Reconstituting Social Order and Social Control: Police Accountability in Canada

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Despite the important role which the police play in the reproduction of social order, there is a lacuna in critical criminological literature on the policing of democratic societies. As a consequence, the mistaken impression is fostered that policing in Canada is not problematic. This paper challenges this view, documenting the extent of police malpractice and raising the question of the need for police accountability. Within this context the authors discuss three forms which police accountability has historically taken : judicial inquiry, community police monitoring groups, and consultative liaison panels. One problem which the authors note is the way in which all three models depend upon the police for information about the nature of crime and policing, making them susceptible to dominant discourses about policing. Thus they continue by discussing the left realist model as potentially a fourth model. This form of police accountability emerged in Britain during the 1980s and is characterized by the production of an alternative discourse on crime and police practices based on locally conducted and controlled victimization surveys. The extent to which this practice of police accountability might be relevant to the Canadian context remains yet to be explored. The authors note in closing, however, that this is an empirical and not a theoretical question, meaning that Canadian criminologists must become more practical and less academic in their discourses of social control.

"A riot is at bottom the language of the unheard"
(Revd. Martin Luther King, 1967)

Introduction

Central to the conception of social order in contemporary society are the different aspects of organized state practices which are generally referred to as agencies of social control. The enforcement branch of the state, and particularly the police, represents the single most important agency responsible for the reproduction of social order. When one considers the breadth of literature pertaining to criminal justice specifically, and the administration of justice generally, however, it is clear that the policing role is a political one and the social order which this institution serves to reproduce is generally defined within a discourse which is not public in nature. In short, there is little room within policing discourse for public conceptions of social order, how it is constituted, or how it should be reproduced. In Canada, it would seem that the reproduction of social order is often left to the 'experts' whose role is not simply to reproduce order but also to produce public acceptance of this expert status and the organized set of practices associated with it.

In this paper we briefly review the scarce critical literature on police in Canadian society. It will be argued that the inattention given to policing by Canadian critical criminology is problematic for two reasons. This lacuna fosters the mistaken impression that policing is not problematic despite the fact that the Canadian policing institution is plagued with malpractice and scandal which can only be resolved by effective police accountability. From this perspective, we begin by assessing the need for police accountability. Following this, we review three models of police accountability with the aim of determining which model might be the most appropriate for Canada. Here it is argued that none of the three traditional forms are promising and for this reason we identify a fourth model *which appears to have some potential* — the left realist model as advanced in Britain. However, in conclusion we note that because the left realist model is a practical one, its success demands that critical criminologists become more practical and less academic in their discourse of social control.

REVIEW OF THE LITERATURE

Most literature on police in society, whether North American or British, tends to classify the function of policing into two broad categories, each of which contributes to the reproduction of order in society. ***Crime control*** is that aspect of police work which deals with instances of criminal infractions and might involve both reactive policing — in which the police respond to crime as it comes to their attention — and pro-active policing — in which specific practices contribute to crime prevention before it occurs. ***Public order*** refers to a variety of civil and political processes which might threaten the established order. Police might be found at political rallies which are voicing dissent, or they may be found surveilling a variety of political and quasi-political organizations such as the labour movement, the peace movement and the environmental movement under the assertion that these organizations present a threat to the public order (*i.e.* in that they wish to change it somehow). Thus progressive organizations tend to be watched more closely by police simply because they desire a change in the *status quo*. Alternatively, as Fleming (1981, 1983) illustrates, the targeting of specific marginal groups in Canadian society for focused policing is often the product of police intolerance masquerading as concern for public order.

While policing as crime control has a number of potentials for abuse of power and unfair policing of the community, public order policing presents the greatest threat to the suspension of democratic civil liberties, and it can easily be seen how the police might be used by their political superiors to stem the tide of legitimate political opposition. A good example of the police breaching the law for such purposes occurred in Québec in the aftermath of the October Crisis, during which both federal and municipal police broke into offices and stole computer tapes containing the membership lists of the Parti Québécois (Dion, 1982).

