and in its relationship with Aboriginal peoples.

The OPP initiatives in this field are a work in progress, however. Much has been accomplished, but much more remains to be done to ensure that these programs are both sustainable and effective.

The responsibility for police/Aboriginal relations does not rest with the OPP alone. The provincial government has an equally important responsibility to promote better police/Aboriginal relations throughout the province. Fulfilling that responsibility is particularly important now, because of the potential for more occupations and because the responsibility for policing Aboriginal peoples is gradually but inevitably spreading from the OPP to other police services in Ontario. These developments suggest that the province, building on the foundation established by the OPP, should take a leadership role in developing province-wide skills, best practices, capacity, and resources to improve police/Aboriginal relations.

Another component of police/Aboriginal relations is the issue of dealing with complaints and discipline related to the police. The provincial government recently introduced Bill 103, the *Independent Police Review Act, 2006*, in response to the LeSage Report.² The legislation implements the key recommendations arising from Justice LeSage’s recent review of the police complaints system in Ontario. Bill 103 gives the provincial government and the OPP and other police services an opportunity to address, fairly and systematically, allegations or complaints about inappropriate or racist police behaviour.

I am confident that the proposed legislative reforms set out in Bill 103, combined with the reforms I recommend herein, represent a comprehensive, achievable, and effective plan for improving police/Aboriginal relations in Ontario.

11.1 Learning from Ipperwash

The existence of cultural insensitivity and racism within the OPP was evident at Ipperwash. It created a barrier to understanding and thus made communication and trust-building more difficult.

Perhaps the most egregious incident was the conversation between Detective Constable Darryl Whitehead and Constable Jim Dyke on September 5, 1995, the day before Dudley George was shot and killed. These two officers were part of an undercover intelligence team when they made the following comments:

Dyke: No, there's no one down there. Just a big, fat fuck Indian.

Whitehead: The camera's rolling.

Dyke: Yeah. We had this plan, you know. We thought if we could five or six cases of Labatt's 50, we could bait them.

Whitehead: Yeah.

Dyke: And we'd have this big net at a pit.

Whitehead: Creative thinking.

Dyke: Works in the south with watermelon.

The Inquiry heard offensive comments from other OPP officers during the occupation. The Inquiry also learned of other activities after the occupation, including the production and distribution of offensive commemorative coffee mugs and t-shirts.

Another example of racism towards Aboriginal people in the period before Dudley George's death was the Ontario Ministry of Natural Resources' race-specific enforcement policy, "Procedures for Dealing with First Nations People." This policy was issued in August 1995 for the Pinery and Ipperwash Provincial Parks.

The lessons from these incidents have important implications for this Inquiry.

First, the evidentiary record makes it clear that Constable Dyke was not the only officer holding insensitive views about Aboriginal people. This suggests that cultural insensitivity and racism was not restricted to a few "bad apples" within the OPP but was more widespread. An organizational problem requires an organizational-wide solution. An important lesson of Ipperwash, therefore, is that the OPP must tackle the issue of racism within its ranks directly and comprehensively.

There are many reasons why this is important, not the least of which is that successful, peaceful resolution of Aboriginal occupations and protests often depends upon the OPP's ability to understand and build trusting relationships with Aboriginal protesters. During his testimony at the evidentiary hearings, former Chief of the Assembly of First Nations Ovide Mercredi correctly observed that

[r]acial taunts by police officers on duty is counterproductive to the goal of non-violent resolution via dialogue.

Creating these types of commemorative items does nothing to restore normal relations between the Aboriginal community and the police and in fact it does the opposite.³

I discuss the OPP's policies and initiatives to address these issues in detail in this chapter.

A second important lesson is the need for the provincial government to assume a share of the responsibility for bias-free policing in the OPP and other police services or law enforcement agencies across Ontario. Robert Runciman, Ontario Solicitor General at the time of Ipperwash, agreed that racism among police officers is a very serious matter for police officers, and that it is very important that officers be made aware that racism on a police force will not be tolerated. He further agreed that one of the responsibilities of a Solicitor General should be to ensure that this policy is in place.⁴

A third important lesson concerns how and when police officers should be disciplined for inappropriate or racist language or conduct. In my view, the OPP's response to the incidents described above was insufficient. Officers either were subject to internal, informal disciplinary processes or were not disciplined at all. These circumstances call into question the disciplinary regime for this kind of conduct and the internal mechanisms within the OPP for reporting it.

11.2 The Evolution of Police/Aboriginal Relations

The OPP is not the only police service in Canada to address police/Aboriginal relations and racism in policing. Many initiatives, at both the national and local level, have been dedicated to improving the policing of Aboriginal communities. For example, the Canadian Association of Chiefs of Police (CACP) adopted a "bias-free policing" policy at its 2003 Annual Conference.⁵ The RCMP, the largest police service in Canada, has adopted a similar policy and has initiated many programs directed to improving its practices in policing Aboriginal peoples.⁶ The RCMP programs are noteworthy given its status as the national police service

and in light of its historically turbulent relationship with Aboriginal peoples.

The OPP, the RCMP, the Canadian Association of Chiefs of Police and others recently established the Law Enforcement Aboriginal and Diversity Network (LEAD).⁷ The goals of this national organization include identifying and distributing best practices in the policing of Aboriginal communities and other culturally distinct communities. In 2006, LEAD organized a major national conference, largely dedicated to discussing racial profiling, recruitment and retention of Aboriginal officers, culturally competent policing, and police/community relationship-building.

Despite these positive developments, the Inquiry heard consistent criticisms pointing to biased or racist policing—from Aboriginal witnesses, in the research papers and projects submitted to the Inquiry, at our Youth and Elder Forum on Police/Aboriginal Relations, at several of our consultations, at the Chiefs of Ontario Special Assembly with the Inquiry, in the submissions of the Aboriginal parties to the Inquiry, and at the recent LEAD conference.⁸

11.2.1 Previous Inquiries

Police/Aboriginal relations have been the subject of several inquiries in Canada over the past two decades:

- Marshall Commission (Nova Scotia, 1989)
- Aboriginal Justice Inquiry of Manitoba (Manitoba, 1991)
- Cariboo-Chilcotin Justice Inquiry (British Columbia, 1993)
- Blood Tribe Policing Inquiry (Alberta, 1991)
- Report of the Osnaburgh/Windigo Tribal Justice Review Committee (Ontario, 1990)
- Bridging the Cultural Divide — A Report on Criminal Justice and Aboriginal People in Canada by the Royal Commission on Aboriginal Peoples (Canada, 1996)
- Commission of Inquiry into the Shooting Death of Leo LaChance (Saskatchewan, 1993)
- Saskatchewan Commission on First Nations and Métis People and Justice Reform (Saskatchewan, 2004)
- Inquiry into the Death of Neil Stonechild (Saskatchewan, 2004)⁹

Several of these inquiries were called after the death of an Aboriginal person, in

some cases at the hands of the police. In other cases, an inquiry was called to investigate the police response to such a death.

