

# **The Collection and Use of Intelligence in Policing Public Order Events**

Wayne P. Wawryk<sup>\*</sup>

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<sup>\*</sup> Opinions expressed are those of the author and do not necessarily reflect those of the Ipperwash Inquiry or the Commissioner

## INTRODUCTION

There are many definitions of the term intelligence. I will rely on a definition brought forward in 1991 when the Royal Canadian Mounted Police (RCMP) reorganized their intelligence function. This is described on the present-day RCMP website, along with a short explanation of tactical and strategic intelligence:

Intelligence is defined as the end product of information that has been subject to the intelligence process, which involves planning, direction, collection, evaluation, collation, analysis, reporting, and dissemination.

Tactical intelligence is principally an investigative tool. It is the support given to operational sections by the analytical unit during the course of an investigation.

Strategic intelligence is largely a management tool. It attempts to provide an overview of the scope and dimension of criminal activity to assist in policy development aimed at providing effective strategies to deal with the overall costs and effects of criminal behaviour on society.<sup>1</sup>

The result of the above activity must also influence decision making at all levels, as we shall see in this paper. Choices have to be made and intelligence is the best way to decide to do something new or justify continuing a course of action. If senior level and frontline police officers agree and operate from sound intelligence and make priorities based on the process, then it could be said that they are using intelligence-led policing.

This paper will discuss police intelligence work in the context of public order events. It will look at recent developments in public order. A description of the police intelligence process will be provided, along with the evolution of the protest movement. Particular attention will be given to First Nation issues and how the police approach these tasks when Aboriginal peoples are involved. The latter part of the paper will seek out ways that things can be improved.

The use of police intelligence gathering in public order maintenance is controversial. The police must be prepared for any eventuality. The authorities have been heavily criticized when public disorder takes place for not having had sufficient prior knowledge to evade the resulting damage. Governments the world over have experienced periods of calm followed by high protest activity throughout history. Canada has not escaped difficult moments in public order. We are building on and learning from our experience as evidenced by public inquiries past and present. The rising costs of hosting summits and international events in Canada have been publicly discussed. Municipalities and the provinces can see that the former economic benefits of hosting have changed. The Canadian government was the first to move the G-8 Summit meeting to a remote site at Kananaskis in 2002. No G-8 Summit has been held in a built-up area since.

Much depends on the even-handed approach to public order events. Police commanders must rely on the intelligence process to make informed decisions on overall strategic plans and tactics they will pursue on the streets. The sheer diversity of issues covers most of public life and much

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<sup>1</sup> RCMP Fact Sheet Number 18, Criminal Intelligence Program, online:  
[http://www.rcmp.ca/pdfs/facts\\_2001\\_e.htm#factsno18](http://www.rcmp.ca/pdfs/facts_2001_e.htm#factsno18) (accessed January 25, 2005).

of our population can relate to one or more concerns, not all of which mean they will take to the streets.

While the methods of organizing and gathering supporters have advanced at pace with technology, the execution of protest, while more colourful than ever, is still reminiscent of times past. The vision of police and protestors, even when equipped with modern gear, is still primitive. Variations on themes of marching, manoeuvre, and counter-manoeuve come to mind. Besieging a symbolic objective such as an embassy, or taking and holding a perimeter are but a few traditional scenes. Perimeters are a touchy subject, and if established by either side, can dictate the unfolding of a more complex and serious situation.

It is important to recognize that the majority of demonstrations in this country are small, easy to understand, revolve around issues of local life, and are critical to those involved and their community. Police intelligence on these smaller events may amount to an exchange of information and mutual assistance with event organizers at the outset. Intelligence obtained informs police decision-makers, which leads to a strategic plan and the development of tactics. The simple police objective is to establish the intent of the organizers. Police then prepare a course of action for a measured response to maintain public order while respecting individual and collective rights.

The objective of most protest activity is to be seen and to be heard. This is why proximity to leaders is important to protestors. Michael Ignatieff expresses this as follows: “Respect actually means listening to something you’d rather not hear and listening must include the possibility of recognizing that there may be right on the other side.”<sup>2</sup>

This exertion of influence by protest organizers on the target of their advocacy has a secondary effect on the rest of the population, who, while not present, will form opinions on the topic at hand. Traditional media attempt to provide context to the public, balanced by new and emerging independent media sources. A member of the public is free to form opinions, at an accelerated pace, from all sources available. This includes the often-neglected factor of personal experience, where a member of the public is affected by protest and may not be satisfied with the actions of the police or the protestors for that matter.

Police intelligence work is by nature a confidential activity. While similar in some respects, police intelligence operations differ strongly from security intelligence, and are not as widely studied by the academic community. The former Director of the Canadian Security Intelligence Service (CSIS), Mr. Ward Elcock, made this observation:

Law enforcement is generally reactive; it essentially takes place after the commission of a distinct criminal offence. Police officers are results-oriented, in the sense that they seek prosecution of wrong doers. They work on a “closed” system of limits defined by the Criminal Code, other statutes and the courts. Within that framework, they often tend to operate in a highly decentralized mode. Police construct a chain of evidence that is gathered and used to support criminal convictions in trials where witnesses are legally obliged to testify. Trials are public events that receive considerable publicity.

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<sup>2</sup> Michael Ignatieff, *The Rights Revolution* (Toronto: House of Anansi Press Limited, 2000), 33.

Security intelligence work is, by contrast, preventive and information-oriented. At its best, it occurs before violent events occur, in order to equip police and other authorities to deal with them. Information is gathered from people who are not compelled by law to divulge it. Intelligence officers have a much less clearly defined role, which works best in a highly centralized management structure. They are interested in the linkages and associations of people who may never commit a criminal act—people who consort with others who may be a direct threat to the interests of the state.<sup>3</sup>

As noted by Mr. Elcock, given enough evidence and the proper witness, what is criminal intelligence today may change into a prosecution tomorrow—at which time it will all be made public. This aspect of potential use for prosecution currently makes tactical intelligence off limits to the academic world. There is a predictive and future-oriented aspect to criminal intelligence in order to prepare decision-makers for prioritizing and managing diverse police operations. Police intelligence operations, in relation to public order events, are one of the most predictive activities that may not result in prosecution. The ratio of prosecutions to numbers of people involved is very low in public order scenarios, although studies on this aspect are rare.

Police intelligence normally commences with an interest in the individual and builds as the individual demonstrates associations with others in the enterprise at hand. Circumstances and events build a case over time that may involve many more persons than at the outset. The nuance with public order events is that the activities of groups, or affinity groupings, are contemplated. Certain individuals within the group are publicly known and might be involved in the public organization of the event. The police are trying to plan a measured response on the day in question. This subtle difference gives rise to concern when persons feel there is a police interest in them or, more probably, their group, despite the fact that the individual does not intend to offend. The public nature of protest does imply that people are going to be seen and heard by all, including the police. In the case of the Quebec Summit of April 2001, there were 50,000 protestors and approximately 450 arrests. The arrests in Quebec were on the high side for Canada, with most events resulting in very few arrests compared to the number of participants. This leaves little reassurance to people who think the police might have their particulars by the end of the event.

## **I. THE INTELLIGENCE PROCESS**

The term “intelligence-led policing” became popular in the 1990s.

It is now in practice around the world including North America, the United Kingdom, and Australia. The RCMP launched this approach in 1999 with a senior management seminar. That decade saw a considerable cut to police resources along with increasing demands by transnational organized crime investigations in all of our large Canadian cities. Provincial and municipal police forces in Canada are also on board with this strategy and discuss it regularly at the annual August meeting of the Canadian Association of Chiefs of Police (CACP).

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<sup>3</sup> Ward Elcock, appearance at *The Canadian Association for Security and Intelligence Studies Conference* in Vancouver, British Columbia, October 16–18, 2003, online: <http://www.csis-scrs.gc.ca> (accessed October 4, 2004).

Flowing from the August meeting of the CACP is the annual report of the Criminal Intelligence Service Canada (CISC). The CISC includes all of Canada's police forces, including the RCMP. Canada is one of the few countries in the world in which the annual report of the national criminal intelligence service is available on the Internet. This informs the public of the state of criminal problems in the country.

Intelligence-led policing also fit neatly with community-based policing and the practical problem-solving model that was at the core of the community-based program. It also helped solve a metric problem—that of how better to justify the expense of rare dollars with a prioritization of cases deserving attention.

The priority system was built on the intelligence process and thus had buy-in from frontline officers. The senior officers took the result of the process, were influenced by it, and sent back decisions on which projects would proceed in the region along with consideration of the national and international priorities. The senior officers in turn frequently met under the leadership of the Deputy Commissioner, Operations, and shared their priorities horizontally and between other police forces.