One difficulty associated with the conception of police as agents of public order is that the guidelines are blurred between what constitutes legitimate political dissent as opposed to a threat to the rule of law in a democracy. Brown (1991) outlines numerous scandals which have surrounded the deployment of RCMP agents for purposes of surveilling certain populations, and the continuous infractions of civil liberties in which the policing institution has been engaged in Canada. Indeed, the McDonald Inquiry and the Keable Commission were appointed and charged with the task of investigating the extent of RCMP illegalities, and eventually led to the creation of the Canadian Security Intelligence Service (CSIS) (Goff and Reasons, 1986), itself riddled with scandal since its inception. Gorman and McMullan (1987) discuss how the RCMP were used to control the unemployed labour force during the 1930s. They argue that this population posed a political threat to the party in power who used the RCMP to fulfil partisan political objectives.

The question raised by such investigation is "who is responsible for policing the police in a democracy?" In other words, if the police are in part responsible for the reproduction of social order, the question of whose order or order in whose interest must be addressed. Are the police to be seen as an agency who is responsible only to partisan political leadership, or are the police supposed to be performing a non-political role? If the latter, does this mean that the political party in power has no control over the police and, if not, who does? If political supervision of the police invites partisan manipulation, does this mean that the judiciary is the only agency capable of assuring that policing is done fairly and not in the interests of a particular political or social group? If the courts are the only agency capable of monitoring policing, then it must also be the case that they cannot do so adequately since it is only during or at the conclusion of a policing crisis that the courts become involved. There is no real structure within the administration of justice which ensures fair and non-partisan policing in our society. All of these questions have been repeatedly debated at length in the House of Commons and the Provincial Legislatures. If there is a fine line between public safety and the suspension of the civil liberties boasted by democratic social formations, there is no single issue of greater importance than the democratic accountability of the police to the public they serve as insurance against that line being breached. For purposes of this discussion, then, police accountability can be defined as a process by which fair and non-partisan policing is ensured by a structure which allows democratic control over policing practices. The police are open to full public scrutiny by the communities they serve. Sometimes, accountability might be direct, at others indirect in that the police are accountable to representatives of the community. Sometimes accountability might mean investigations *after* alleged police malpractice, at other times it might mean prevention of such instances before they occur. Accountability, therefore, is what distinguishes democratic social formations from police states.

Despite the importance of police accountability, there is a curious lacuna of criminological discourse which critically examines the contemporary policing institution in Canada. There has been some critical research; however, this has been largely restricted to the RCMP, and usually conducted by authors who would not identify themselves as criminologists. Labour historians Brown and Brown (1973) have produced the most total historical examination of the formation and deployment of the RCMP in Canada. Dion (1982) and Pelletier (1971), both journalists, have produced detailed critical assessments of the 'October Crisis' and the 'Mountygate' scandal which followed. Another journalist, Richard Fidler (1978), has analyzed the role of the RCMP as guardians of public order and places the RCMP into the camp of *agents provocateurs* in what he calls "Ottawa's Secret War on Democratic Rights." Except for a small number of academic papers in scholarly journals such as those by Taylor (1986) and Brogden (1990), the RCMP have gone largely unnoticed by Canadian criminologists who have elected to direct their attention more towards the correctional enterprise in Canada and the formation and interpretation of the law. To the extent that there has been a critical discourse surrounding the police, it remains a discourse largely about biases in law enforcement which have their basis in the wide degree of discretion that the police enjoy in enforcing the law. For example, in his anthology, Shearing (1981) attempts to illustrate that police deviance is structural in nature and must be understood within the socio-political reality of police work.

If the RCMP have received comparatively little attention by critical criminologists, local and municipal police forces have received even less. One exception to this is Ericson (1981, 1982) and Ericson and Baranek (1984) whose studies of the Metropolitan Toronto Police Force and its objects of policing practices is unparalleled in Canadian critical criminology. Also, Stenning (1981) examines the history and structure of municipal police boards and discusses the relationship between these and democratic accountability of the police, while Lowman (1990) investigates local policing practices in relation to Vancouver prostitutes and their customers. The significance of this vacuum in critical Canadian discourse is even more striking when one considers that the relationship between the police and the public is jurisdictionally structured. This means that the way in which the relations between the Metropolitan Toronto Police and the residents of the Jane and Finch corridor evolve may be quite different than the way in which community-police relations are constructed in Vancouver's West Point Grey, for example. In short, the nature of community-police relations are geographically, politically and historically specific so that in order to grasp the sociological processes involved in the construction of these relations, criminologists are required to carry out in-depth local studies of the police and the community in which they operate. Nevertheless, local police forces

in Canada have been over-looked in the process of critical criminological scrutiny.