These reports and others have concluded that police services have a systemic bias against Aboriginal peoples. The fact that inquiries have been held in at least six provinces demonstrates that problems in police/Aboriginal relations are neither restricted to one province nor are they isolated incidents. Each of the inquiries I have listed recommended systemic reforms to police/Aboriginal relations, and several also recommended significant reforms to the broader justice system.

Our literature review and the survey conducted by Professor John Hylton examined these reports in some detail. Professor Hylton summarized the best practices and recommendations identified:

- Police leadership must support and model strong diversity policies;
- Police recruitment screening must be designed to eliminate racist candidates with racist views;
- A proactive Aboriginal recruitment strategy must be maintained over time with a goal of police service membership mirroring the community make-up;
- Employment and family assist care programs, as well as other programs for Aboriginal police members, must be provided in order to support full participation in an historically hostile system;
- Increased emphasis must be placed on cross-cultural training for recruits and experienced police service members, using Aboriginal police officers in an experiential environment (not through academics, advocates or other Aboriginal leaders).¹⁰

Many of these reports also stressed the importance of First Nation police services.

One of the notable findings of the literature review was the general lack of research, documentation, or evaluation regarding police/Aboriginal relations programs or practices. Given the twenty years of initiatives and inquiries in this area, this significant gap in the analysis of these programs is disappointing and surprising.¹¹

11.2.2 Aboriginal Peoples and Policing

Inquiries and other reports have emphasized the history of mistrust between Aboriginal peoples and the police. At the risk of oversimplification, that mistrust is rooted in

- The legacy of colonialism
- The role of the police in attempts to assimilate Aboriginal peoples
- Government reliance on the police to resolve Aboriginal rights disputes
- Over-representation of Aboriginal people in the criminal justice system
- Racism on the part of the police

The Saskatchewan Commission on First Nations and Métis Peoples and Justice Reform (2004) summed up the consensus of many Canadian inquiries and reports: “[R]acism is a major obstacle to healthy relations between the First Nations and ... police organizations.”¹² The Supreme Court of Canada has also acknowledged racism and systemic discrimination against Aboriginal peoples.¹³

Participants at many of our consultations and community forums echoed this conclusion, as did many of the submissions to the Inquiry, including that of the Chiefs of Ontario:

On March 9, 2006 Chief Simon Fobister of the Grand Council Treaty #3 could not have stated things more clearly when he said:

It is one thing to forgive and move forward but when unnecessary deaths of our people continue to happen in this day and age, there is never any moving forward, just the recurring memories of seeing our parents humiliated and our sense of helplessness as children at how society views the ‘original people of this land’. But, we are survivors of our nation, and while we still have many struggles to overcome, we are prepared to work together with you to make the changes that are necessary so we can all live together in peace and harmony.¹⁴

The Union of Ontario Indians also made a similar point in its submission:

Whether or not OPP and MNR enforcement activities within First Nations are carried out differently than in non-native communities is obviously debatable but it is clear that the prevailing feeling within First Nations communities is not up for debate. Many First Nations people believe that situations are often unnecessarily escalated because of the lack of understandings by tactical units or responding officers toward the people they are dealing with.

This attitude has been amplified by incidents that denigrate the very people the OPP have sworn to serve. Isolated events including the creation of trophies by members of the tactical unit at Ipperwash, the revelation of racist e-mails being distributed in northern Ontario and the event previously described at the Chippewas of the Thames only reinforce prevailing attitudes for some First Nations people.

The pattern of incidents across Ontario in the past ten years is deeply disturbing. While it must be acknowledged that efforts are being made and that many leaders, most notably Commissioner Boniface of the OPP, are providing leadership on bridging the gulf that exists between law enforcement agencies and First Nations people, there is much more that has to be done.¹⁵

The Kettle and Stony Point First Nation submission recognized some progress, but pointed to the need to do more:

Major strides have been made since the 1970's in providing more, and more appropriate policing services to Aboriginal communities. Without diminishing those achievements in any way, this Inquiry has learned that more needs to be done. The most urgent need is to eradicate the twin malignancies of racism and stereotyping from the realm of law enforcement.¹⁶

Finally, participants at our Youth and Elder Forum on police/Aboriginal relations related many negative personal experiences with the police to underscore their view that the police treat Aboriginal people more harshly than they treat non-Aboriginal peoples. Many participants said that the police stereotype Aboriginal people and that racial profiling influences police in stopping and questioning them. In their experience, teachers and store clerks also tend to treat Aboriginal peoples differently. Participants further pointed out that the jails and courts are full of Aboriginal people, mostly because of charges related to alcohol and drugs, and that Aboriginal people are considered guilty until proven innocent. According to many participants, the lack of communication between the police and Aboriginal people, the perception that police stereotype Aboriginal people and use racial profiling against them, and the systemic discrimination against Aboriginal people in the justice system have combined to incite widespread anger in Aboriginal youth.¹⁷

11.3 The Ontario Provincial Police

11.3.1 *OPP Initiatives*

I have noted that the OPP is the police service most likely to be involved in an Aboriginal occupation or protest. The OPP made extensive submissions to the Inquiry on the details of programs and strategies to promote relationship-building with Aboriginal communities, including detailed presentations at its two-day “Building Relationships” forum at the Inquiry in January 2006.¹⁸ In chapters 9 and 10, I described the diversity and depth of some of these programs—the role of the Aboriginal Liaison – Operations Officer, Aboriginal Relations Teams, the Framework for Police Preparedness for Aboriginal Critical Incidents, and OPP support for First Nation policing.

In addition to those programs and policies, the OPP has undertaken further initiatives intended, in whole or in part, to promote better relationships with Aboriginal peoples:

- Organizational planning and policies, such as the OPP Promise, the Focus On Professionalism, Mission Critical Issues, business planning processes, and police orders
- Initiatives to recruit, retain, support, and promote Aboriginal officers, including Aboriginal outreach and inreach initiatives, Aboriginal-specific promotion criteria, and the Aboriginal Officers Leadership Forum
- Native Awareness Training
- Community outreach initiatives, including Zhowski Miingan or Blue Wolf, traditional Aboriginal drum groups, the OPP Youth Summer Camp, and Police Ethnic And Cultural Exchange (PEACE)

11.3.2 *The OPP Promise, Mission Critical Issues, Police Orders, and Business Planning*

The OPP reported that the core of its multiyear strategy and vision is “The OPP Promise,” which defines values and ethical standards that best characterize the future of the organization. It is the cornerstone of the core strategy of the OPP, the “Focus on Professionalism.”¹⁹

The Focus on Professionalism identifies several “Mission Critical Issues” that support the core business of the OPP, including Relationship Building with Aboriginal Communities, Meeting the Needs of Diverse Communities, and Professionalism. The OPP implements its values and Mission Critical Issues by embedding them in its operations through its three-year business planning cycle. The

business plan then articulates initiatives that advance the Mission Critical Issues.²⁰

The 2005-2007 Mission Critical Issues document describes the OPP relationship with Aboriginal peoples as a “core business of the organization.” The OPP identified the following reasons for this priority:

