Accommodation of the Aboriginal Justice Perspective by the Royal Canadian Mounted Police

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INT	RODUCTION	119
I.	FIRST NATIONS POLICING POLICY (FNPP)	122
	A. Community Constable Pilot Project at Fort Good Hope and Coral Harbour, Northwest Territories	422
	B. The Aboriginal (Constable) Cadet Development Program (ACDP)	423
	C. RCMP Aboriginal Youth Training Program (AYTP)	123
II.	RCMP COMMUNITY SUICIDE INTERVENTION PROGRAM	125
	Commissioner's National Aboriginal Advisory Committee (CNAAC)	425
III.	COMMUNITY POLICING	126
IV.	ABORIGINAL JUSTICE INITIATIVE (RCMP RESTORATIVE JUSTICE INITIATIVE)	26
v.	ABORIGINAL ISSUES — PROACTIVE PLANNING FOR THE FUTURE	129
COI	NCLUSION	130

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The history of the Royal Canadian Mounted Police (RCMP) is inseparable from its relationship with the indigenous people of Canada. From its inception in 1873 to the present time, the RCMP has provided a service for Aboriginal peoples, and through a scenario of complex political and social dynamics and through periods of severe trials and tribulations, has been able to maintain an alliance with them. During the phase of early colonization, however, as Canada expanded, the development of specialized agencies adversely affected the relationship that was initially characterized by mutual understanding and respect — nurtured through close contact. The outcome of this bureaucratization was that, in the eyes of the Aboriginal peoples, the RCMP became more a distant agent of the government machinery than an impartial body that ensured fair and just treatment. Laws and policies of the day often placed the Force and the Aboriginal peoples at non-amicable positions. Distancing from the communities continued with the advent of mechanization, political ideologies and changing social structures that influenced policing philosophy. The policing service became focused on reactively implementing the letter of the law and less on community/cultural interaction.

Over time, however, the RCMP has developed greater awareness of the need for sensitivity towards all Canadian citizens, including Aboriginal peoples. Findings from an extensive "Study of the delivery of policing services to Aboriginal communities by the RCMP throughout Canada" generated a number of initiatives and formed the essence of Aboriginal policing strategy. Specifically, in recognition of the importance of working in partnership with communities and tailoring police service to their needs, restructuring the responsibility for the delivery of services to Aboriginal peoples took place and gave rise to the Community and Aboriginal Policing Directorate in 1989. Direction was also sought from the Aboriginal communities through advisory groups such as the Commissioner's National Aboriginal Advisory Committee, relevant public inquiries, consultative committees established in the divisions, Aboriginal organizations and recommendations flowing from conferences with Aboriginal themes. Collectively, the direction received can be summarized under four broad categories:

- Recruitment of Aboriginal people as RCMP members,
- Cultural Sensitivity,
- Communication, and
- Community Involvement.

In accordance with the above, the RCMP has undertaken a number of initiatives in order to address the needs of the Aboriginal peoples. Young people comprise a significant portion of the Aboriginal population, and this segment of the Canadian population is growing rapidly. It is widely known that while approximately 4% of Canada's population is Aboriginal, self-identified Aboriginal people have consistently represented 13% of all admissions to federal correctional institutions. In some prairie institutions, the Aboriginal component of prison population is as high as 30% to 50%. The factors that have contributed are complex. However, there is a clear indication that the status quo in justice and corrections processes is not working for Aboriginal Canadians. In consideration of these facts, and more importantly, of the Aboriginal peoples' emphasis on a holistic approach rather than a fragmented solution involving only one aspect of life, many of the initiatives attempt to include members of Aboriginal communities in various RCMP programs, with a special focus on the Aboriginal youth, and on efforts to attract them to a career in the RCMP. In the eyes of Aboriginal peoples,

[Peacemaking is] about sharing power and control through inclusiveness and active participation in the process of those involved [...] Sacred justice is found when the importance of restoring understanding and balance to relationships has been acknowledged [...] It is people working together, looking for mutual benefits for all in their widest circle and [...] in the Circle of Life.²

Consistent with this view of Aboriginal justice, the RCMP initiatives include:

- First Nations Policing Policy;
- Aboriginal Constable Development Program (later replaced by Aboriginal Cadet Development Program);
- · increased Aboriginal recruitment;
- The Commissioner's National Aboriginal Advisory Committee;
 - · Conferences with Aboriginal and justice themes;
- Aboriginal Justice Strategy (Restorative Justice Initiative);
 - Cultural Awareness Training;
 - Liaison with Aboriginal organizations;
 - Community Policing;

^{1.} Statistics are based on a "Corrections Canada" report.