Coincidentally the intelligence-led policing model had a more business-like sound to it. This helped senior police managers explain what they were doing, prove they had a sound decision-making model, and announce results. We now see emphasis on the criminal who might be doing the most damage. Crime reduction through the intelligence process was a goal.

The basic steps in the intelligence-led policing model are as follows:

- Use the intelligence process to surface a menu of possibilities.
- Influence decision-makers to make a choice.
- Execute operations on the most urgent priorities.

But where does public order fit into all of this? It is not a crime to express your opinion. There is no pat answer to this question. Public order events do not go on the menu—they rise right to the top. This is because they have to be dealt with—there is no choice.

Where there is a choice is in how the police will approach public order. The preferred method is called the “measured response.” Steps to this are:

- Use intelligence to tell the story of the event as it approaches.
- Prepare a plan that includes all of the police abilities, in case they are needed.
- Make every effort to stay low on the continuum of force by interacting with protestors in an open-handed fashion.
- Use police officers in normal uniform, and be with the protestors.
- Only escalate up the continuum of force when no other choice is available.
- Return to open-handed methods as soon as conditions permit.

In many public order events, there are tense moments when more force is applied. The preferred condition is to return to normal as soon as possible. Often these sharp moments do not affect the

whole protest. They are generally isolated both in terms of location and small numbers of more aggressive activists.

There is very little publicly available information on the police intelligence process.

The explanation below is one of the more complete definitions of the process and mentions organized crime as a primary objective. The planning and/or direction phase is on the part of police managers who expect police-gathered intelligence to be a major factor in operational decision making and dedication of resources. In Canada, police departmental environmental scans attempt to place overall force activities in relation to society at large. These ongoing processes result in directional statements that give priorities and objectives to a police force.

The following was obtained from the Interpol website:

### The Intelligence Process

#### Phase Activity

1. The success of the Intelligence Process depends on a continuing flow of accurate, up-to-date and relevant information from all possible sources (Collection Phase) in response to priority needs/requirements (Planning/Direction Phase).
2. It is essential that the information to be retained in the unit's files/data base be indexed, cross-referenced and filed/stored in a manner that it may be efficiently retrieved as required. The classification and cross-referencing should be done in a manner that supports the analysis function (Collation Phase).
3. Each intelligence unit should have some method for determining the value of incoming information that is to be entered into the files/data base and/or to be acted upon. The evaluation can be initiated by the collection element but should also be performed by a knowledgeable person (knowledgeable in terms of accuracy of reliability of the source and validity of the information) in the intelligence unit (Evaluation Phase).
4. On the basis of the information flow, the analyst will seek to determine new developments and warn of impending activities, to perform on request studies of trends and networks of activities by organized criminals (or those suspected of such activities) and to assist in putting together evidence for case building (Analysis Phase).
5. The intelligence unit is responsible for producing intelligence assessments, both those specifically requested and those generated by the flow of available information (Reporting/Dissemination Phase).

6. The connecting link between the Intelligence Process and the management of the process is the reevaluation or assessment of the effectiveness with which the particular intelligence unit is performing its mission; that is, performing the Intelligence Process in such a manner that it is making an effective input to the overall departmental effort against organized crime (Reevaluation Phase).
7. The outcome of the reevaluation becomes the basis on which the Planning/Direction Phase begins over again.”<sup>4</sup>

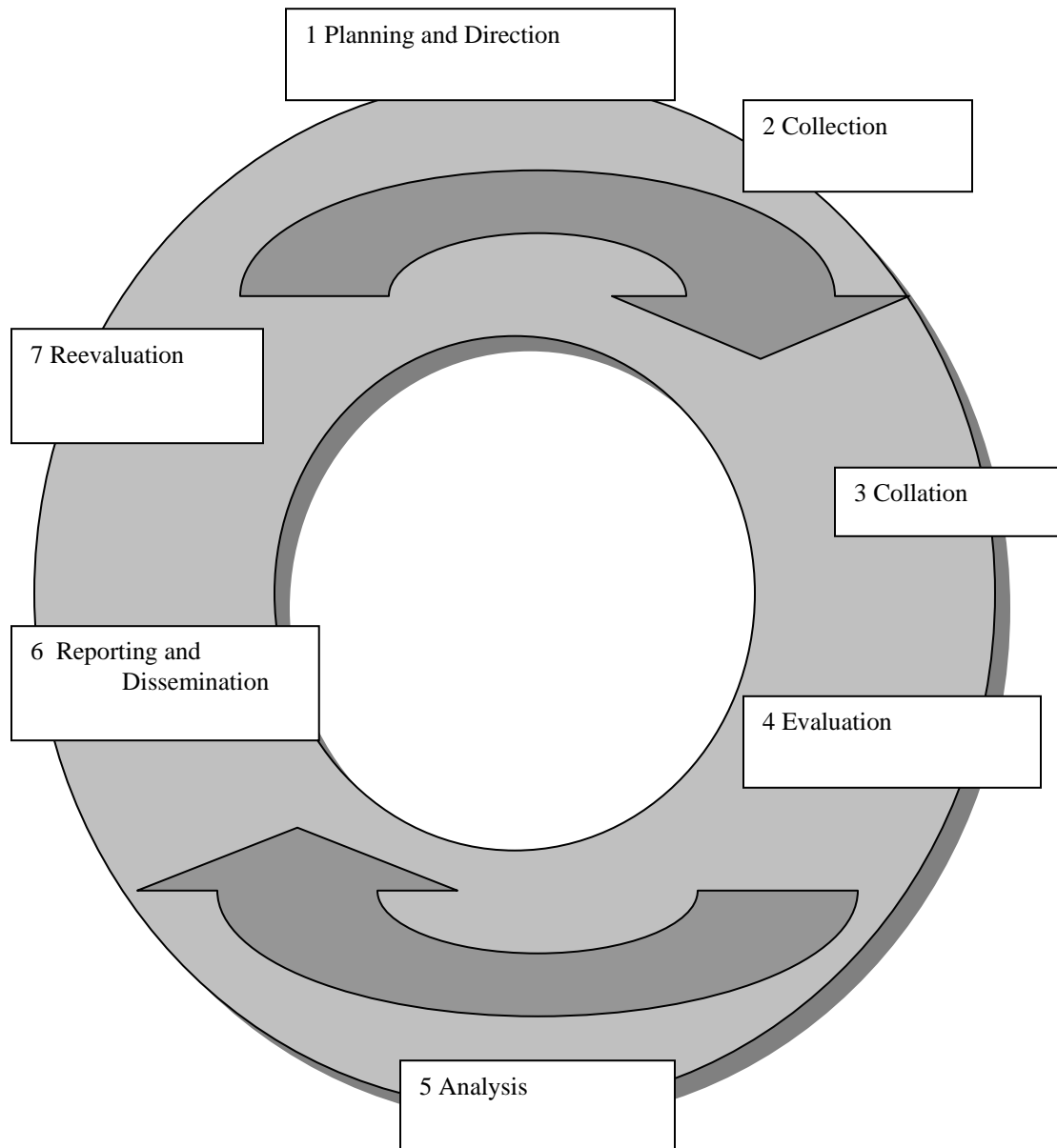
This process is easier understood with the following supporting graphic which the writer has designed:

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<sup>4</sup> Interpol, “Criminal Intelligence Analysis,” 2004, online: <http://www.interpol.int/Public/CIA/Default.asp> (accessed August 31, 2004).

Figure 1

## THE POLICE INTELLIGENCE PROCESS



The planning and direction phase has taken on new importance with intelligence-led policing. Public order events place a demand on the system to plan from behind, in many cases, to achieve



an understanding of the event. Police managers have also to try to relate to the leaders of the event when the leaders do not always want to talk or even be known. The sometimes leaderless movement does publicize the event strongly and often has spokespersons who take on an organizational role. Often these people will talk to police due to consistent use of the streets and the need for permits from municipal governments. Police leaders have to set an overall strategy, and task intelligence and other personnel to give the best estimate of what protesters are likely to do. From this the leadership of the police will direct that an operational plan be developed. Of late senior police managers have often released their strategy to the public. The measured approach is referred to, along with police confidence that it can be achieved. The release of calm peaceful intentions is well advised when dealing with Aboriginal events, as well as other forms of protest.

The collection phase is carried out by police officers from their own personal observations and the use of many sources of information. Public order events may require that contributions be made from many locations as the high mobility of activists is a common challenge. The interviewing of organizers and activists can become a liability for the police when the persons interviewed go public. This is common and almost guaranteed when the interviews take place near universities, or with students or academic staff. Such a collection effort is described later in this paper. Standing police systems will be used although most protestors have no record and are not in police systems.