- In the areas policed by the OPP, Aboriginal people are the single largest identifiable minority group with their own communities.
- For the foreseeable future, the OPP will be called upon to provide policing services during difficult situations.
- Within the last ten years, the OPP has been involved in a number of critical confrontations with Aboriginal persons and there must be continuous learning.
- The safety of officers and the public and effective policing depends on effective relationships and communications.
- Policing Aboriginal communities is becoming increasingly complex, requiring understanding across a widening spectrum of social, cultural, political, and legal issues.²¹

The OPP submitted that these initiatives “represent [its] commitment to ‘strong diversity policies’ identified by Professor Hylton as a best practice.”²²

11.3.3 Recruitment and Retention of Aboriginal Officers

OPP initiatives in the area of recruitment and retention fall into three categories: ensuring that potential recruits with racist attitudes are screened out during the recruitment process,²³ “outreach” initiatives designed to encourage Aboriginal people to consider a career in the OPP,²⁴ and “inreach” initiatives designed to support and promote Aboriginal officers within the OPP.²⁵

In 1995, there were forty-nine self-identified Aboriginal officers in the OPP. By 2006, this number increased to 135, including two superintendents, out of the approximately 5,500 uniformed members of the OPP.²⁶

The OPP submitted that its outreach and inreach activities are significant components of the “proactive recruitment strategy” which Professor Hylton identified as a best practice.²⁷

11.3.3.1 Training

The OPP stated that the “centrepiece” of its initiatives to address racism is its Native Awareness Training program.²⁸ As of August 2006, more than 2,000 OPP members have participated in the one-week course.

According to the OPP, Native Awareness Training is “only part of a larger strategy to select and train officers in a way that both enhances awareness of Aboriginal culture and sensitivity, and roots out racism.”²⁹ Other initiatives include:

- Screening of recruits includes processes designed to eliminate candidates with racist views.
- The one-week orientation for successful recruits at the OPP Academy includes a half-day of training on Aboriginal issues.
- After completing Basic Training, recruits return to the OPP Academy for four weeks. Two days of the program are devoted to Aboriginal issues.
- During the probationary period, OPP officers job-shadow a First Nation police officer for two weeks.
- OPP promotion boards ask the candidates questions about Aboriginal issues and the Framework.
- Aboriginal-specific testing and training is included in the selection process and training for integrated response units (crisis negotiators, incident commanders, and members of ART, ERT, TRU).
- Intelligence personnel and members of the Professional Standards Bureau receive Native Awareness Training.

According to the OPP, it is “unique in mandating this level of Native Awareness Training for integrated or emergency response officers.”³⁰

11.4 Assessing the Police/Aboriginal Relations Programs of the OPP

The police/Aboriginal relations initiatives of the OPP are impressive in their breadth and depth. These programs represent a comprehensive strategy to improve relationships between the OPP and Aboriginal peoples, especially when combined with the OPP initiatives regarding policing occupations and First Nation policing.

Former OPP Commissioner Gwen Boniface showed commitment and leadership in improving OPP relations with the Aboriginal community. Many individual Aboriginal and non-Aboriginal OPP members have developed programs, built community relationships, or have otherwise contributed to improving police/Aboriginal relations. To its credit, the OPP has taken significant, positive strides since Ipperwash, and I was impressed by all of these efforts.

For the most part, I believe that the OPP police/Aboriginal relations initiatives conform to the best practices identified in previous inquiries and reports.

In particular, I commend the manner in which Aboriginal issues and police/Aboriginal relations are incorporated in Mission Critical Issues and business planning. I also commend the commitment to Native Awareness Training and to outreach and inreach programs. These are important, constructive programs that should improve the relationship of the OPP with Aboriginal peoples in Ontario. I therefore recommend that the OPP maintain these initiatives and accord them a high priority with the organization. The OPP should also devote a commensurate level of resources and executive support to them.

I think it fair to say that Aboriginal parties at the Inquiry supported these policies and initiatives in principle, but they were concerned about implementation or acceptance at the detachment level. Many Aboriginal parties to the Inquiry also asked whether the internal policies or discipline processes were effective in identifying or reprimanding inappropriate behaviour. These and other important questions remain to be addressed, and they involve challenges in both sustainability and effectiveness.

11.4.1 Sustainability

The challenges to the sustainability of the police/Aboriginal relations strategy of the OPP and its related initiatives are essentially the same as they are for its Framework-related initiatives: They are recent, they rely on a small number of officers to carry a significant portion of the burden of design and implementation, and they do not have secure funding.³¹

These challenges are significant. The combination of financial and human challenges raises questions about how these programs are to be secured, supported, and promoted in the long run. I believe that a successful response to these challenges depends on a combination of provincial government support and further measures by the OPP. Provincial government action is crucial, since the provincial government can provide the most significant institutional support for these programs. For its part, the OPP should also take steps to improve the sustainability of its police/Aboriginal relations strategy and programs by

- Developing active, ongoing monitoring strategies, including comprehensive evaluation strategies and improved data collection
- Improving participation by First Nations and Aboriginal peoples in program design, oversight, and evaluation
- Improving transparency and accountability

These are appropriate next steps for the OPP to take to ensure that its strategy and programs are as secure and effective as possible.

11.4.2 Effectiveness

Again, the sustainability of a program depends, to a critical degree, on its effectiveness. Thus, the sustainability of these initiatives will depend on whether the OPP can demonstrate that they effectively improve police/Aboriginal relations. Fundamental to the determination of effectiveness is the development of an ongoing, active monitoring and implementation program to continually assess whether a program is working at every level of the organization.³²

Ongoing monitoring can include a variety of techniques and strategies, such as evaluations, data collection, and partnerships and consultation with the communities affected. Active, ongoing monitoring is particularly important for these initiatives because they are in the relatively early stages of development.

11.4.2.1 Evaluations

The independent, third-party evaluations I recommend with respect to the OPP Framework for Police Preparedness for Aboriginal Critical Incidents and its ART program would also be appropriate, in my view, for its Native Awareness Training program. The OPP describes this program as the “centrepiece” of its police/Aboriginal relations program, and it has potential far-reaching and long-term benefits for the OPP, Aboriginal peoples in Ontario, and police/Aboriginal relations. An independent evaluation of this program is also important because there is little quantitative data about what does or does not work in police/Aboriginal relations.

Training is a crucial element of any organizational change strategy, and the Native Awareness Training program is a significant initiative. However, training is only one element of a comprehensive strategy. The key issue is whether it leads to changed attitudes and practices in policies and processes. An independent evaluation is crucial in this regard. Data from evaluation is also important to ensuring the continuation of such programs. A demonstrably effective program is much less vulnerable to funding cuts or changes in government or organizational leadership than an unproven one is. There is a similar need for an independent evaluation of the OPP recruitment and promotion practices.

The OPP is currently collecting data on the number of self-identified Aboriginal members of the force, and it has begun an independent, longitudinal study on new recruits which will look at three recruit classes over a five-year period. The OPP is also beginning a more comprehensive internal analysis of its Native awareness programs. To its credit, the OPP has also said that it “would welcome input and guidance from the First Nations leadership on developing assessment tools to evaluate the application of the Framework.”³³ Presumably,

the OPP would welcome similar input on other police/Aboriginal relations programs as well.