^{2.} K. Louis "Restorative Justice — Alternative Approaches" in *Dawn or Dusk in Sentencing: La détermination de la peine: une réforme pour hier et pour demain* (Montreal: Éditions Thémis, 1997) 225 at 225 and 228.

- Establishment and maintenance of Community Consultative Groups Force and
 - Annual meetings for Aboriginal Policing Services.

These represent some of the efforts being made by the RCMP to provide a service to the Aboriginal peoples that is professional, efficient and effective, but more importantly, culturally sensitive and tailored to accommodate the Aboriginal justice perspective. Rupert Ross in his book *Returning to the Teachings* quotes a Cree Elder, saying:

We know you have a legal system; we're just not sure it's a justice system.³

And again:

Why does your law, from the Ten Commandments to the Criminal Code, speak only about what people should not do? Why don't your laws speak to people about what they should be?⁴

Ross went on to explain:

Within traditional Aboriginal understanding, a justice system involved far more than simply controlling how disputes were handled after they broke out. Instead, the primary emphasis was on teaching individuals from birth how to live together in ways that avoided or minimized them in the first place.⁵

He also stated:

In my experience, that appears to be the strategy emerging across the country, whether the context is justice, health, family law, education, child rearing or any other aspect of life. The belief seems to be that, whatever processes are created or restored to deal with today's issues, they must be firmly grounded in the values — in the laws — of traditional times.⁶

This can be achieved only through a true partnership between the RCMP and the Aboriginal communities over time. The Directorate of Community, Contract and Aboriginal Policing Services of the RCMP has the following three highest priority areas, which provide a broad framework for all Directorate initiatives and programs:

- Restorative Justice,
- · Youth, and

^{3.} R. Ross, *Returning to the Teachings: Exploring Aboriginal Justice* (Toronto: Penguin Books, 1996) at 253.

^{4.} Ibid. at 257.

^{5.} Ibid. at 255.

^{6.} Ibid. at 260.

· Quality of Service.

In the following pages, more detailed information will be provided on some of the major initiatives, which include more than justice in the narrow sense, but encompass a wide range of strategies to improve the RCMP's efforts to achieve justice for the Aboriginal communities, in partnership with the Aboriginal communities themselves.

I. FIRST NATIONS POLICING POLICY (FNPP)

In June 1991, the federal government announced a new on-reserve First Nations Policing Policy (FNPP) to provide additional funding (\$116.8 million) to improve police service in First Nations communities. The policy provides guidelines for the federal government to negotiate and implement tripartite agreements between the federal and provincial/territorial governments and First Nations communities, including agreements for RCMP-First Nations Community Policing Services (FNCPS). Under the agreements the federal government pays 52% and the provincial/territorial government pays 48% of the costs of First Nations policing services.

Nine provinces and two territories have indicated support for the First Nations Policing Policy. Seven framework agreements have been signed for RCMP-First Nations Community Policing Service (British Columbia, Manitoba, Northwest Territories, Nova Scotia, Prince Edward Island, Saskatchewan and the Yukon Territory).

Sixty two community tripartite policing agreements have been signed thus far. They are being formalized and signed on a continual basis.

A. Community Constable Pilot Project at Fort Good Hope and Coral Harbour, Northwest Territories

The Community Constable Pilot Project (CCPP) was implemented in February 1994, through a cost sharing arrangement between the Solicitor General of Canada (52%) and the Government of the Northwest Territories (48%). Six community constable positions were allotted to each community, and once selected, the twelve candidates received 3 weeks' training at the RCMP Training Academy in Regina, Saskatchewan. The purpose of the pilot project was to assess the feasibility and effectiveness of having Aboriginal community residents as "Community Constables" in remote areas to assist the RCMP in providing police service.

This project evolved to a point where the RCMP in the Northwest Territories, through various funding arrangements, hired approximately 30 aboriginal Community Bylaw Officers. As already mentioned, this project was launched as a pilot project and was completed in 1996. About six Aboriginal Community Constables were appointed in Fort Good Hope and six others in Coral Harbour as a result of this program.