THE NEED FOR POLICE ACCOUNTABILITY IN CANADA

Perhaps even more striking than the absence of critical studies of policing at the local level is the degree of scandal associated with virtually every major metropolitan police force in Canada. In 1988 alone, scandal visited upon the metropolitan police forces in Vancouver, Edmonton, Calgary, Saskatoon, Winnipeg, Toronto, Montréal and a host of smaller cities across Canada. Incidents involved everything from murder to the dismissal of a Deputy Police Commissioner for conduct unbecoming a police officer when he was caught *flagrante delicto* with a prostitute in the back of a police van. Police officers have been involved in the distribution of narcotics, bank robberies, and the murder of their wives, in addition to the rash of slayings which has resulted from the use of excessive force upon arrest. In one example, after being arrested for being unable to pay a taxi fare and for being in possession of a bag of cigarettes, Anthony Griffin, a 19 year old member of Montréal's black community was shot to death by Constable Allan Gosset as he stood "immobilized seven metres away in Station 15 in Notre Dame de Grâce" on November 11, 1987 (Montréal Gazette, Dec, 23, 1987). Although Roland Bourget, Director of the Montréal Urban Community Police Department (MUCPD), at first claimed that there was no racial overtones in the shooting (*ibid*, Nov. 12, 1987), two days later it was discovered that Gosset had severely beaten another black suspect in 1981 for which he was sued by the Quebec Human Rights Commission. The action resulted in an out of court settlement in the amount of $2450.00 (*ibid,* Nov. 13, 1987). Combined with Director Bourget's reluctance to accept the possibility of widespread police malpractices in the MUCPD and the minimal charge of manslaughter in the case, this new knowledge led to a protest march by over 2000 citizens (*ibid*, Nov. 23, 1987).[1] Director Bourget pleaded with the community not to "blame the entire police force" for the Griffin slaying (*ibid*, Nov. 21, 1987) and claimed that despite a few 'rotten apples' "we're doing a good job" (*ibid*, Nov.12, 1987).

The difficulty with the 'bad apple theory' is that it deflects public attention away from institutional practices and individualizes police malpractices (MacLean, 1986). One officer is arrested for an incident which results in widespread public outcry and the appearance that the difficulty is resolved is created when the officer is sanctioned. Despite his reference to a few 'rotten apples', Director Bourget admitted that at the time of the Griffin shooting there were 189 damage suits being faced by the MUCPD for wrongful arrest, brutality or racism (*ibid*, Nov. 12, 1987). At the time that Bourget was making his statement, the Superior Court awarded $14,000 to a deaf and mute 110 pound 17 year old boy who was struck in the head by a police flashlight, had a gun pointed at him, was nearly suffocated, was handcuffed and had his head banged against the police car door frame — a

case of mistaken identity. In all such instances, the MUCPD itself handles the complaints against its own officers, and it is only through lengthy court proceedings that very few complainants are compensated. In 1987 alone the MUCPD had 12 court judgements filed against them for a total of $275,000 in damages, and 49 new suits were launched, demanding a total of $5,389,500 (*ibid*, Dec. 30, 1987). It seems that the only structure of police accountability in Montréal is the already over-burdened court.

In Toronto, community-police relations apear to be worse than in Montréal. The Metropolitan Toronto Police Force has a lengthy history of allegations of police wrongdoing resulting in a series of public inquiries (McMahon and Ericson, 1984). In 1974 Justice Donald R. Morand of the Ontario Supreme Court was appointed as commissioner for the Royal Commission Inquiry into Metropolitan Police Practices (Morand, 1976). A brief analysis of the Morand Commission will help to illustrate the limitations of full judicial inquiry into policing practices.