The collection phase may involve some of the following means, to name a few:

- Open source material from the Internet
- Existing data in the police computer systems
- Police interviews of persons
- Police officer observation and inward reports
- Air photo or video feeds
- Data collected from human sources who interact with people
- When court authorized—from technical intercepts

The collation and evaluation phases deal with the storage, indexing, retrieval, and assessments of reliability. The valuation of reliability prevents pure rumour from being in the system. Information from informants must be evaluated based on officer knowledge as the source handler. A human source is not identified in the system but a reliability rating is given to each piece of information generated by that source. Police officer observations are identified as they could be potential evidence. Even police officer observations may require further investigation as to their value and accuracy, and the conclusions that might be drawn from them. Further verification is attempted through comparison with other sources, technical intercepts, or re-tasking of the source for more detail. If gaps can not be filled, then tentative information should be labelled as such, subject to later confirmation, if any. The following rating system is employed by the RCMP to deal with reliability:

- Reliable (R) is a combination of proven accuracy of information and proven dependability of a person. Every effort must be made to validate information

before grading it reliable.

- Believed Reliable (BR) applies if the qualifying conditions of reliability are not yet met, but the existing knowledge of the source is favourable and it is believed he/she will eventually prove reliable.
- Unknown Reliability (UR) applies if there is insufficient experience with the source for assessment or when information cannot be verified.
- Doubtful Reliability (DR) applies if there is doubt about the source or the information.
- Information for court purposes must include a “C” in the assessment, e.g., BRC, Believed Reliable—can be used for court purposes.<sup>5</sup>

Information may also be classified using the federal government classification system, which takes care of national interest data and non-national interest data. Other police forces may employ similar means of reliability rating and forms of classification. Certain information may also have a caveat attached by the originating agency. Normally this attaches what is known as the third party rule. This rule means that what is shared with you should not be shared with a third party unless the originating agency approves.

It is not normal to employ the more covert elements of the intelligence craft in relation to public order, but this can crop up. Undercover police officers can be employed. With such a wide range of public information normally available, to a large extent planning can take place from that open source material.

Police organizations have different computer systems to accomplish this task. In the case of policing public order, more than one police agency or other government body may be required to work on the same protest. The tactic to avoid problems, given enough notice, is to create a Joint Intelligence Group (JIG). In this way each force has full access to the joint efforts of all participants. In this respect, police forces work together to avoid the limited information that might result from the normally hierarchical and territorial sharing of labour. It is only through information and intelligence sharing that they can approximate the behaviour of the modern protest movements, which are not territorial and highly networked.

The police are now highly dependent on open source material to reveal the intent of protestors. A simple definition of open source material is data that can be obtained by a police officer or analyst from public places. Activists are operating, using the Internet as a primary communication and organizing tool. Therefore, an analyst skilled in the use of open source material is employed in addition to more traditional sources of police information, which may be of less use. Interaction with host organizers is of high value as they set the core agenda and will often enter into a dialogue with the police out of necessity. The use of paid sources is rare in public order events, but could occur. The use of court authorized technical means is also rare, but not unheard of.

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<sup>5</sup> RCMP Criminal Intelligence Program, “Planning and Direction, Roles and Functions” (revised 1995), 4.

The role of local police officers in knowing their community is critical to understanding protest events on a smaller scale. Tension indicators can quietly be hidden and boil over as a result of some seemingly unrelated incident. The trigger incident may be associated with a long-standing issue of a complex nature such as Aboriginal land claims. Incidents can also be brought about by enforcement efforts of government agencies other than the police, such as enforcing fishing provisions. The police have to be in touch and aware of actions on the part of others, in some cases with very little lead time. Therefore, open source knowledge applies most critically at the local level. In the case of a spontaneous outburst of protest, the police intelligence process will have to be accelerated and local knowledge will be tested. Often this will be some form of telephone or face-to-face conversation where the protestors communicate with the police. In the case of a blockade or perimeter being held by protestors, the police have to compile an assessment of who is inside and what they want. Police also have to look outside to see who might be coming to assist the protest or oppose it.

The Royal Canadian Mounted Police will call for a threat assessment if they are conducting duties that involve the protection of Internationally Protected Persons, as defined in section 2 of the Criminal Code, or have assigned obligations to protect Canadian persons, such as the Prime Minister. This is a continuously updated assessment of the potential for violence against a person under protection. In the case of protest, the RCMP must decide on how best to protect the person while still allowing the protest to take place. The threat assessment process is an independent subset of intelligence activity. For the public, the outcome can be the setting of limitations on the proximity of the protest to the visitor and often results in perimeters being invoked and held by the police. As noted earlier, the Government of Canada will make decisions as to where a summit will take place. The RCMP must decide on how to accomplish the protective mandate and where the perimeter, if needed, will be. I mention this as it is highly relevant to some recent events such as the APEC meeting in Vancouver and the Quebec Summit. Both these events ended up in debates over the police perimeters.

The analysis phase can result in various intelligence products and is assisted by the trained analyst exploring and updating changing circumstances. This is facilitated by modern computer programs, some of which are specifically designed to establish relationships and their progress. These relationships can be meetings and movements of people, financial flows, telephone-calling patterns, or geographic, to name a few.

When a gap appears to the analyst, they can return to the intelligence officers in the field with the question that remains. This is done by contacting the intelligence advisor attached to the incident commander, or, in the case of an investigation, the lead investigator.

The buildup of intelligence gives an ever more complete picture, and decisions on strategic plans, resources, and tactical plans are made. Throughout all of the phases potential substantive offences, when revealed, will be handled by investigative teams to their conclusion.

The analysis should discuss competing points of view when a situation is not clearly resolved in an intelligence product. Alternative hypotheses should be given mention and discussed rather than moving by rote to a sole conclusion. There are times when conclusive data is simply not

available, or of high risk to obtain. Holding such data in the system does allow for further confirmation or elimination of the data at a later date. With public order the police are trying to figure out what people want and what they will do to get it. In many cases the diverse wants of the activists are, overall, peaceful and can be overshadowed by a small number of persons who will hide in the crowd and not adopt the peaceful intent. The agreement between the RCMP and the Assembly of First Nations referred to later in this paper should help with determining the history of Aboriginal concerns and the story behind specific Aboriginal protest actions. This is one area where the police may feel they have the general story right but could use assistance for fine detail and thereby avoid making assumptions.

Raw data is perishable and must be updated. If anything, the intelligence process is a way of sorting what is important and what has changed from a prior assessment. It is a filter which determines what remains through the passage of time and updating what emerges as most relevant. In the Seattle example (discussed below) police had the facts, but chose to believe the unions would exert control over the protest. This control did not take place. This is an example of the police disregarding information in their possession on a protest where innovative and new things were going to take place. This form of wishful thinking was an intelligence failure and resulted in much damage to the City of Seattle.

The dissemination or report phase can be short and frequent leading up to a public order event. If caught with an immediate onset of unexpected protest the police will have to work from behind. When warning signs are available, then more complete reports can be produced. Evaluation comes quickly with direction for re-tasking on gaps being issued by police managers, assisted by analysts, who need the information to complete the operational plans.

The intelligence process seems complex, but can be moved along quickly if the proper assets and partnerships are in place. In a normal buildup it could take months of constant revision and updating as the accurate picture unfolds. If there is public knowledge of the pending event, much will be said in the media which will be quoting all sources at their disposal, in a similar process of reporting to the public.

## **II. THE EVOLUTION OF PROTEST**

Strategy and tactics are not the sole domain of the police. There appears to be some agreement from diverse quarters on the networked composition of the modern protest movements. Naomi Klein noted:

Although many have observed that the recent mass protests would have been impossible without the Internet, what has been overlooked is how the communication technology that facilitates these campaigns is shaping the movement in its own Web-like image. Thanks to the Net, mobilizations occur with sparse bureaucracy and minimal hierarchy; forced consensus and laboured manifestos are fading into the background, replaced instead by a culture of constant, loosely structured and sometimes compulsive information swapping.<sup>6</sup>

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<sup>6</sup> Naomi Klein, *Fences and Windows: Dispatches From The Front Lines of the Globalization Debate* (Toronto: Vintage Canada, 2002), 16.