B. The Aboriginal (Constable) Cadet Development Program (ACDP)

The Aboriginal Constable Development Program was implemented by the RCMP in 1990. The intent of the program was to increase the complement of Aboriginal people in the RCMP by providing an alternative to the normal recruiting process. The program allowed 115 Aboriginal people who did not meet the regular selection criteria to receive upgrading while providing them with an equal opportunity for employment in the RCMP. The program was cancelled in September 1993, due to fiscal restraints.

The current approach, the Aboriginal Cadet Development Program, is a modified but improved version of the former initiative and operates in a funding partnership between Human Resources Development Canada and the RCMP until 1999. At the conclusion of a three week assessment at the RCMP Training Academy in Regina, Saskatchewan, candidates return to their home division with an outline of individually tailored specific needs and deficiencies which can then be addressed during the developmental process. Candidates have up to two years in which to meet the basic requirements for the regular Cadet Training Program (CTP). Currently, this program focuses on Aboriginal people from the communities which are disadvantaged with emphasis on remote or isolated communities. For example, the RCMP in the Northwest Territories requires Inuit members to address current and anticipated demands from the Nunavut Territory. This year two ACDP assessment troops included about 24 candidates of Inuit ancestry. On September 2, 1997, we were fortunate enough to attend the graduation ceremony of Troop 26, at which four former ACDP Cadets were graduating from Cadet Training. The celebration of this success was also enjoyed by representation from HRDC and the Solicitor General.

The ACDP will continue over the next two years, with an evaluation of the program to follow. Considering that 5% participation rate of Aboriginal members in the RCMP has been achieved, a smaller version of the ACDP may be all that is necessary in the future. The outcome of the program to date is as follows:

- Total number of ACDP cadets since 1995: 207
- Graduated from the RCMP Academy at Depot Division: 81
- Currently in Basic Recruit Training: 3
- Currently on Program: 74
- Released for various reasons: 49

C. RCMP Aboriginal Youth Training Program (AYTP)

The Aboriginal Youth Training Program was initiated in the summer of 1993 by the RCMP and the Federation of Saskatchewan Indian Nations (FSIN). The program is the police version of the very successful "Bold Eagle Program" sponsored by the Canadian Armed Forces and the FSIN.

In the first year, the Aboriginal Youth Training Program provided summer employment for 25 First Nations youths from the four Western Provinces. The program was expanded in 1994 to include Aboriginal youth (First Nations, Metis and Inuit) from across Canada and, since its creation, a total of 144 youths have found summer employment with the RCMP. Subsequent to their experience, the majority of the participants have expressed their interest in applying for a position with the RCMP and several have succeeded in securing permanent employment since. Many others have decided to pursue a career in other justice related areas, including other police services. This program has been labelled a great success by the FSIN, families of the participants and by RCMP members. The program is seventeen weeks in duration and begins in early May, with three weeks of introduction to basic cadet training at the RCMP Training Academy, Depot Division, in Regina, Saskatchewan. It is followed by fourteen additional weeks of ride-along and mentoring at a detachment near the candidates' residence. The youths are under the direct supervision and guidance of a regular member of the RCMP.

The aim of the program is to assist the youth in developing discipline, confidence, self-esteem, team-work concept and adjustment to the non-Aboriginal environment through their participation in an RCMP basic cadet training program by:

- preparing Aboriginal youth mentally and physically to complete an introduction to basic cadet training followed by detachment familiarization,
 - building and enhancing self-esteem by integrating Aboriginal culture into the program,
 - creating an awareness and interest in Aboriginal youth to pursue careers in the RCMP/other police services, justice-related fields or the general work force, and,
 - enhancing and encouraging Aboriginal students' participation in the continuing education process.

The RCMP Aboriginal Youth Training Program is an invaluable means of determining suitability for permanent employment of successful individuals. Candidates recommended by the community and hired through this program will receive training and information that will benefit their search for career opportunities, not only with the police but in other justice-related fields. We have, however, seen a healthy number (approximately twenty-five) of these candidates graduate into the ACDP Program or regular recruiting route.

Funding is an annual challenge, with Department of Indian Affairs and Northern Development being the major funding source, and the only source in 1997. We are currently attempting to secure a two year funding block by preparing a proposal and seeking funding commitments. If our proposal is successful, we hope to provide summer employment for up to 96 Aboriginal young people over a 2-year period.