These are important and necessary first steps. The next step for the OPP should be to develop a comprehensive evaluation strategy for all of its significant police/Aboriginal relations initiatives, including an independent, third-party evaluation of its Native Awareness Training and recruitment initiatives. This strategy should be developed in partnership with the Aboriginal community in Ontario.

11.4.2.2 Data Collection and Statistics

In my view, data collection is a fundamental tool in improving police/Aboriginal relations and ensuring bias-free policing. Data collection is needed to determine whether well-intentioned programs and policies actually produce constructive results, and whether activities and decision-making within an organization conform to its own policies, orders, best practices, and expectations. It can also play an important educational role within a police service and improve public perception of its trustworthiness and accountability.

In policing, data collection is sometimes associated with racial profiling. This association is too narrow. Data collection and statistics can be used to study a much wider range of activities.

Recently, there has been much discussion in Ontario over the publication of a data collection study of racial profiling by the Kingston Police Department. The Kingston project was designed to gather race and ethnicity data on pedestrians or motorists interrogated, suspected, questioned, searched, or detained by Kingston police officers.³⁴ Kingston Chief of Police William Closs explained the project:

This project grew out of our genuine interest in addressing the issue of racial profiling in policing; our conscious decision to take action that would result in more positive contacts with citizens; and the need to respond appropriately to, rather than dismissing, citizens' perceptions and anecdotal stories. This was an honest effort to move beyond denial and to cause change, rather than just maintaining the status quo. While people refer to this issue in different ways and with different labels, essentially we wanted to allow an objective, academic researcher the opportunity to test whether police treat people equally as they exercise police discretion and initiate contacts with citizens.³⁵

Chief Closs believed that police services and politicians have tended to shy away from data collection in favour of other strategies that promote bias-free

policing, including training, recruitment, supervision and discipline. He did not deny the need for these programs, but simply believed that they did not go far enough.³⁶

There are numerous potential data collection projects that could assist better policy-making or program development at the OPP. For example, the 2005/2006 Annual Report of the Office of the Correctional Investigator of Canada reported that the rate of incarceration of Aboriginal people in provincial and federal institutions is approximately ten times higher than it is for non-Aboriginal offenders. This may suggest a need for a study of police policies or patterns in laying charges. Many observers have also commented that police are not as responsive to crimes against Aboriginal peoples as they are to crimes against non-Aboriginal peoples.³⁷ This may suggest a need for a data collection study of police response times.

The Correctional Investigator's report illustrates the potential benefit of better data collection. The analysis of Statistics Canada and federal Correctional Service data led to the conclusion that Aboriginal offenders were less likely to be granted temporary absences and parole, they were granted parole later in their sentences, they were more likely to have parole suspended or revoked, and they were more likely to be assigned a higher security level within penal institutions. The Correctional Investigator also compared current and historical data to analyze program effectiveness. The Correctional Investigator then used this data to make detailed recommendations on how to improve the Correctional Services programs for Aboriginal offenders.³⁸

There can be no objection to data collection and evaluation regarding police/Aboriginal relations initiatives on the basis that these studies will involve collecting "race-based" statistics. The Ontario Human Rights Commission has made this clear:

It is a common misperception that the *Code* prohibits the collection and analysis of data identifying people based on race and other *Code* grounds. Many individuals, organizations and institutions mistakenly believe that collecting this data is automatically antithetical to human rights. In fact, the Commission has stated that not only does the *Code* permit the collection and analysis of identity data based on enumerated grounds for *Code* legitimate purposes, appropriate data collection is necessary for effectively monitoring discrimination, identifying and removing systemic barriers, ameliorating historical disadvantage and promoting substantive equality. It is the collection or use of data for improper purposes that further contributes to discrimination or stereotyping that is antithetical to human rights.³⁹

Further, the OHRC emphasized that “in order to fulfill its purpose, data collection should be done in good faith with the purpose of producing accurate, good-quality data rather than attempting to achieve a particular outcome.”⁴⁰

I agree with that view, and I believe that data collection studies should be designed thoughtfully and in cooperation with representatives of the OPP, First Nations organizations, and the Ontario Provincial Police Association. Together, they should be able to identify appropriate data collection priorities and projects.

Experience has demonstrated that data collection projects are more likely to succeed if they are not perceived as designed to isolate or punish individual officers. Any data collection project must be clearly and transparently designed to analyze institutional processes, activities, and outcomes, not individual ones. At the same time, unreasonable or self-serving objections to data collection cannot be allowed to stand in the way of serious efforts to build better police/Aboriginal relations. The challenges to the methodology of this type of study can be answered if the project is undertaken in good faith, with the meaningful participation of interested parties, and with executive and provincial government support.

11.4.2.3 First Nations Participation in OPP Programs

OPP programs could also benefit from more formal participation by First Nations in their development, oversight, and evaluation.

Aboriginal peoples and members of the OPP interact every day, and in every corner of the province. Policies and programs designed to improve police/Aboriginal relations require more than just periodic consultation with First Nations leaders and Aboriginal communities.

Gwen Boniface, former commissioner of the OPP held regular meetings with elected chiefs, the Chiefs of Ontario, and Provincial Territorial Organizations. Senior regional and regional commanders hold meetings with leaders of First Nations and Provincial Territorial Organizations, and detachment commanders are required to meet regularly with local First Nation police services and local elected leaders.

I believe that these consultation forums are an appropriate means of improving communications and dialogue between the OPP and First Nations and Aboriginal peoples across Ontario. Collectively, these efforts represent a very good start. What is needed now is a commitment between the OPP and First Nations to develop a more formal monitoring and implementation program for the OPP programs. The objective would be to develop a transparent, written monitoring and evaluation plan which would assist the OPP and First Nations to design, oversee, and evaluate the strategy and the implementation of programs at the

provincial, regional, and local levels. In effect, the OPP and First Nations must become partners, equally committed to the success of relations between the OPP and Aboriginal peoples.

The formal OPP/Aboriginal peoples advisory committee I recommended in chapter 9 is likely to have the resources, contacts, and credibility needed to build this partnership and strategy effectively.

11.4.3 Accountability and Transparency

The strategies, processes, and structures I recommend would enhance the accountability and transparency of the police/Aboriginal relations programs of the OPP by broadening the base of participation in their design and oversight.

I also believe that important strategies, plans, evaluations, decisions, or reports related to police/Aboriginal relations within the OPP should generally be posted on the OPP website and made available to the public. This will enhance accountability and transparency in the eyes of the wider public, interested organizations, and the provincial government.

11.5 The Provincial Government

The provincial government has two important responsibilities with regard to police/Aboriginal relations. The first is the leadership role of the Ministry of Community Safety and Correctional Services (MCSCS) for the OPP and other police services in Ontario. The second is the direct responsibility of the province to govern and manage the enforcement arm of the Ministry of Natural Resources.

11.5.1 Provincial Leadership in Police/Aboriginal Relations

The *Police Services Act* gives MCSCS the authority to set policy objectives for policing and to establish rules or guidelines to formalize government expectations for the police in specific areas. MCSCS is also directly responsible and accountable to all Ontarians for the success of the OPP and its police/Aboriginal initiatives. (I discuss this further in chapter 9.)