Naomi Klein also refers to a study done by the RAND's National Defense Research Institute, which concentrates on a similar observation in what is labelled an all-channel network type of organization. The RAND discussion closely approximates her observation: "Ideally, there is no single, central leadership, command, or headquarters—no precise heart or head that can be targeted. The network as a whole (but not necessarily each node) has little to no hierarchy; there may be multiple leaders. Decision making and operations are decentralized, allowing for local initiative and autonomy."<sup>7</sup>

These diverse democratic movements focus on a menu of activities, which are given form in a spokescouncil setting. Smaller affinity groups can subscribe to an action and enter a cluster to bring it about. Very small groups may just march or be present where they have an interest. In the modern context, the hosting group will have a website that announces agreed-upon actions to the public, who may choose to attend without ever having attended a spokescouncil meeting. The police can avail themselves of these open communications and gain a higher understanding of the event. The police may be in open communication with organizers who have gone through municipal permit processes to cover their activity.

Certain individuals and groups may be planning more aggressive direct actions and may not reveal this, or even attend spokescouncil meetings. The popular euphemism, a diversity of tactics, may be a signal that more aggressive tactics will be employed. It could equally signal that a more colourful, but still peaceful, idea will be used that is not for public consumption prior to the event. Despite police intelligence efforts, the day often arrives when police await unknown tactics due to the security efforts of those planning them.

Some protest movements are adopting secrecy provisions for innermost communications, as evidenced by the following from the Republican National Convention Not Welcome website in New York City:

[www.rncnotwelcome.org](http://www.rncnotwelcome.org) PGP Key

If you would like to send us an encrypted email, here is our PGP Key.

To find out more about PGP (Pretty Good Privacy), where to download it for free and its benefits/limitations, see here.<sup>8</sup>

This gradual evolution over many years is a continuous learning activity. Protest movements have learned much about the police and vice versa. While civil rights groups and the media have worried about the police use of video, the protestors have adopted video surveillance of the police wholeheartedly. This is particularly evident with the advent of witness groups and legal support teams to ensure transparency and accountability in police operations. The police must ensure command and control can take place, aided by real-time video images. This is one of the

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<sup>7</sup> John Arquilla and David Ronfeldt, eds., *Networks and Netwars: The Future of Terror, Crime, and Militancy* (Santa Monica, California: RAND, 2001), 9.

<sup>8</sup> "Republican National Convention Not Welcome: September 2004, NYC," 2004, online: <http://www.rncnotwelcome.org/pgpkey.html> (accessed October 12, 2004).

greatest aids to intelligence on the day of the event. The police will not rely on seizure of media videotapes in gathering evidence. They must procure their own video evidence.

This sort of video arms race can have truthful results for both sides. The New York Civil Liberties Union was recently successful in representing protestors to the District Attorney, based, in part, on video evidence they had gathered against action by the New York Police Department during the recent Republican National Convention:

Manhattan District Attorney Agrees to Dismiss All Cases of People Arrested at the World Trade Center. October 6, 2004—In response to a request from the New York Civil Liberties Union, the office of District Attorney Robert Morgenthau today announced it would dismiss the criminal prosecutions of 227 people arrested on August 31st at a Republican National Convention demonstration near the World Trade Center.

“We are pleased that the District Attorney has agreed to our request to dismiss these cases,” said Donna Lieberman, Executive Director of the NYCLU. “None of these people should have been arrested in the first place, and it is particularly disturbing that some of them remained in police custody—including at Pier 57—for nearly two days.”

The NYCLU contacted Robert Morgenthau’s office within days of the arrests. On September 13 it wrote to Mr. Morgenthau to repeat the request and to inform him of a videotape in the NYCLU’s possession that established that those arrested had been engaging in wholly lawful activity.<sup>9</sup>

The organizing group will also enlist volunteers to lead support services activities to service the pending event, as well as training sessions for workers in those groups. Certain groups have specialty skills such as climbing to hang banners. Others act as communications specialists or are qualified in first aid. The Ruckus Society is an organization that offers courses for people to learn techniques of non-violent, but effective protest, including that of scouting locations. There are also independent groups who stay apart from the protest and act as observers of police behaviour, as noted above.

The most difficult tactic for the authorities to control is that of swarming. This came to public prominence in Seattle during the World Trade Organization (WTO) protests of November 1999. John Arquilla and David Ronfeldt described swarming as follows: “Swarming occurs when the dispersed units of a network of small (and perhaps some large) forces converge on a target from multiple directions. The overall aim is *sustainable pulsing*—swarm networks must be able to coalesce rapidly and stealthily on a target, then dis sever and redisperse, immediately ready to recombine for a new pulse.”<sup>10</sup>

The most familiar swarm is when protestors tie up one or more intersections during a march or demonstration. The difficulty for police is that others may be intent on destruction of property or other violence while the police are preoccupied with the problematic, but not violent, traffic blockage. While the police may be aware of general intent, they are often relying on word from

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<sup>9</sup> New York Civil Liberties Union, 2004, online: <http://www.nyclu.org> (accessed October 19, 2004).

<sup>10</sup> Arquilla and Ronfeldt, *Networks and Netwars*, 12.

the street as to when a problem will occur. This is why police monitoring of protest includes a sizeable element of intelligence workers in close proximity to the event.

This brings up the notion that protestors are practising their own tactical intelligence to capitalize on any given situation. Seattle was the landmark event where practice brought results beyond expectations for the protest movement.

This loosely organized coalition used and exploited intelligence, the principles of mass and maneuver, good real-time communications, and well-practiced techniques to meet its objectives. Ultimately the police were overrun by this unique combination, demonstrating their failure to discern between lawful demonstrators, anarchists, opportunists, and bystanders.<sup>11</sup>

Most events since Seattle have had uneven measures of success, and a debate is now emerging as to the focus of protest movements, as noted by Naomi Klein:

There is no question that the communication culture that reigns on the Net is better at speed and volume than at synthesis. It is capable of getting tens of thousands of people to meet on the same street corner, placards in hand, but is far less adept at helping those same people to agree on what they are really asking for before they get to the barricades—or after they leave.<sup>12</sup>

### **III. ABORIGINAL PROTEST**

In contrast Canadian First Nations people are organized in a network based on different structures from those discussed above. These tribal and inter-tribal sub groups are of long standing and consensus is highly valued. Technology is used, but personal contact is more important. Personal contact can also generate more security by making it difficult for others to find out details. They have adopted network-like actions for moving issues on a national scale. Most protest revolves around issues, which are of a complex nature. The physical manifestation is around the land, resources, and their treatment—bearing in mind commitments entered into long ago. They do not march through the streets of large cities. The tactical actions tend to encompass the land and often result in blockades or perimeters being invoked by First Nation protestors. The difficulty with these actions is that common use issues, such as highways, may affect local non-indigenous populations, which only adds to the challenge. The approach to any perimeter, police-invoked or otherwise, is fraught with danger unless those holding the line are comfortable with the action.

This is why the police often erect buffer zones to deter any approach, including an accidental one, to a perimeter or an area claimed. There are examples of police approaches to Aboriginal perimeters, with little notice, which did not turn out well. The police approach to the Oka perimeter resulted in the death of Corporal Marcel Lemay of the Sûreté du Québec on July 11,

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<sup>11</sup> John P. Sullivan, “Gangs, Hooligans, and Anarchists—The Vanguard of Netwar in the Streets,” in *Networks and Netwars: The Future of Terror, Crime, and Militancy*, ed. John Arquilla and David Ronfeldt (Santa Monica, California: RAND, 2001), 121.

<sup>12</sup> Klein, *Fences and Windows*, 23.

1990, and the RCMP reconnaissance patrol to the edge of the Gustavsen Lake disputed area resulted in shots being fired in 1995. Both of these actions were taken when the respective police forces knew that the Aboriginal protestors had weapons. The result of these actions was the elevation of the event to a more serious level. These are examples of intelligence being used to decide on an aggressive action in the face of weapons. Decisions could have been made to do otherwise, but were not. As a result, both of these events ended with difficult and long negotiations. In contrast, the Canadian Armed Forces at Oka did approach the perimeter from several directions in force. The major difference is that they informed the inhabitants of what they were doing and, for the most part, did not approach in stealth.

During Aboriginal protests, the police often deal with widely dispersed, but sometimes related, issues that have a broad constituency of support and sympathy from First Nations generally. There is less open source information available. Unless the police engage in a continuous dialogue on a local level, they will be ill equipped to act wisely when they are most needed. More visual observation will have to be relied upon to come to an understanding of an unfolding event. The classic example is that of determining whether weapons are present or not. Only a trained eye can confirm or refute this. If weapons are visible, then the next question will revolve around the potential for their use. The second example involves hundreds of warriors converging on the site from far away. This type of report takes time to be confirmed or negated at the incident site.