II. RCMP COMMUNITY SUICIDE INTERVENTION PROGRAM

The award-winning RCMP Suicide Intervention Program was developed to confront the problem of suicide which is devastating many communities across Canada. The framework of the workshop is a flexible five-day program which takes a community-based approach to suicide intervention by linking existing national training resources to people and organizations at the community level. The program began its fourth year of operation on April 1, 1998. At present, over 1000 people have been trained in forty workshops. Upcoming workshop sites include: Fort McMurray, Alberta, Indian Brook, Nova Scotia and Terrace, British Columbia. The major partner for this life-saving initiative is the National Crime Prevention Council.

It has been found that the existing suicide prevention program is not suitable for young people. Yet teen suicide is prevalent in our society, and especially in Aboriginal communities. If funding is obtained through the Treasury Board, a program suitable for young people will be developed.

Commissioner's National Aboriginal Advisory Committee (CNAAC)

The Commissioner's National Aboriginal Advisory Committee is composed of thirteen Aboriginal people who meet with the Commissioner and senior management of the RCMP twice a year. Also, the committee takes the opportunity to meet and discuss significant issues and concerns with RCMP Aboriginal members from the division which hosts the meeting. The committee makes recommendations to the Commissioner, which can result in the RCMP being tasked with taking specific actions, e.g., Focus Group meetings with Aboriginal members. Focus groups have been held in both Edmonton and Halifax.

The mandate of the CNACC is as follows:

The Advisory Committee to the Commissioner of the Royal Canadian Mounted Police on Aboriginal Issues will provide a forum for the continuing discussion of recruiting, training and community relations with respect to Aboriginal people, intercultural relations and other related matters which may emerge from time to time.⁷

In 1996, the committee met at Alexis First Nation, Alberta and in Lennox Island, Prince Edward Island. It held its meeting again in May 1997 at Happy Valley-Goose Bay, Labrador. Additional meetings took place at Depot Division on December 8 to 10, 1997 and again from September 28 to 30, 1998.

^{7.} CNAC Mandate Statement, 95-08-11.

Further to this liaison effort, it has been recognized that we must engage in interactions with young Aboriginal people at every opportunity. As a result, the RCMP has committed to:

- participate in workshops and conferences with young people; and
- attend career and educational symposiums.

III. COMMUNITY POLICING

The organizational philosophy of quality service delivery through community policing was adopted by the RCMP in 1989. Community policing relies on the application of modern management principles. It involves decentralization, empowerment and decision-making at the service-delivery level, risk management, client consultation and mobilization of community resources to supplement the role of the police. It is a partnership between the police and the communities, sharing the delivery of police services, quite often by establishing Community Consultative Groups in as many detachments as possible. Every RCMP cadet is required to learn *CAPRA* (identifying Clients, Acquiring and Analyzing information, developing Partnerships, Response and Assessment) and apply the five stages of the problem solving model based on community policing, before they graduate from the Depot. As well, every RCMP member is required to demonstrate the application of community policing principles in their own work in order to qualify for promotion to the next level.

IV. ABORIGINAL JUSTICE INITIATIVE (RCMP RESTORATIVE JUSTICE INITIATIVE)

In partnership with the Department of Justice, the RCMP has embarked on a five year initiative to facilitate *restorative justice* in aboriginal communities in Canada. The goal is to develop ways to return the responsibility for the administration of justice to First Nations, Metis and Inuit communities.

Restorative justice is an alternative approach to dealing with crime, embodied in a set of principles that focuses on the offending action as a problem experienced by and to be resolved by the community of impact, including the victim(s), the offender(s) and their family members and friends. The emphasis is on healing of the victim, healing and reintegration of the offender, and restoring harmony in the community through the offender taking active responsibility for the offence and, more importantly, for undoing as much as possible, the material and psychological damages caused by the offence.

One of the strategies advocated under the rubric of restorative justice is Family Group Conferencing or the Community Justice Forums (CJF). CJF, as the RCMP calls it, is a form of *restorative justice* that represents a new way of thinking for the police, the courts, corrections, and for communities themselves, and implies a large systemic change in the entire legal/correctional arena. It is one of the most valuable methods for community policing that views communities as true partners in solving their own problems, and empowers them to do it effectively. The *community* controls both the

process and its outcome, in partnership with the professionals — the police, a trained community member or a social worker, providing guidance and facilitating the process.