This Inquiry gives the provincial government an important opportunity to work with the OPP and Aboriginal peoples to develop a new and forward-looking provincial strategy to improve police/Aboriginal relations in Ontario. The first part of this strategy should be to consolidate and sustain the gains made by the OPP so far and ensure their effectiveness.

The second part should be to develop province-wide skills, best practices, capacity, and resources to improve police/Aboriginal relations throughout Ontario.

In my view, implementing a provincial police/Aboriginal relations strategy

would be consistent with the best traditions of equitable, transparent, accountable, and democratic policing. Ensuring that Aboriginal peoples participate in decision-making would promote the “honour of the Crown” in government relations with Aboriginal peoples in Ontario. A provincial policy would demonstrate publicly that the provincial government expects Aboriginal peoples in Ontario to be policed equally and with respect. Finally, a provincial policy would support the sustainability, effectiveness, evaluation, transparency, and accountability of the police/Aboriginal initiatives within the OPP and throughout the province.

11.5.2 Provincial Policy Supporting the OPP

The first step in the provincial strategy should be for MCSCS, the OPP, and Aboriginal organizations to develop a provincial policy which supports the OPP in maintaining a comprehensive police/Aboriginal relations strategy.⁴¹ The policy could specify that the OPP should maintain dedicated Aboriginal programs in the area of recruitment, training, and data collection. It could also formally confirm Aboriginal participation in the design, oversight, monitoring and evaluation of these programs. Finally, the policy could set out general principles or expectations regarding accountability and transparency.

This recommendation correlates with my recommendation for a provincial peacekeeping policy. It is designed to ensure that the comprehensive programs initiated by the OPP in this area will be sustained for the long term. It would also publicly affirm that provincial government is committed to and has high expectations of the OPP in this area. Most importantly, this policy would establish the principle that the OPP, the provincial government, and Aboriginal peoples in Ontario share the responsibility for establishing and supporting better police/Aboriginal relations.

The policy should establish general principles and overall objectives. It should not be specific, in that it should be left to the OPP to determine how best to meet those objectives, taking into account its experiences, resources, and priorities.

Clearly, any future provincial government could rescind this policy or reduce funding for it. However, the virtue of a transparent policy is that the government would be publicly accountable for its decision to rescind or alter the policy directive.

Programs need resources, and the provincial government should provide the OPP with the necessary resources to maintain, if not expand, its current police/Aboriginal relations programs. The OPP and the provincial government should negotiate the amount and the conditions, but this funding should be contingent upon agreement by the OPP to undertake appropriate evaluations of its initiatives.

11.5.3 Developing Provincial Strategy, Data, and Resources

The provincial policy with respect to the OPP should be the first part of a wider provincial strategy on police/Aboriginal relations. The OPP strategy and initiatives are important and constructive steps forward, but, as I have noted, they are still quite new and would benefit from the oversight, monitoring, and evaluation program I recommend.

In the second part of this strategy, MCSCS should take the leadership role in developing an Ontario-wide strategy and resources for improving police/Aboriginal relations. It could do this by working with the OPP, Aboriginal organizations, other police services, and perhaps the Ontario Human Rights Commission to identify province-wide issues and objectives and to identify and circulate best practices. Aboriginal participation is just as important to the provincial government as it is to the OPP.

Once again, any provincial policy or program development must be premised on sound, purposeful research, evaluations, and management data. I have already noted the disappointing general lack of research, documentation, or evaluation of police/Aboriginal relations programs or practices. MCSCS, as the lead ministry responsible for policing in Ontario, should address this gap in order to promote better decision-making on police/Aboriginal relations initiatives and bias-free policing generally.

Policing in rural or northern communities is significantly different from policing in a large municipality in southern Ontario. It follows, therefore, that provincial policy and analysis of police/Aboriginal relations would benefit from province-wide research and policing management data.

The need for provincial data collection, and the benefits available from it, far outweighs any practical or political objections. Properly designed research studies and evaluations would provide significant information on interaction between Aboriginal people and the police. They would also help provincial and police policy makers make well-informed decisions about “standard practices or identifying trends that might be counterproductive to police-community relations.”⁴² They would also establish a baseline to judge progress, assist police services and police service boards in identifying best practices, improve public trust between Aboriginal people and police services, and promote transparency and accountability in provincial and police decision-making.

Scott Wortley and Terry Roswell conducted a statistical study on behalf of the African Canadian Legal Clinic which is a good example of a province-wide data collection project. This study, entitled “Police Use of Force in Ontario: An Examination of Data from the Special Investigations Unit” is an important

example of a province-wide policing study, in this case examining the relationship between race and the use of force by police. I commend the Special Investigations Unit (SIU) for their cooperation with this project and hope that they will continue to collect data to provide a better sense of how the police exercise force in this province.

Any provincial strategies, plans, evaluations, decisions, or reports should be transparent and publicly accessible.

11.5.4 A Provincial Guideline

An important component of the provincial strategy should be a provincial guideline for police forces in Ontario.

Difficult relations between Aboriginal peoples and police services in Ontario are by no means confined to the OPP. Indeed, the Inquiry heard of strained relations with police services in several communities, most notably Kenora. It is therefore equally important that police service boards and police services across Ontario take reasonable steps to improve police/Aboriginal relations.

Only the largest municipal police services will have the financial or other resources and capacities to match those of the OPP. It is neither fair nor wise to deny residents and police services in smaller communities the benefits of improved police/Aboriginal relations simply because they are small.

A cost-effective approach might be for the MCSCS to partner with the OPP and other police services to develop generic guidelines that could be adopted by any police service in the province. This approach would be consistent with the MCSCS authority to “develop and promote programs to enhance professional police practices, standards and training” as set out in section (3)(2)(d) of the *Police Services Act* and with the existing policy guidelines in the Police Standards Manual.

As a related measure, the provincial and federal governments should also consider providing appropriate and secure funding to the Law Enforcement and Aboriginal Diversity Network (LEAD). As noted earlier, LEAD is a small but potentially very significant national resource in dealing with these issues. Accordingly, it should be provided resources and other necessary support commensurate with this important mandate.

11.5.5 The Ministry of Natural Resources

Another element of a provincial strategy concerns the Ministry of Natural Resources. There is no doubt that MNR is a law enforcement agency. At present, there are more than 200 conservation officers in Ontario. Their duties include

conducting patrols and inspections and laying charges. In 2004/2005, conservation officers had over 270,000 contacts with members of the public, issued more than 9,000 warnings, laid more than 8,000 charges, and filed almost 200 reports with respect to violations by Aboriginal people.⁴³

As I have noted elsewhere, there is a long history of tension between many Aboriginal peoples and MNR conservation officers. The presentations and submissions to the Inquiry indicated that these tensions continue to this day.

The provincial government submissions emphasized that the province has developed Aboriginal awareness training for MNR staff. It has undertaken recruitment outreach for Aboriginal people, and it has many outreach programs and consultations with members of the Aboriginal community.⁴⁴

Consistency between law enforcement agencies should be encouraged. I therefore recommend that the Ministry of Natural Resources develop and implement a dedicated MNR/Aboriginal relations strategy consistent with my general analysis and recommendations regarding police/Aboriginal relations, including independent evaluation and participation by First Nations in the design and ongoing oversight, monitoring, and evaluation.