Although a total of 155 allegations of police brutality were received by the Royal Commission, evidence was heard in only 17 cases which the commissioner felt were representative of all the cases which came to his attention. The conservative pro-police bias of the commission is, perhaps, best illustrated by the introductory discussion of its 1976 report. Here it is stated that in 1975 the Metropolitan Toronto Police made over 94,352 arrests and in addition had approximately 1.2 million other occasions of police-public contacts (Morand, 1976). According to Commissioner Morand:

> The Metropolitan Police Department polices an area of 243 square miles containing approximately 2,700,000 people. There are 3100 miles of roadways. There are approximately 5500 police personnel and 800 civilian employees in the Metropolitan Police Department.
>
> When we compare the number of complaints made to the Royal Commission complaining about excessive use of force with the total number of arrests, it quickly becomes apparent that on a percentage basis the number of complaints are an extremely small percentage. Even that percentage may be reduced when one considers that a substantial number of complaints were without merit. There were undoubtedly however other incidents about which no complaint was made to the Royal Commission. No estimate can be made as to the number of such incidents.
>
> Of course, one occurrence is one too many, but so long as policing is done by human beings dealing with other human beings, perfection will never be achieved... (Morand, 1976:xviii-xix).

In this way, the introduction serves to sensitize the reader to the 'fact' that a certain level of police brutality is inevitable; however, given the magnitude of the task which policing Toronto represents, the few instances of reported brutality remains very low. Thus it might be argued that this Royal Commission attempts to minimize the frequency of police malpractice. Despite its conservative bias, however, the Commission found convincing evidence for, among other things, the systematic use of a mechanical device

used to extract confessions from alleged offenders. In one case, the complainant, Thomas Gordon Henderson, 18, had his apartment door kicked in by police and was subsequently arrested for possession of small quantities of hashish and LSD. He complained not only of excessive force upon arrest, but also of having a mechanics claw used on his nose and genitals by police officers (Morand, 1976). In reviewing the evidence, Commissioner Morand concludes:

> Although it is difficult to believe that conduct such as that alleged by Henderson could occur in this city, I have come to the conclusion that Henderson's allegations concerning the violence and threats made upon him at the police station did, in fact, occur...I am satisfied that the mark on Henderson's penis was consistent with the application of the type of device that he described in evidence...It is with a great deal of regret that I have come to the conclusion that Henderson's allegations concerning his treatment in the police station were true. I am satisfied that Officers Rusk and Jilek placed the vise grips and the claw upon Henderson when he stripped in the police station...The probable purpose of this was to intimidate rather than to injure Henderson. This, of course, far from being a justification (1976:6-7).

Clearly, while the Commissioner was satisfied that such flagrant malpractice did occur, his conclusion is framed within an apologetic discourse which serves to minimize the severity of such behaviour.

In another case, university student, Gary Bain, who had a previous record of stealing a book, was arrested for possession of 3 ounces of marijuana. During the course of his interrogation, Bain made police aware of the location of several other ounces. He complained that in addition to a variety of threats and violence, the police stapled his penis. Commissioner Morand concludes:

> Evidence had been previously given...concerning an allegation...that...he had been threatened with a similar device, which was described as a vise-like chest expander...I am satisfied that there was such a device as described by Bain on the premises and that [the officer] deliberately misled me about it and that the other officers...must have known of its existence...I am satisfied that threats were made to him and that these threats could have and did have no other effect but to terrorize Bain. I am further satisfied that while in the police station, a stapler was applied to Bain's penis...I must reluctantly hold that...Bain was subjected to excessive force and threats of force which were unjustifiable (1976:14-15).