Much attention must be paid in police circles to the impact on the environment of Aboriginal communities by other parts of society. The local population and their jointly managed livelihood with Aboriginal people in harvesting resources can be an issue. Equally, the police must monitor actions by regulatory bodies, other than themselves, that could be a factor. If the police are informed late, or not at all, of enforcement decisions by other government actors, they may be faced with a challenge requiring instant action. This is the time for standing relationships with Aboriginal communities to be used productively.

Fortunately actions are being taken with the signing on May 11, 2004, of The Public Safety Cooperation Protocol between the RCMP and the Assembly of First Nations (AFN). The signatories were National Chief Phil Fontaine and RCMP Commissioner Giuliano Zaccardelli. Commentary in the *AFN Echo* was as follows:

The AFN and RCMP will take a proactive approach to preventing situations involving conflict and resolving any disputes as early as possible. The two organizations will establish networks of resource people at local, regional and national levels to improve communication and strengthen partnerships. The networks will help identify potential crisis situations, and in the event of a crisis work together to ensure peaceful resolution. A joint AFN/RCMP crisis response team will be established as needed. AFN involvement in any situation will be at the request of a First Nation. The AFN will also contribute to the development of culturally-appropriate training conducted by the RCMP for its members.<sup>13</sup>

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<sup>13</sup> The Assembly of First Nations, *AFN ECHO* 1, no.1 (June/July 2004): 1.



This agreement addresses much of the need for a networked approach to crisis identification and management. It must be described as a potential best practice. The availability of trained resource people who are mobile and can assist will be of extreme value. This agreement establishes the intent to reveal tension indicators and resolution mechanisms. Police in other parts of the world are also trying to enhance predictive tension indicator regimes. Her Majesty's Inspectorate of Constabulary made a notation of just such a need:

Effective tension indicator systems are essential in predicting the possibility of disorder. They allow forces time to work with their partners to minimize and manage the risk of disorder. The Inspection saw a number of examples of tension indicators in forces, but each had limitations and as such no one model can be confidently recommended to forces. Her Majesty's Inspector urges the ACPO, through the Public Order Sub Committee, to continue work in this area to develop a tension indicator system that is up to date, and informs decision making.<sup>14</sup>

It is noted that the Inspectorate is seeking assistance from the Association of Chief Police Officers (ACPO) to continue developmental work in this area.

These more open arrangements could lessen the need for some types of intelligence gathering when dealing with Aboriginal issues—replaced by face-to-face information exchanges. In the event of an incident, intelligence gathering on the part of the police will still take place, but much information will already be known. In addition, the issue should be better defined so the police can have a higher understanding at the outset. The joint crisis management team is not an intelligence apparatus because it is transparent and open. The intent of the agreement is to resolve issues peacefully and this strategic decision is important, especially if known by all parties.

This agreement leaves one burning question open. The symptom the police encounter when they call for AFN advice may be a barricade or other action, which can be interpreted as a real call for help. What can the AFN and the RCMP do to get help if the issue is not a police issue? What if it is a political issue? Those at the political level may not want to engage with Aboriginal persons until the barricade comes down. The Aboriginal persons see the barricade as their leverage. This is the classic “chicken or the egg” dilemma. A suggestion will be made on this topic in the opportunities section, below.

#### **IV. THE POLICE INTELLIGENCE RESPONSE**

Post-Seattle, the police had to revise their readiness and rely ever more on intelligence to avoid a repeat of those events. More importantly, the police must interpret the available intelligence correctly in translating it to police action on the streets. It is now understood that what seems to be an agreement with one group does not always apply to all participants. In this more intense environment, police forces have become networked and are studying protest by sending officers to act as observers. In Canada, what was once done by a singular police force can no longer be done, as the size and complexity of events mounts. We are now seeing multi-police force

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<sup>14</sup>Her Majesty's Inspectorate of Constabulary, *Keeping the Peace, Policing Disorder* (London: 50 Queen's Gate, 1999), 62.

participation with joint command entities as the normal approach to large events. Some smaller events also receive this treatment when jurisdictions coincide or overlap. This is very common in the capital of Ottawa where the RCMP protective role is carried out within the city policed by the Ottawa Police Service.

The scale of modern protest can be quite large in turnout. This has resulted in a corresponding growth of required police resources. Further, the innovation in tactics by protest movements has resulted in huge equipment acquisitions by police and evolving police tactics. These require increasingly elaborate training requirements on the part of the police. When police forces are in joint operation, they must have training days before an event, if possible, to harmonize the operation. While the equipment purchases have done much to protect police officers in this chaotic duty, there have been efforts to obtain standoff non-lethal weapons to reach into crowds for control or mitigation purposes. An example of this would be a person in a crowd preparing to launch a brick or Molotov cocktail. This has been a major change for Canadians to absorb.

The main goal of police intelligence in this environment is to locate persons who have committed, or are about to commit, unlawful acts. Having located such persons, the police would like to remove them from the ranks of those assembled to practise lawful assembly and legitimate dissent, or at the most, civil disobedience. This goal is made difficult by the shelter granted by a huge crowd, and the result opens police intelligence operations to criticism. The main critique is that the police brush is too broad and does not perform this sorting well, thereby capturing peaceful protestors along with those accused of breaking the law. Many would argue that statistics of arrests to convictions would bear this out, as noted in the example of the recent New York case earlier discussed.

Flowing from this is the dislike of plainclothes officers present among the crowd to identify those about to commit. This tactic is an attempt to locate the few among the many, to evade the main criticism of failure to discriminate. On the day of the event, most people would not notice these officers but certain mannerisms can give them away and these have been published on the Internet. These tactics will continue, as the placing of solitary uniformed officers in the crowd for the same purpose could be dangerous to officer safety. The secondary accusation regarding crowd infiltration is the ability of strategically placed groups of plainclothes officers to snatch individuals from the edge of the crowd. Warnings of this police tactic are also present on the Internet, along with the other variation of counter-leadership strategy, that of uniformed squads temporarily entering the crowd to take individuals into custody and remove them behind police lines.

If the police are to practice a more conciliatory approach linked to a measured response, then monitoring of the route of march via remote or immediate means is an intelligence activity that can pay dividends. The Ottawa Police Service has called this the soft-hat approach. The joint command scenario for the G-8 protest of June 26 and 27, 2002, in Ottawa, that coincided with the Kananaskis Summit, involved the Ottawa Police Service, the RCMP, Ontario Provincial Police, Quebec Provincial Police, Gatineau Police, Canadian Security Intelligence Service (CSIS), Canadian Citizenship and Immigration, and the Canadian Customs and Revenue Agency. The Ottawa Fire Department and paramedics were involved in planning as well. The

breadth of this network shows that international attendees are envisaged, as well as participants from locations other than Ottawa in Canada.

Officers in normal uniform would be the faces of the police response, and the risk of not having heavier forces on the line was mitigated by more intelligence work. The intelligence cells, though small in size, are highly mobile and should be able to pinpoint trouble. This allowed the overall commander to scale the use of force appropriate to the problems encountered. The interesting part of this plan was the announcement to the public that a strategy of a more low-key police presence had been scheduled for the event. In addition, the police themselves, including the line officers, had a stake in the success of the strategy. A volunteer organization, the Witness Group, made the observation in a post-event public report:

Witnesses conclude the following concerning G-8 events in Ottawa:

1. The relatively peaceful demonstrations of June 22, June 26 and June 27 were not a result of a change in the behaviour of protesters but rather a change in the behaviour of police.
2. While these events were relatively successful and police behaviour was generally improved in comparison to that of G-20 events in November 2001, Witnesses have concerns about the use of videotaping, the inconsistency in police identification and incidents of harassment of some protesters.
3. The relative success of these events has been marred by the unnecessary and excessive use of force to evict protestors at 246 Gilmour Street.<sup>15</sup>

While we can see a general optimism in the new approach, the intelligence and evidence gathering technique of videotaping remains a noted irritant. The Ottawa Police Service response to the above observations on the subject of videotape was posted on the police website:

Will police destroy videotape of G8 protests that is not being used in civil or criminal court cases? The short answer is yes. The Police Service does store videotapes and related material collected following a major event. The tapes are recycled into use for subsequent incidents and some portions of tapes are used for internal training purposes. Videotaping is done as part of the process of collecting evidence for specific incidents and at crime scenes. Tapes are routinely held until ongoing court cases and appeals are completed.<sup>16</sup>

The fact that these public exchanges are a matter of record is progressive. It brings up another more bureaucratic issue, that of retention of material in joint forces operations. This issue remains open when police on a federal, provincial, and municipal level join together, with

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<sup>15</sup> The Witness Group, "Report and Recommendations on the Policing of G-8 Events in Ottawa," Ottawa, July 16, 2002, online: [http://members.rogers.com/witnessgroup/witness\\_Jul\\_16.rtf](http://members.rogers.com/witnessgroup/witness_Jul_16.rtf) (accessed November 8, 2004).