The current criminal approach, by contrast, focuses on legal experts determining the "guilt v. innocence" of the accused person in a formal process that most often discourages an offender from being honest and taking responsibility for the offence or the harmful action. The community that includes the offender, the victim and their friends and families, usually plays a passive role in the process, experiencing very little control over either the process or its outcome. This court-based conventional approach *punishes* the offender for the crime, rarely achieves the goal of "correcting" the offender's undesirable behaviour with a view to his/her successful *reintegration* into the community and *rarely considers or satisfies* the needs of victim(s).

In early 1996, a Canadian delegation, including a Director of the RCMP and was led by the Department of Justice, visited Australia and New Zealand to learn first hand about Family Group Conferencing. Discussions with key people in other RCMP directorates, federal and provincial departments (Departments of Justice, Indian Affairs and Northern Development), leaders of Indian Nations, and international contacts took place over a period of one year. These meetings culminated in the RCMP's invitation to trainers from Transitional Justice Australia to provide training sessions held in Regina in January 1997. A large number of participants, that included both RCMP officers and community members, were trained to train others in conducting Family Group Conferences. Around the same time, two joint school/police pilot training sessions were also held in Surrey, British Columbia and Edmonton, Alberta.

The RCMP has adopted the CJF as a pre-charge mechanism for achieving justice and has made a decision to train community members, members of other police forces and school authorities to conduct CJFs, specifically as a way of empowering the community — a major goal of community policing. In his directional statement (1998), the Commissioner stated:

[...] we are committed to championing restorative justice, particularly through Community Justice Forums.

The RCMP has been encouraging all detachment members across the country to use their discretion not to lay criminal charges, and choose restorative justice as a preferred option in appropriate circumstances, rather than routinely resorting to a complex legal process which is bureaucratic, cumbersome, expensive, time consuming and often not beneficial to either victims or offenders. Currently, CJFs are being successfully used for youth (and sometimes adults) in conflict with the law in many RCMP jurisdictions including Prince Edward Island, Nova Scotia, the Northwest Territories, Manitoba, Alberta and British Columbia. It should be noted, that CJFs are applicable to offenders of any age group — thus, avoiding some of the problems peace officers encounter in relation to the *Young Offenders Act*, 8 which does not apply to offenders under the age of

^{8.} Young Offenders Act, R.S.C. 1985, c. Y-1.

12. In fact, a major focus of CJFs is to deal with young offenders, in the hope of minimizing the possibility of a future criminal life-style when they reach adulthood.

This new way of handling offending behaviours was seen by all key players as a natural extension of the *Aboriginal Justice Initiative* launched by the Federal Department of Justice in 1991. The mandate of the *Aboriginal Justice Initiative* is, in consultation with Aboriginal communities, to find ways for Aboriginal peoples to be able to administer justice in their communities. Although the introduction of restorative justice process in the Canadian justice system is a relatively recent phenomenon, Aboriginal justice traditions in Canada date back thousands of years. However, with the co-operation of the provincial authorities, efforts have already begun to extend the CJF approach beyond aboriginal communities to the mainstream. An interdepartmental working group was established for this purpose. Partners included provincial departments of the Attorney General, Department of Justice, Solicitor General, Corrections, Parole Board and The Church Council on Justice and Corrections.

The current Liberal Government of Canada has emphasized in its "Red Book" (i.e., policy declaration) the importance of improving services to the youth as one of its highest priorities. Successive Ministers of Justice, including the former Minister of Justice, the Honourable Allan Rock, the current Minister of Justice, the Honourable Anne McLellan, and the current Solicitor General, the Honourable Andrew Scott, are strong proponents of alternative measures.

Next steps include restorative justice demonstration projects (similar to the RCMP's community policing demonstration projects) to be implemented in various Aboriginal communities. The RCMP plans to bring the restorative justice approach beyond Aboriginal communities to the mainstream as well. Towards this objective, two day-long information sessions were held for the Depot instructors in Regina in October 1998. Several presenters, e.g., the Director of Community, Contract and Aboriginal Policing Services, the Officer-in-Charge of Learning and Development, a Crown Attorney and a RCMP Superintendent from Alberta, two researchers and two trainer/facilitators provided information on restorative justice from their unique perspectives. Approximately 70 instructors attended the two sessions to attain an in-depth understanding of the concept of restorative justice, the RCMP's senior management position on the utilization of this concept in policing, what the RCMP has achieved so far with this initiative, how this approach relates to community policing, the extent of facilitators' and clients' satisfaction with the CJF and specifically, how the graduating cadets can apply this approach in performing their day-to-day work. The RCMP is also interested in hosting a national symposium on Restorative Justice tentatively scheduled to be held in the spring of 1999. It is now in the planning stage.