11.5.6 Police Discipline and Public Complaints

The final component of a provincial strategy in this area involves police discipline and complaints. In my report on Part 1 of the Inquiry, I concluded that racism and cultural insensitivity created a barrier to a constructive dialogue and may have made a peaceful resolution of the occupation more difficult.

Perhaps the most obvious instance of racism and cultural insensitivity was the comments made by OPP Constable Jim Dyke on September 5, 1995—one day before the shooting. These comments were captured in a videotaped conversation between Constable Dyke and Detective Constable Darryl Whitehead.

The Inquiry heard other conversations between OPP officers recorded in the course of the police operation on September 5/6, 1995. It was clear that Constable Dyke was not alone in his insensitive views, and I was struck by the number of individual officers caught on tape making derogatory remarks about Aboriginal people.

Equally disturbing was the manner in which the OPP dealt with this behaviour. In some instances, they never found out about it. In other cases, senior officials found that it did not amount to “misconduct.” In cases where they did find grounds for misconduct, it was determined that the officers should be disciplined under the “informal” procedures set out in the *Police Services Act*. In no case was any OPP officer disciplined formally. The OPP’s response implies that allegations of racist or culturally insensitive behaviour were not considered serious.

Informal discipline in this context was inappropriate, for two reasons. First, it did not involve a situation where “the conduct appears to be obviously conduct that is not of a serious nature,” which is a criterion required in the *PSA* to justify informal discipline. Second, discipline was carried out behind closed doors, without the transparency and accountability for serious police misconduct envisioned by the *PSA*.

The parties to the Inquiry made a number of suggestions, but the most common was to address the use of informal discipline for incidents involving racist behaviour.

I have followed with interest the work of former Chief Justice of the Superior Court of Justice Patrick LeSage on the reform of the police complaints system in Ontario.⁴⁵ Attorney General Michael Bryant asked Justice LeSage to review the current system and to advise on a model for resolving public complaints against the police in a fair, effective, and transparent way. From my own experience, I am aware that it is an enormous challenge to find the best way to balance the need to give an individual police force an appropriate level of operational independence against the equally important need for effective accountability systems that ensure integrity and sustain public confidence in the police.

Having reviewed Justice LeSage’s report carefully, I think he has done an excellent job in finding the right balance. On April 19, 2006, the Attorney General introduced Bill 103, the *Independent Police Review Act, 2006*.⁴⁶ The legislation implements the key recommendations made by Justice LeSage. The bill appears to have broad support in the Legislature. It received second reading in the fall of 2006 and was considered at committee over the winter recess. Final approval will await the spring legislative session. I urge the provincial government and opposition to give Bill 103 high priority and to ensure that it promptly passes into law. The important improvements to the current oversight model contained in the bill will be a welcome addition to the other accountability systems already in place for policing in Ontario.

A system of informal discipline, when used appropriately, is an effective tool in managing police operations. The issue is not whether an informal discipline process should exist, but rather when it is appropriate to use it. Justice LeSage acknowledged this in his report. Bill 103 includes informal discipline as an option in certain specific contexts, but it also sets out clear criteria for when and how it should be applied.

In my view, the informal discipline system set out in Bill 103 strikes the appropriate balance of transparency, accountability, and confidentiality in handling complaints against individual police officers. And, importantly, it will ensure that complaints involving racism or other culturally insensitive conduct are dealt with properly.

It is important to note that Bill 103 retains the right of members of the public to complain to an individual police force about the conduct of any of its police officers, up to and including the chief. However, the legislation also establishes an important alternative way to lodge complaints, namely to a newly created Independent Police Review Director.

In addition to an extensive oversight role, the director will receive complaints directly from members of the public. Upon receipt of a complaint, the director will be obliged to undertake an initial review and decide how the complaint should be handled. One option will be to retain the complaint and conduct an investigation. Another option will be to refer the complaint to the chief of the police force that employs the officer who is the subject of the complaint, or to the chief of another police force. In that case, the director will have the important power to direct the chief regarding how to deal with the specific complaint.

Bill 103 also provides an enhanced role for individual complainants. Once an investigation has been completed, by either the director or a chief, the complainant must be provided with a copy of the investigation report. If the director or chief decides that the complaint should be dealt with in the informal discipline stream because the misconduct “was not of a serious nature,” then the complainant must be advised of this decision and asked to consent. Without the consent of the complainant, informal discipline will not be available as an option, and the complaint must be dealt with in a formal hearing open to the public.

The complainant will have a further option in circumstances where a chief has decided that a complaint should be dealt with informally. The complainant will be able to ask that the director review the complaint and decide whether informal discipline is appropriate in the circumstances. At that point, the director may also decide to take over carriage of the complaint.

At various stages of the complaint investigation process, the director will have specific powers and authority to control the extent to which informal discipline is applied. For example, if the director were to decide, as a matter of policy, that complaints involving allegations of racism or cultural insensitivity should appropriately stay with his or her office for investigation, and not be referred to a chief, that option is available in Bill 103. The director could also decide, on a policy level, that all complaints involving racism or cultural insensitivity, which a chief has decided to deal with informally, must be transferred back to the director for investigation if the complainant requests it. The director could also deal with the issue of racism on a case-specific basis, exercising the power to direct a chief to handle a particular complaint through the formal disciplinary process.

The director has one other power worth mentioning. In addition to his or her other responsibilities, the director

may examine and review issues of a systemic nature that are the subject of, or that give rise to, complaints made by members of the public ... and may make recommendations respecting such issues to the Solicitor General, the Attorney General, chiefs of police, boards, or any other person or body.⁴⁷

Accordingly, if the director determines that racism or any other form of cultural insensitivity appears to reflect a systemic problem, either generally or within a particular police force, he or she will have the power and authority to conduct an examination and review, using the full range of investigatory powers available under the legislation.

In my view, the combination of an enhanced role for complainants and the broad powers of the new Independent Police Review Director will create a much more appropriate scheme of informal discipline for circumstances where misconduct is “not of a serious nature.” It will continue to allow for complaints involving minor misconduct to be dealt with informally, on consent, while retaining the formal, open, and transparent disciplinary process for situations where, in the opinion of either the complainant or the director, informal discipline is not appropriate.

There are two other related issues under the rubric of this new legislation, which provincial government should address in order to provide a truly effective new police complaints and discipline system.

As we saw during the Inquiry, racist behaviour and other culturally insensitive conduct amongst police officers is seldom revealed publicly. Constable Dyke made racist comments in a location where only police officers were permitted, and the insensitive comments heard on the communications tapes reflected conversations among individual police officers and civilian personnel which would not have been made public if this Inquiry had not been called.

It is important that all racist conduct by police officers be brought to the attention of senior officials within the police service so that the comprehensive complaint investigation and disciplinary processes included in Bill 103 can be applied. In my view, individual police officers should be compelled to report any racist or culturally insensitive language or behaviour by fellow officers to their supervisors in the chain of command. And individual police services, including the OPP, should have processes in place to ensure that this reporting obligation is properly discharged.