<sup>16</sup> Ottawa Police, "Response to Community Questions About G-8 Policing," 2004, online: [http://www.ottawapolice.ca/en/resources/publications/community\\_index.cfm](http://www.ottawapolice.ca/en/resources/publications/community_index.cfm) (accessed November 8, 2004).

various access to information regimes, retention, and storage policies at play. The other concern is that police material be retained until all chances of an official enquiry have become clear.

The G-8 protest serves to illustrate to what level the police will go in intelligence gathering. An open source article by RCMP Sergeant Scott Allen covers the aspect of the intelligence effort for the G-8 in Ottawa:

### Intelligence-Led Policing

Many senior Canadian police officials have advocated the concept of intelligence led policing. For the protests in Ottawa, a joint intelligence group (JIG) was formed to provide accurate and timely intelligence to decision makers. The JIG consisted of members from the many different police and security agencies noted above.

The JIG became formally active about four months before the protests to ensure a complete sharing of information. It began a vigorous program of information use that included normal police databases and the Internet. Large commercial information databases such as Dialog and Newscan were regularly used to provide both historical and current information on persons, tactics, and protestor planning.

The Foreign Broadcast Information Service (FBIS) was also used for its additional international content. Sources provided valuable information on tactics and plans. The source information operations also received input from the JIG, enabling it to better target key meetings and persons. JIG meetings were held weekly and later biweekly to ensure a constant informal flow of information in addition to the JIG reports that were distributed.

As a result of JIG information, all buses travelling to Ottawa for the protests were identified before they left their cities of origin. They were tracked en route, which allowed the MELT to meet them on arrival. All protestors who were known to have violent criminal records or who warranted special treatment, were identified ahead of time. A book of their photos and other information was provided to street-level personnel. Protest leaders, especially those with policies of violence or violent records, were also identified and tracked.<sup>17</sup>

The term MELT stands for Major Event Liaison Team. This team may become a permanent feature in Ottawa and is staffed by members of the Ottawa Police Service and the RCMP. This is the public face of the police dialogue with organizers to arrive at a mutual understanding. For the MELT to succeed in the future a cautionary note of advice was issued by the Witness Group: "The liaison mandate should be separate and independent from any intelligence gathering function ... intelligence gathering should not undermine the potential for dialogue between police

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<sup>17</sup> Scott Allen, "Velvet Gloves and Iron Fists: Taking the Violence Out of Major International Protests," *The Police Chief* (Washington) 70, no. 2 (February 2003), online: [http://members.rogers.com/witnessgroup/velvet\\_glove\\_article.html](http://members.rogers.com/witnessgroup/velvet_glove_article.html) (accessed November 8, 2004).

and protester organizers during the planning phase or replace ongoing communication during an event.”<sup>18</sup>

Further to the effort outlined above, other aspects of surveillance were used, as previously discussed regarding video:

For example, tactical police were kept close to the scene and ready at all times throughout the protest period of June 26–27. Real-time surveillance footage from several tracking cameras mounted on buildings was sent back to the command center. Video downlinks from the RCMP helicopter camera and the Ottawa Police Service fixed-wing aircraft were also sent in real time to the command center and were used to track the protests, demonstrators, and buses.<sup>19</sup>

This is a comprehensive approach leading to the overall strategy of a police soft-hat effort. This shows the police intelligence activities, in the modern sense, faced with an international protest. The ground surveillance took care of the last unknown, that of what they were going to do. All of the above work settled most questions of who do we have, and who do we expect? The police commanders in this instance were able to execute a plan because of knowledge gained through the intelligence process.

## **V. TRAINED LEADERS WHO USE INTELLIGENCE TO MAKE DECISIONS**

Senior police officers, who are going to command public order events, must arrive at correct decisions. The Seattle example is one in which, given all the intelligence, decisions were made that did not contribute to a peaceful outcome. Commanders must be selected and given the opportunity to learn and practice through actual incidents as well as regular training opportunities.

All police officers in Canada must be familiar with the continuum of the use of force. Their very survival depends on it, as well as the public they protect. In public order situations, they are gathered into formations to execute a strategic and tactical plan. In this scenario they must give over some of their individual authority and become part of a larger group where command elements will decide what force, if any, will be used. The commanders could decide that some acts of civil disobedience will be disregarded temporarily, or be acted upon later, if at all. Training is required for individual police officers to act cohesively in the face of a large and possibly unruly crowd.

The success of this continuum depends on the confidence held by individual officers in the commanders they will serve under, and the understanding of the strategy being brought forth by

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<sup>18</sup> The Witness Group, “Protect the Right to Protest Ottawa Witness Group One Step Forward One Step Back Second Annual Report on the policing of major events in Ottawa,” 2002–2003, online: <http://members.rogers.com/witnessgroup> (accessed November 15, 2004).

<sup>19</sup> Allen, “Velvet Gloves and Iron Fists.”

the commander. The same road of learning and practice must be taken if a police officer is to be part of a special unit such as a tactical troop or crowd control formation. Ultimately, the commander must be the user of the police response and be very familiar with everyone, and everything, under his or her control. A command and control structure is dependent on the intelligence process. Strategic plans must take into account the balance of gathering and use of intelligence with the right to protest.

It is the job of the commander to set a strict regimen on who has access to a command post and who receives intelligence gathered. Escape of raw data serves no useful purpose. Police officers are trained to accept a certain amount of imprecision and ambiguity while still remaining functional. They know that the intelligence process is built to confirm or negate raw data through competing data and subsequent incoming information. Others in society who are looking on could quickly speculate and make wrong assumptions if they come into possession of raw data without proper context. If this speculation revolves around false rumours of violence, disproportionate reactions could take place, endangering the public and the police.

The police force should have a system whereby estimates of the situation are sent up through the chain of command. These estimates are a strategic overview of an evolving situation and tell the story of how the incident is progressing. They are a confirmation of the overall strategy, adjustments to it, numbers of injuries, and a prediction of the next general steps.

The commissioner or police chief, as the case may be, should brief at the political level, as required, from these estimates with an authorized senior representative who is not involved in the command of the incident but under the control of the commissioner.

The incident commander should exert a high degree of control over the sharing of information and record all cases of sharing outside the command centre. All calls to the command centre should be recorded and misguided attempts to obtain information should be referred to a headquarters or senior levels of command. The commander is also the architect of communications with the media, as discussed later in this paper.

## **VI. THE MANAGEMENT OF INCIDENTS**

In Canada, as elsewhere, efforts are being made to improve the police approach to public order. For Canadian police, the need to use common resources and to practice a more integrated approach has been a gathering issue. Our geography does not help mitigate demands that can now shift from city to province, and from rural to urban settings. Events such as the APEC meeting of November 1997, and RCMP practices in Saint-Sauver and Saint-Simion in May 1997, have generated inquiry reports. Other events such as the Quebec Summit, and Gustavsen Lake, have been controversial. The Arar case is a pivotal one where intelligence practices are under examination.

In the United Kingdom a similar pattern of events and examinations has taken place, resulting in more advances to police practices for public order, including a long-established concentration on the qualities and qualifications of incident commanders.

The following diagram shows the three levels of command practised in the United Kingdom:

Figure 2



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This system is sanctioned for all police forces in the United Kingdom. Despite the long adoption of the system, usage by some smaller forces is less than full. The 1999 thematic report by Her Majesty's Inspectorate reinforces the need for chiefs of police to develop command resources in the event they are required. Public reporting is available to demonstrate, over time, individual police force progress in adopting the command structure and other elements to meet the challenge.

In 1997 Commissioner Philip Murray of the RCMP mandated a Major Case Management Task Force to advance readiness for responding to critical incidents for the RCMP. This has now progressed into the present-day Critical Incident Program (CIP) within the force. The CIP has three areas of concentration:

It has appointed national and divisional co-coordinators for its three areas of focus—negotiation, incident command and public order. It has also re-written national policy, overseen the standardization of training and equipment across the country, and are planning to devise a clear selection process for negotiators and commanders. In addition, the program is establishing a core group of negotiators and commanders who can be called upon to respond to incidents anywhere in Canada or around the world. They will be specially trained to deal with hostage-takings and more terrorist-related situations. By partnering with other agencies and police forces in North America and abroad, the CIP

<sup>20</sup> Her Majesty's Inspectorate, *Keeping the Peace*, 47.

ensures that all critical incident responders receive regular scenario training and refresher courses.<sup>21</sup>

This is a very progressive move from prior circumstances where individual police forces sought out best practices and moved them to new policies. For the RCMP it will prove to be a rolling audit, which should generate improvement over time. While individual forces are still responsible for their policies on public order and critical incidents, there is a developing realization that the police community must achieve more ability to rapid start and integrate, sometimes on short notice. Thus far, Canada has been fortunate not to experience competing demands so high as to drain the talent pool faced with multiple incidents. Advances in interoperability of this nature should postpone such a possibility for some time to come in relation to negotiation, incident command, and public order. Unlike the system in the United Kingdom, Canadian police forces do not always make as much detail of these advances publicly available.