The RCMP has recently completed an evaluation of its "Train the Trainer" workshops (held in January 1997) for implementing and expanding its restorative justice initiative. The results of this evaluation indicated that they have, indeed, been highly effective. They demonstrated that a large number (thirty out of fifty) of individuals who attended the "Train the Trainers" workshops have been actually training others across the country. Even based on a conservative estimate, we can say that, to date, (by the end of August 1998) approximately a total of approximately 1,700 individuals have been trained to conduct CJF sessions, in more than sixty-seven workshops at forty-eight geographical

locations across Canada (even without taking into consideration the specific venues within these locations), in collaboration with at least twenty-nine organizations and numerous communities. Members of other Canadian police forces such as the Edmonton City Police, Winnipeg City Police, Waterloo-Kitchener Regional Police and the Ontario Provincial Police (in Lanark county) have also been trained by the RCMP as part of this initiative. Almost all respondents strongly believe in the effectiveness of the CJF process in improving the Canadian justice system, and in their own competence as trainers. Most of them also feel that they have the supervisory or organizational support behind them. Additional training workshops are being held every month in various locations across Canada. The offenders who have participated in CJFs are mostly from the 14 to 19 years age group, followed by 12 to 14 year-olds, with some offenders being as young as 8, or as old as 50 plus. The types of offences dealt with through CJFs have a wide range, but the most common are theft, assault, break and enter, vandalism, harassment and public mischief.

Currently, data are being collected from victims, offenders and their family and friends through individual confidential interviews, to examine the extent of their satisfaction with the fairness of the CJF process and of the outcome, the timeliness of the CJF, the sense of justice and closure attained, and also, their willingness to choose between the conventional legal system and the CJF process, if they had to do it over again. Preliminary findings indicate overwhelmingly positive support for the CJF by those who have directly experienced the process. Almost all participants representing all perspectives (i.e, victims, offenders and their supporters) reported a high degree of overall satisfaction with the CJF, endorsed the fairness of the process and the outcome (the agreement reached) to a great extent, reported that the CJF was held within two to four weeks following the incident, that justice was done, that they had attained a sense of closure, and that given a choice, they would most definitely choose the CJF over the conventional legal system. The only exception, a fifteen year-old offender, indicated that he would rather choose the court because it would most probably dismiss the case and would be more lenient on him, thus providing evidence contrary to the popular assumption that CJFs are "soft on crime." Most participants also suggested that the CJF process should be made available to all first/second time offenders regardless of their age, with the exception of crimes involving public safety and physical injuries.

V. ABORIGINAL ISSUES — PROACTIVE PLANNING FOR THE FUTURE

This conference took place in Ottawa, in March 1996. It provided a forum for approximately eighty peace officers from the RCMP, Ottawa Provincial Police, Sûreté du Québec, city police departments, and Aboriginal police departments from across Canada, to share relevant information and discuss major confrontations of the past. Two suggestions made at the conference were the training of thirty Aboriginal members in hostage negotiation (as of now, twenty-four have been trained in Edmonton, Alberta), and the commitment to hold a national Aboriginal Peace Officers' conference in Alberta, in 1998. At present (September 1998), the RCMP in Alberta is holding this conference called the "Heartbeat of a Nation." In addition to the Hostage Negotiators' course, a Members' Assistance Program (MAP) course for Aboriginal members has been held in Regina. It was also decided that all hostage negotiators will receive Suicide Intervention training.

CONCLUSION

In conclusion, there is sufficient reason to believe that the RCMP has taken significant steps in the right direction. By undertaking major long-term organization-wide initiatives to meet the needs of Aboriginal peoples within the framework of the Aboriginal Justice perspective, it has provided much-needed leadership towards making a positive difference in the Canadian society. Above all, in the true spirit of community policing, it has been successful in providing the kind of service that the Canadian communities genuinely seem to appreciate.