It was not a member of the public who made the complaint concerning the conduct of Constable Dyke and Detective Constable Whitehead. According to the testimony of former OPP Commissioner Gwen Boniface, she initiated this complaint herself when a request under the *Freedom of Information and Protection*

of *Privacy Act* drew the tape containing the racist conversation between the two officers to her attention.

In circumstances involving internal complaints, the new consent provisions in Bill 103 regarding informal discipline may not be adequate. If the complaint against Constable Dyke and Detective Constable Whitehead had been made under the Bill 103 scheme, Commissioner Boniface would have been in a conflict of interest because she was both the complainant and the senior official responsible for determining the appropriate disciplinary process. Clearly, it would be inappropriate to have required that she ask for her own consent to her decision to deal with the complaint informally. The most appropriate way to deal with this under the Bill 103 disciplinary model is to require that the director handle all internal complaints, including complaints involving racism and other culturally insensitive behaviour.

Recommendations

63. The OPP should maintain its Native Awareness Training and related police/Aboriginal relations initiatives as a high priority and devote a commensurate level of resources and executive support to them.
64. The OPP should develop active, ongoing monitoring strategies for its police/Aboriginal relations strategy and programs, including:
 - a. commissioning an independent, third-party evaluation of its Native Awareness Training and recruitment initiatives;
 - b. commissioning data collection studies to evaluate police decision-making and operations. These studies should be designed in partnership with First Nation organizations and the Ontario Provincial Police Association, if possible; and
 - c. working with First Nations organizations to develop a more formal monitoring and implementation program for the OPP police/Aboriginal programs.
65. The provincial government should develop a provincial police/Aboriginal relations strategy. This strategy should publicly confirm the commitment by the province to improving police/Aboriginal relations in Ontario. Elements of this strategy should include the following:
 - a. The Ministry of Community Safety and Correctional Services should

work with the OPP and Aboriginal organizations to develop a provincial policy supporting the OPP police/Aboriginal relations programs.

- b. The Ministry of Community Safety and Correctional Services should work with the OPP, Aboriginal organizations, other police services, and the Ontario Human Rights Commission to identify and circulate best practices in police/Aboriginal relations.
 - c. The Ministry of Community Safety and Correctional Services should develop a provincial research and data collection strategy to promote improved police/Aboriginal relations policy and programs and bias-free policing across Ontario.
 - d. The Ministry of Community Safety and Correctional Services should issue a guideline for police forces in Ontario promoting best practices in police/Aboriginal relations.
 - e. The Ministry of Natural Resources should develop and implement a dedicated MNR/Aboriginal relations strategy, consistent with the analysis and recommendations in this report.
66. The provincial government should commit sufficient resources to the OPP to support its police/Aboriginal relations initiatives. This funding should be dependent upon agreement by the OPP to commission and publish independent evaluations of its Native Awareness Training and recruitment initiatives.
 67. Bill 103, the *Independent Police Review Act, 2006*, should be reviewed to ensure that internally generated complaints related to a police service are handled by the Independent Police Review Director, including complaints relating to racism and other culturally insensitive behaviour.
 68. The Independent Police Review Director should determine the most appropriate policy to be followed by his or her office and police services in Ontario in handling complaints of misconduct involving racism and other culturally insensitive conduct, including the role, if any, for informal discipline. The Independent Police Review Director should consult with community and Aboriginal organizations when developing this policy.
 69. The Ministry of Community Safety and Correctional Services should issue a directive to all police services in Ontario, including the OPP, requiring

police officers to report incidents of racism or other culturally insensitive behaviour by other officers to their supervisors.

70. The OPP should establish an internal process to ensure that racist and other culturally insensitive behaviour by police officers is dealt with publicly. The OPP should also determine the most appropriate policy for handling complaints of misconduct involving racism and other culturally insensitive conduct, including the role, if any, for informal discipline.

Endnotes

- 1 OPP Part 2 submission, para. 124.
- 2 Bill 103, Independent Police Review Act 2006 (to establish an Independent Police Review Director and create a new public complaints process by amending the Police Services Act). 38th Parliament. 2nd Session, <http://www.ontla.on.ca/documents/Bills/38_Parliament/session2/index.htm#P998_68238> [Bill 103].
- 3 Ovide Mercredi testimony, April 1, 2005, Transcript pp. 97-8.
- 4 Robert Runciman testimony, January 11, 2006, Transcript pp. 158-61.
- 5 Canadian Association of Chiefs of Police, "Resolutions," 2004, Resolution #02/2004, <<http://www.cacp.ca/english>>. The resolution reads, in part: "THEREFORE BE IT RESOLVED THAT the Canadian Association of Chiefs of Police is committed to the preservation of democratic freedoms, human rights and individual dignity, and; ... BE IT FURTHER RESOLVED THAT the Canadian Association of Chiefs of Police will exercise leadership by initiating or strengthening programs and strategies that promote bias-free policing, giving particular attention to public accountability, policy-making, management, supervision, equitable human resource practices, education, community outreach and partnerships."
- 6 Royal Canadian Mounted Police, Operational Manual, 2006, Part 38.2 Bias-Free Policing (on file with the Inquiry).
- 7 Law Enforcement Aboriginal and Diversity Network (LEAD) was developed to achieve a common professional approach to relationships with Aboriginal and diverse communities by all Canadian law enforcement agencies. See LEAD, <<http://www.lead-alda.ca/index.php>>.
- 8 See generally Jonathan Rudin, "Aboriginal Peoples and the Criminal Justice System;" John Borrows, "Crown and Aboriginal Occupations of Land: A History & Comparison;" and Jean Teillet, "The Role of the Natural Resources Regulatory Regime in Aboriginal Rights Disputes in Ontario" (Inquiry research papers). See also The Chippewas of Nawash Unceded First Nation, "Under Siege: How the People of the Chippewas of Nawash Unceded First Nation Asserted their Rights and Claims and Dealt with the Backlash," and The Union of Ontario Indians, (i) "Anishinabek Perspectives on Resolving Rights Based Issues and Land Claims in Ontario" and (ii) "Anishinabek First Nations Relations with Police and Enforcement Agencies" (Inquiry projects). See also the Youth and Elder Forum about Police/Aboriginal Relations, April 22, 2005 and the Chiefs of Ontario special assembly, March, 2006 (Inquiry events), where several commentators also raised these issues. They were also discussed at the Law Enforcement Aboriginal Diversity Network (LEAD) conference in Toronto, April 20-May 3, 2006 (see LEAD, <<http://www.lead-alda.ca>>).
- 9 (i) Nova Scotia. Royal Commission on the Donald Marshall, Jr. Prosecution, *Report of the Royal Commission on the Donald Marshall, Jr., Prosecution* (Halifax: 1989); (ii) Manitoba. Aboriginal Justice Inquiry, *Report of the Aboriginal Justice Inquiry of Manitoba* (Winnipeg: Queen's Printer, 1991); (iii) British Columbia. Cariboo-Chilcotin Justice Inquiry, *Report on the Cariboo-Chilcotin Justice Inquiry* (Victoria: 1993); (iv) Alberta. *Policing in Relation to the Blood Tribe: Report of a Public Inquiry* (Edmonton: February 1991); (v) Ontario. Ministry of the Attorney General, *Report of the Osnaburgh-Windigo Tribal Council Review Committee* (Toronto: 1990); (vi) Canada. Royal Commission on Aboriginal Peoples, *Bridging the Cultural Divide: A Report on Aboriginal People and Criminal Justice in Canada* (Ottawa: Royal Commission on Aboriginal Peoples, 1996); (vii) Saskatchewan. Commission of Inquiry into the Shooting Death of Leo Lachance, *Report of Commission of Inquiry into the Shooting Death of Leo Lachance* (Regina: 1993); (viii) Saskatchewan. Saskatchewan Commission on First Nations and Métis Peoples and Justice Reform, *Legacy of Hope: An Agenda for Change* (Saskatoon: 2004); (ix) Saskatchewan. Commission of Inquiry into Matters Relating to the Death of Neil Stonechild, *Report of the Commission of Inquiry into Matters Relating to the Death of Neil Stonechild* (Regina: Queen's Printer, 2004).
- 10 John Hylton, "Canadian Innovations in the Provision of Policing Services to Aboriginal Peoples" (Inquiry research paper), p. 6. See also Human Sector Resources, "Challenge, Choice and Change: A Report on Evidence-Based Practice in the Provision of Policing Services to Aboriginal Peoples" (Inquiry research paper).