A tighter, multi-police force negotiation revival is the foundation to better-managed incidents. It is also complementary to giving life to agreements such as the one between the AFN and the RCMP, previously mentioned. If the strategy is calmly to hold and negotiate, then line tactics will serve that end. The room for such a strategy is decided by the commander, based on a sound intelligence process. The final output or test of the intelligence process is the use made by the commander and all officers attending. The briefing of line officers is another important role once strategy has been decided. What they say and what they do is informed by their commander's instructions, derived from what the line officers and the commander are seeing in real time. Any lapses in professionalism should be avoided from the outset by command instructions, or the many witnesses present will highlight them.

Another positive consequence of the above program is the record kept of qualifications and training sessions to maintain qualifications. This record will make it easier to find a commander or negotiator team suited to the task at hand. These records also cover public order training. The police can reach out to resource people with special knowledge and skills to help them understand unique situations and cultural sensitivities. The research and development component remains in one policy centre with subject matter experts in contact with the field. Such best practices are about readiness. The more time can be devoted to training and scenario opportunities, the more successful this program will be.

## **VII. POLICE RELATIONS WITH THE COMMUNITY AND THE MEDIA**

Protests, large or small, temporarily change our environment and take away normal usage of our streets. Media coverage is a foregone conclusion. The battle for the hearts and minds of the public exhibits the same dynamic of tension as the protest proper. Mainstream media seek to inform the public of what might happen and have the same open sources prior to the event as everyone else. Independent media, or Indy Media, provide real-time coverage to balance the gaps they see in the network coverage. Police intelligence work, while informing the commander of the operation, consequently allows for official police media officers to communicate with the

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<sup>21</sup> Melanie Roush, "Under One Roof, Leading Edge Program Brings an Integrated Approach to Critical Incidents," *Gazette* (Ottawa: A RCMP Publication) 64, no. 2 (2002): 10.



press with some of the open source material. What is said should be authorized by the commander of the operation, be attributed, and be updated on his or her authority.

The community who are not involved in the protest want to know what is potentially going to happen and how they can arrange their lives to compensate. This is not an easy discussion as many have travel plans around the area or business to conduct. More and more, the police have to enhance special efforts to assign officers to communicate with the community. The facts, as they are known, help dispel apprehension and allow for the compensating actions to take place. A route of march, for example, can help people make their own decisions. In a prolonged situation, the surrounding community can both give and need support from the police. They can only do so if police efforts to talk to them are real and sustained.

Anonymous police sources, who are not attributed, do not add value in this scenario. They are inevitably sought out by media to add colour to the story. The only police spokespersons should be those authorized by the commander. When these anonymous police sources use intelligence and release it to the press, the ultimate result is the speculation of facts, not yet proven, being used to draw conclusions. This can contribute to the demonization of the protestors and skew public opinion. In some cases it can pit one group in society against another, thus making the police job more complex. Constant media availability during the actual event can deal in the open with real facts, which may prove or disprove certain elements of what the police had by way of intelligence in the lead up. The facts regarding violence may be better or worse than what the police anticipated.

The official media spokesperson can, and should, talk about proactive efforts to talk to event organizers. This allows the public to see that efforts made by the Major Events Liaison Team in Ottawa, for example, are in tandem with event organizers, who can also comment on their opinion of how the event will go. A balanced assessment by both sides can help the community.

## **VIII. AN ACCOUNTABILITY FRAMEWORK**

There is no uniform framework for accountability in police coverage of public order events, although each of the three levels of policing have various internal methods. Record keeping is important, as are debriefings and after-action reports. Lessons learned from these accounts can result in improvements and guidance for events that may follow. Internal police audits may, or may not be, publicly available.

In Canada, the only public reports of the public order function easily accessible to the public are those conducted by commissions of inquiry. Public bodies, such as the Commission for Public Complaints Against the RCMP, perform this role. The United Kingdom by contrast has inspection regimes and audits, available on the Internet, complete with recommendations. The advantage in the United Kingdom is Her Majesty's Inspectorate, which covers all police forces. Future inquiries in Canada may capture the different levels of policing by the accident of more integrated policing of public order events. The APEC Inquiry surrounding the RCMP practices at the APEC meeting of 1997 in Vancouver drew in testimony from all three levels of policing in Canada, as well as some witnesses from overseas to achieve a level of context.

The police intelligence work conducted at protest or public order events may be resident in more than one information system after the event is over. Currently there is no protocol to reconcile what will be done with this data, complicated by the three levels of government involved. The disposition policies may differ, as well as the access to information policies mentioned earlier. The mobility of protest on an international scale has required vigilance and international police co-operation. In a post-9/11 world, mobility is an issue for international travel, including travel to join in protest. The example of the Witness Group in Ottawa questioning the retention of video material and the Ottawa Police response shows this to be a developing concern.

Major efforts have been undertaken by private groups to be present during protests and incidents to record police actions. These have resulted in ad hoc monitoring of outcomes of the collective police response, not dwelling solely on intelligence. This is a legalistic concentration on what the police have done to individuals and, in some cases, groups. On an international scale this role is assumed by organizations such as Amnesty International, who report publicly on their findings. Governments and legal systems must react to the questions and findings of these groups, as well as self-initiated investigations by publicly mandated review, such as the Commission for Public Complaints against the RCMP. The self-initiation ability of the Commission has resulted in the examination of many public order events, prominent in the eyes of the public, in recent times. In these cases, findings and recommendations are made public, as well as the response of the RCMP Commissioner.

Police practices are changed and updated through many causes, including self-initiated environmental scans. Policies can and do change. Public order is now more complex and events extremely well organized, requiring an evolving response. The matrix of accountability is varied and reflective of how Canada is structured. There is no particular emphasis on police intelligence gathering per se. However, such a fundamental activity to decision making by commanders and their subordinates always comes up in any review. Flaws such as the underemphasis on analysis, or neglect of any part of the intelligence process, will become apparent. Neglect is pervasive and will result in a catch-up requirement that may be too late.

## **IX. BEST PRACTICES AND OPPORTUNITIES—SEEKING A BALANCE**

The use of a well-founded intelligence process informs police decision making. It is the basic ingredient to the best practice of the measured response. The measured response means the police have all of their abilities at the ready, but are going to respond with a strategy that is layered as long as possible at the less forceful end of the scale. Most activists appreciate and would be willing to participate with a communicative police force, while still achieving activist objectives. The police should never give up on pre-event communication, even when it is not reciprocated totally. As mentioned above, pre-event work must also apply to the whole community, not just the protestors. Activists do not like the amount of intelligence gathered by the police and are leery of what might be done with it later. An opportunity for clarity is slowly emerging and will take some time to resolve regarding intelligence gathered by police for public order.

The AFN–RCMP agreement should be watched closely as a best practice that could be beneficial in a measured response. This agreement puts into words ideals that could form a wish list, faced

with a crisis. Indeed, it may prove useful in avoiding some incidents before they happen. If this agreement were used to the full, the need for police intelligence work would still exist, but many questions would be answered by open exchange. Police should be open with Aboriginal activists and share their intended strategy at the beginning. This will avoid hours and days of unproductive speculation on both sides. Most important, the showing of strategy will lower tension considerably.

In order to give this agreement full life, it is anticipated that local efforts will have to be augmented. Faced with the agreement, strategies of regular local contact during times that are non-crisis will have to be found. This is not an activity only for the local police commander and band leaders. The local police would be well advised to be in touch with elders, women, and youth. Program leaders and trained facilitators who also are working on the territory in other disciplines are resource persons who can add value. Police members on patrol will have to be highly aware of the agreement and do positive things to help the agreement succeed. A wise, detachment commander would involve all police members in a plan to both respect and give life to the agreement, later recognizing members for their contribution, or lack thereof.

In more complex situations such as seasonal resource issues with local citizens, an equal effort would have to be made to gauge the prevailing climate for conflict. When the two views are placed together, along with a consultation with other enforcement bodies, the complete picture for a seasonal activity will emerge.

