

Pre-Colonial First Nations Policing

What Does it Tell Us about Police Governance in First Nations Today?

Prior to the creation of police services, either from the outside or within First Nations and prior to the signing of treaties and the eventual involvement of white police forces in First Nations, policing within First Nations existed. But there are two elements to take into account in this short effort to describe what that meant:

- Seldom did policing exist as a separate part of the social fabric of the First Nation, but was rather integrated into how the society was regulated overall, and
- There is great variety of experience across Canada, among the many First Nations and so generalizations and the notion of one single model of pre-colonial First Nations policing is not realistic.

What follows is an effort to describe the characteristics of policing and social control that historical research has uncovered. Much of what follows is taken from the 2014 report, *First Nations Policing: A Review of the Literature*¹ from the Collaborative Centre for Justice and Safety at the University of Regina.

It is important to understand the nature of First Nations policing prior to colonization and the signing of treaties, as these characteristics informed the treaties themselves and point to the need for First Nations today to reflect on how to adapt a much more integrated and holistic approach to maintaining good order and peace in the community to modern-day policing. This has a great impact on the governance of modern-day First Nations police services.

“Elders provided the community members with the unwritten precedents for customary law, and the means for interpreting customary law in a manner suitable to a particular occasion.” - M. Sinclair, 1994

Broadly speaking, First Nations maintained peace and dealt with disorder through a mix of strategies:

- Informal dispute resolution tools,
- Engagement of elders in guiding disputes within the community, reinforcing community values through stories and as mediators in disputes,
- Use of ceremonies to end disputes,
- Use of the warrior groups or societies when order is threatened,
- Focus on the collective, healing, educating and reconciling rather than adversarial system of dispute,

¹ *First Nations Policing: A Review of the Literature*, Jones, N.A., Ruddell, R., Nestor, R., Quinn, K., & Phillips, b, 2014, Regina, Collaborative Centre for Justice and Safety

- Use of collective responses such as shaming, ostracism and compensation for a victim's loss,
- Gift giving to reconcile the victim,
- Use of banishment in extreme cases,
- Physical punishment and even execution.

Taken together, these features resemble aspects of what has been called in the modern era community policing. This strategy is one that engaged various elements of the community in seeking, first, peace and safety and, second, effective use of police-type interventions, with a focus on prevention and reconciliation over force and tactics. Many police services around the world have embraced this philosophy.

This model of policing (if that is even the right word) was built on the concept of kinship being more vital than citizenship. It is also built on a model on the need to sustain collective rights to order, peace and harmony over individual rights to due process. A good example of this is the historical evidence of the role of Warrior Societies in setting and enforcing the rules of the hunt, key to which is the rule that individual hunting was not permitted before the collective needs for food were met.²

The treaties that First Nations signed with the colonial forces did not remove the responsibility of the First Nations to police themselves. In fact, in several treaties

“They were called the Red Coats, and they were held in great respect because they were told that these people would protect them from influence from the outside, and the – they never did come – enter the reserve boundary because we had our own police, and they did work hand-in-hand. Our own police looked after our own , and they looked after – they looked after the outside where we would not be bothered.” –
Saulteaux Elder Danny Musqua

sited in research, Chiefs undertook to provide for order within their jurisdictions. Here is a sample of the Treaty language, taken from Treaty Four< that clearly points to the ongoing right and agreed-to responsibility of the First Nation to sustain social order: “And the undersigned chiefs and Headmen...do hereby solemnly promise and engage to strictly observe this treaty...They promise and engage that they will, in all respects, obey and abide by the law, that they will maintain peace and good order.” As such, for a period after the treaties were signed, there was little interference with First Nations by

colonial police. However, with the imposition of a variety of policies of assimilation, such as the pass system and the residential school system, the Canadian police, at that time, the Northwest Mounted Police became more and more active on First

² Christensen, D. (2000). *Ahtahkakoop: The epic account of a plains Cree Chief, his people, and their struggle for survival, 1816-1896*. Shell Lake, SK: Ahtahkakoop Publishing.

Nations land and in First Nations justice. What then followed in well documented in terms of the harms done culturally, economically and physically to First Nations. On the policing side, there was a period when aspects of the justice system outlined above were illegal. Then, as policies shifted, policing became more important to First Nations as they struggled to regain control of their community's health and destiny. Similarly, the Canadian government moved slowly away from the path of assimilation and rejection of these aboriginal values to an effort to re-engage First Nations in policing. After a short period of paternalistic measures such as having junior police from aboriginal communities known as the Special Constable system, efforts began to enable First Nations that so wished to retake control of their policing roles. This development is outline in more detail in the training material. What it means for the original values and more holistic approach to social health and order is that those now involved in First Nation police governance have a special challenge and opportunity to take a unique approach to their role.

Police Governance and Aboriginal Values

Focusing specifically on those First Nations that have chosen to self administer their policing, the requirement for special oversight and governance must arise from the will of the First Nation itself. Having a unique authority to oversee the police service is important, but it must do its work within a broader context that affirms the values inherent in the original models of social health and order outlined above. It is easy to pay lip service to those values, but what does it mean for those on governing boards? Each First Nation will have to answer this itself as circumstances are so different across the country, but here are some thoughts to reflect upon:

- The focus of police is on both social health and social order. Police therefore are an arm of a greater force and must work collaboratively within the First Nation.
- Effective modern indigenous policing depends upon the overall health of the community and not simply the technical capacity of the police service itself.
- The independence of the governing commission, while vital for some functions, must be tempered by the need to work with others in a holistic fashion to address social health and order.
- While police commissions have specialized functions and must be free to make decisions, they are also partners within communities that are often under stresses that the commissions have to understand.
- Police commission members must communicate, listen to and also give advice to the political leadership of the First Nation, to the many other agencies that contribute to social health and order and to many people involved. They cannot isolate themselves for the sake of their independence.
- The downside to this is the risk of political interference that crosses the boundaries of police independence and individual concerns.