- 11 Human Sector Resources, p. 4.
- 12 Saskatchewan Commission on First Nations and Métis Peoples and Justice Reform report (see note 9 (viii)), pp. 5-6.
- 13 *R. v. Williams* [1998] 1 S.C.R. 1128; and *R. v. Gladue*, [1999] 1 S.C.R. 688.
- 14 Chiefs of Ontario Part 2 submission, pp. 63-4, paras. 130-3.
- 15 The Union of Ontario Indians, “Anishinabek First Nations Relations with Police and Enforcement Agencies” (Inquiry project), pp. 19-20.
- 16 Chippewas of Kettle and Stony Point First Nation submission, p. 77.
- 17 Youth and Elder Forum about Aboriginal and Police Relations, April 22, 2005 (Inquiry event).
- 18 See summary in OPP, “Aboriginal Initiatives: Building Respectful Relationships” (Inquiry project).
- 19 OPP Part 2 submission, p. 46, para 103.
- 20 Police Orders specifically addressing these issues include orders related to discrimination, harassment, illegal profiling, and accountability of employees and manager/supervisors. (Police Orders, 6.10.3 and 6.10.4, on file with the Inquiry.)
- 21 OPP slide presentation, “2005-2007 Mission Critical Issues: Key Messages and Priorities, 2006 Executive Business Planning Workshop, June 14-16, 2005” (on file with the Inquiry).
- 22 OPP Part 2 submission, p. 53, para. 117.
- 23 *Ibid.*, pp. 52-3, para. 115. The OPP interview process now includes psychological testing and questions designed to identify prejudices and biases. In addition, reference checks specifically focus on acceptance of members of diverse communities and whether the individual has used racial slurs or has exhibited negative attitudes.
- 24 *Ibid.*, p. 54, para. 117. OPP Bound and OPP Northern Experience encourage Aboriginal people to consider the OPP as a career. p. 56: Aboriginal candidates who are unsuccessful in their application are, when appropriate, mentored by a current OPP officer to improve their chances of being accepted when they reapply.
- 25 *Ibid.*, p. 54, para. 117. In order to encourage Aboriginal officers to remain with the OPP once recruited, the force offers Aboriginal Inreach Initiatives to ensure recruitment of Aboriginal officers to specialized units. In addition, at the annual Aboriginal Officers Leadership Forum, Aboriginal members share experiences and make recommendations to the commissioner.
- 26 *Ibid.*, p. 61, para. 123.
- 27 *Ibid.*, p. 53, para. 117.
- 28 *Ibid.*, p. 67, para. 131.
- 29 *Ibid.*, p. 67, para. 132.
- 30 *Ibid.*, p. 71, para. 141.
- 31 *Ibid.*, pp. 52-65. The OPP had a similar view of these challenges. According to the OPP, the breadth and depth of commitment to these initiatives by individual members of the OPP will prevent regression, its policies and programs are mutually reinforcing, its consultation and outreach efforts have created an external constituency that will continue to support these programs, and the province should support these programs financially.
- 32 Ontario. Ontario Human Rights Commission, “Policy and Guidelines on Racism and Racial Discrimination” (2005), <<http://www.ohrc.on.ca/english/publications/racism-and-racial-discrimination-policy.shtml>> (accessed Feb. 19, 2007).

- 33 OPP Part 2 submission, pp. 65-8, para. 128.
- 34 William Closs and Paul McKenna, "Profiling a problem in Canadian police leadership: the Kingston Police data collection project," *Canadian Public Administration: The Journal of the Institute of Public Administration of Canada*, Summer, 2006, vol. 49, number 2, p.145.
- 35 William Closs, The Kingston Police Data Collection Project, Preliminary Report to the Kingston Police Services Board, "Bias Free Policing - Police Powers/Rights and Freedoms, a Critical Balance," May 17, 2005, p.1, <<http://www.police.kingston.on.ca/Bias%20Free%20Policing.pdf>> (accessed February 19, 2007).
- 36 Closs and McKenna, p. 157.
- 37 Rudin, pp. 37-41.
- 38 Canada. The Correctional Investigator Canada, "The Annual Report of the Office of the Correctional Investigator of Canada, 2005-2006" (Sept 2006), Aboriginal Offenders, <http://www.ocibec.gc.ca/reports/AR200506_e.asp#AboriginalOffenders>.
- 39 Ontario Human Rights Commission, "Part III - Guidelines for Implementation: Monitoring and Combatting Racism and Racial Discrimination," 6. Collection and Analysis of Numerical Data, <http://www.ohrc.on.ca/english/publications/racism-and-racial-discrimination-policy_6.shtml> (accessed February 19, 2007).
- 40 Ibid., 6.1.2, Data Collection and Analysis Methodology.
- 41 The provincial initiatives and programs I recommend in this chapter should not be the responsibility of the Ministry of Aboriginal Affairs discussed in chapter 8. These are policing responsibilities, which should remain with the Ministry of Community Safety and Correctional Services.
- 42 Closs, p. 2.
- 43 Province of Ontario, Ministry of Natural Resources, "Questions Regarding the Ministry of Natural Resources" (Inquiry project), p. 3
- 44 Province of Ontario Part 2 submission, pp. 13-17, paras. 20-29.
- 45 Ontario. Ministry of the Attorney General. The Honourable Patrick J. Lesage, "Report on the Police Complaints System in Ontario" (April 22, 2005), <<http://www.ontla.on.ca/library/repository/mon/10000/252151.pdf>> (accessed February 19, 2007).
- 46 Bill 103.
- 47 Ibid., s. 57.