The impasse dilemma described earlier on as the “chicken or the egg” situation needs more work. The AFN, the RCMP and other police, and governments have to come to a higher understanding that a classic “police action” with attendant adversarial negotiation practices may not be best. I may be moving onto thin ice with this suggestion, but perhaps a neutral third party could hold the barricade or perimeter while the police and First Nation’s people promise to hold off. The dignity afforded by this opportunity might allow for the real negotiations, which are political, to be separated from the police negotiations, which are meant to remove the symptom of the barricade. My case for this argument rests on the fact that these events end up in protracted political negotiations almost 100 percent of the time after the police have left.

The trend of police sharing and mobility in Canada is useful and a best practice in bringing a trained resource to bear on large protests. This presents an opportunity for common training among the levels of policing in Canada. Funding for these learning opportunities should be mandated, as it is extremely hard to catch up in the face of a crisis. A constant review of equipment is also required, especially when it comes to the class of devices known as less than lethal impact weapons. Claims by manufacturers have to be verified by research and testing. The taser project underway at this time in support of Canadian police is very useful.

The decision by the Government of Canada to hold the Kananaskis Summit outside a city was a best practice. Activists may claim this is not so, because it limited their ability to be near the leaders, but the upward spiral of violence was broken. The intelligence task was made larger because many demonstrations in diverse locations did occur. However, no one of them generated problems on the scale of previous singular events.

The public announcement of the measured approach known as soft hat in Ottawa is a best practice. The police retain their full abilities to intervene, but express publicly, before the event, that they will pursue quiet measures as long as possible. As we have seen, this does not mean less emphasis on intelligence; rather, almost more is required. The outcome can be a less adversarial event if the goodwill carries through.

Certain opportunities present themselves when considering intelligence work in public order. First among them is local knowledge, constantly refreshed by human contact. Local police personnel should remain in contact with their community in the event of crisis. In smaller communities, the local police members should be the public face of community interaction, leaving the crisis management to fully qualified people who can be brought in. In order to do this, local members are part of the plan and in a position to give quality information to the public.

What is said and done by police defines their credibility. Official police media representatives give sanctioned information to the press. Anonymous police should become a thing of the past when talking to the media. Intelligence should await the ultimate test of reality—did it take place, as you were aware it might? This is not a public activity. All police officers present need briefings to allow them not to make mistakes in statements and actions. Often police brutality is alleged, and must be investigated post-event. Calls for cross-cultural training are valid, although Michael Ignatieff adds other considerations when reflecting on incidents of police brutality toward ethnic minorities: “The proper response to incidents of police brutality in our community is not, as is often argued, more race sensitivity training, but rather more training in justice, more understanding of the *sine qua non* of unity, civility, and social order is equal protection under the law.”<sup>22</sup>

Senior police commanders should take the opportunity to impart these thoughts prior to such emotionally charged operations. Everything can be on the record and will be eventually, sometimes via a circuitous route.

The police must move to a continual mode of monitoring seasonal changes in enforcement actions by other government departments. This can have an emotional bearing on resource industry workers, and pit Aboriginal groups against other members of the public. It can also place non-involved surrounding communities in a state of apprehension when tensions rise. Progress has been made in this area, but continual attention is required. Police intelligence efforts are made better when decisions by the courts, the interests of private companies prone to obtain injunctions, and the interests of environmental groups are understood. Aboriginal activists may agree with some environmental groups and not with others. In these scenarios, a high level of knowledge of what might take place in opposing moves by one group against another is vital. This opportunity can imply coordinating meetings and the need for senior level interventions at the provincial and federal levels.

Intelligence work in the case of issues of conflict on a reserve is particularly difficult. Opposing factions present a challenge and will hold the police to account if any form of difficulty with the police takes place. These issues, while rare, will normally revolve around governance and maintaining the peace. Intelligence efforts must be evenhanded or the police will lose credibility

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<sup>22</sup> Ignatieff, *The Rights Revolution*, 131.

with one side or the other, or both sides. Kenneth Deer, writing in *The Eastern Door*, provides an illustration of the difficulty of police intelligence gathering:

During the afternoon hours of Wednesday, October 20 the presence of a remotely controlled video camera was brought to the attention of Kanehsatake residents. The camera was located on the roof of Ratihente High School in a fake stove-pipe. The setup for this camera included a transceiver that was aimed across the river toward the Hudson/Rigaud area. The camera was positioned to monitor the intersection at Ahsennenson (Center Road) and route 344, as well as the former Kanesatake Mohawk Police Station—which is presently being used by community members as the Kanehsatake Community Security Headquarters (KCSHQ).<sup>23</sup>

It was later confirmed by a spokesperson for the Sûreté du Québec (SQ) that the camera belonged to the police:

Yesterday, the SQ acknowledged it installed the camera Oct. 15 in a dummy stovepipe atop a local school after obtaining a court warrant. “We have nothing to hide,” Constable Isabelle Gendron said. “It’s just that it’s preferable in an investigation not to divulge our methods.” The camera had a dual purpose, Gendron said: To gather information on who set fire to four police cruisers May 28 and to the police station June 11. To catch culprits on camera if anyone attempts to damage the property again.<sup>24</sup>

Despite the above explanation, police work in this unfolding situation will be more difficult. Not all members of the community will interpret this police explanation in the same way. This covert investigative technique colours future relations and contributes to building suspicion of the police. An opportunity now exists to move forward from a low point. Choice and risk management considerations have a role in intelligence gathering. A more open approach might take longer and be less intrusive at the same time.

## CONCLUSION

Protest may have faded but is now returning after the September 11, 2001, (9/11) terrorist attack in New York. Activists have adjusted to that event and will continue to illustrate their concerns on a wide range of issues that have been worthy of attention, but somewhat dormant. None of the growing sophistication and organizational skills has been lost. The public are tolerant, but do not want to see damage or danger heaped upon daily sensitivity to security writ large. Protest will remain a valid activity and people will participate if their issues are going to be portrayed in a way that suits their comfort level. For activists this seems to be a move toward highly visual events with sound communications. For the police the way ahead under ideal conditions would be soft control with an equal effort in communications. The common ground is communication and both sides have a responsibility to the public to be seen as actively engaged.

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<sup>23</sup> Kenneth Deer, “Remote Controlled Surveillance Equipment Found in Kanesatake,” *The Eastern Door* 13, no. 39 (October 22, 2004).

<sup>24</sup> Debbie Parkes, “Hidden camera fans mistrust in Kanesatake,” *The Gazette*, October 23, 2004.

The post-9/11 world has created an international and North American concern for continued mobility in commerce and the movement of people. The use of more intrusive intelligence techniques has an outcome of understandable concern for personal privacy. Protest groups are already complaining that the authorities are blurring the lines between legitimate political dissent and other non-related issues, such as terrorism.

In Canada and the United States various forms of legislation have been enacted to enable protection to go forward. The resulting public debate, fuelled by high-profile incidents concerning intelligence work and exchanges, now bring intelligence to the fore. The daily barrage of information can result in confusion. Governments are absorbing the task ahead and consideration of issues not made in the past may have to be opened in the future. For the police, more questions will be asked about acquisition, storage, retention timelines, and disposition, if any, of police intelligence regarding public order events. The Government of Canada will go through mandated reviews of new legislation that will allow for concerns to be aired.

Returning to the observations of Ward Elcock made earlier, public order is a time when the very purposeful police intelligence machine must be tempered by thoughts of politically oriented activities on the part of the public. The normal pursuit of hardened criminals is not the activity. The police have to move forward with the knowledge gained for decision making via the intelligence process. To do otherwise would be folly considering the complexity of public order events. The interpretation of meaning and the application of this knowledge on the streets is the objective. Some intelligence predictions will prove true; some will not come to pass. The strategy and final tactics pursued by the police must be both robust and flexible to take all events into account. The normal test of the courts is augmented by the test of very public policing on film.

Modern police operations vacuum up vast amounts of raw data. If left unattended on the computer "shelf," it remains raw data, and of limited value. Conditioned by the intelligence process, it becomes more valuable and useful. It has also been put to the test of relative reliability considering the source of the information. Context is achieved when one piece is compared with another in the assessment and the result can be defended upon question. Intelligence failures are events where the process has fallen prey to interruption or lack of a component part. In most police work the search for truth is tested before a court. In intelligence work the police must, absent the court, test things for themselves. Achieving the balance in the process is a constant activity. A great police intelligence officer will be able to tell the commander what is over the hill. A great commander will then decide if it is worth going over the hill.

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