In addition to the evidence for substantiated claims of police brutality, Morand (1976) also finds evidence of false arrests, police cover-ups, false charges laid to mask police malpractice, and collusion between officers to protect each other from critical scrutiny by the courts. It is also important to note here that while the Commission concludes that the extent of police malpractice is not widespread, the Commissioner implies that he would react most strongly to those incidents which might be viewed as the police usurping the authority of the court's most important function, weighing evidence for the purpose of determining guilt:

> I have heard it said that the police feel that they are the last thin line protecting the citizen from the barbarian hordes who wish to destroy society, that they are frustrated in that they make arrests and the courts either render inadequate sentences or let the accused go free...To the extent that his belief is held, police therefore feel it is necessary and justifiable to take the law into their own hands, to decide the question of guilt, and then to administer the punishment...From the statistics quoted elsewhere in this Report, it is obvious that this inference is not true. I am sure that at some time during their careers, police officers feel frustrated when a person they believe to be guilty is acquitted or punished lightly. *It is trite, but deserves to be reiterated, that a policeman's duty is to gather evidence and to submit that evidence to a court of law. It is not for them to determine guilt or innocence, beyond the point of deciding that there is sufficient evidence to lay a charge. It is solely the function of a judge or jury to decide guilt or innocence* (Morand, 1976:122, emphasis ours).

Morand (1976) concludes his report with a series of recommendations for policing reform, one of which is to establish a more effective police complaints procedure and one of which is to involve the community in some form of structure which provides them a participatory role in policing.

Ironically, the Morand inquiry does not investigate complaints raised by women against the police except in one instance which helps to illustrate the masculine bias of both the police and the commission appointed to investigate them. In the Patricia Murphy case (Morand, 1976), four female complainants allege that while out drinking at a tavern one evening, they were verbally molested by a drunken male patron who called them 'dykes' for not succumbing to his unwanted sexual advances. After complaining to the manager unsuccessfully, the four women proceeded to make use of the equipment on a stage provided for "patron entertainment". After singing a "'lesbian-feminist' song set to the tune of 'I enjoy being a girl'", they were asked to leave the premises, a request with which they refused to comply. As a consequence, the four were physically removed by police who arrested them and transported them to the police station. After being released they returned to the tavern where they were once more arrested and taken to the station. It was at this point that they were allegedly assaulted. Morand concludes:

> I am satisfied that on no occasion throughout the evening did the police officers use excessive force. I am further satisfied that the attitude of the four women, particularly Patricia Murphy, was very antagonistic to the police who were only carrying out their duties. It became clear from the evidence that the women considered that they were making a declaration to the public on behalf of homosexuals...It may be that they felt that the management and the police were discriminating against homosexuals...and the police were justified not only in requesting the women to leave but also in forcibly removing them when they refused to leave....The only fault that I find with the conduct of the police is that some of the officers, the identity of whom it is impossible to determine, did use abusive language in addressing the women. This was in response to the abusive language used by the women to the police...this does not excuse the police who should have been professional enough in their approach to maintain a dignified silence and not descend to the level of the people whom they were arresting (1976:70-71).

The above citation clearly indicates both an anti-female and anti-lesbian bias on the part of the Commissioner, who, despite any evidence of 'homosexuality', assumes this to be the sexual pre-disposition of the women. Even if this were a fact, it is irrelevant to the case. Nevertheless, while not formally condoning police behaviour, the Commissioner finds it understandable, given the 'level of people' with which the police must regrettably deal.

The treatment of women as 'offenders' is not the only aspect of 'undignified' policing practice. Recent research points to unsatisfactory police practices when dealing with requests for assistance by victims of crime. The Canadian Urban Victimization Survey (CUVS, 1984:10), for example, notes that 'fear of the police' is a major factor for women who decide not to report an assault. Clark and Lewis (1977:58) found that police officers share general prejudices about appropriate behaviour for women which adversely affects the classification of rape reports, while Gunn and Minch (1988:57) more recently report that police evaluate the validity of women's complaints according to stereotypical notions of how a victim should act. In terms of domestic violence, The Canadian Advisory Council on the Status of Women complains that the police may respond too slowly, fail to act altogether, or respond in a sexist manner. In a well publicized case, the officer involved was quoted as saying "If it had been my house, I would have beaten my wife for the condition it was in" (in MacLeod, 1980:38). In this way, similar to the testimony of alleged offenders, the experiences of victims of crime document the need for police accountability in Canada. In the discussion which follows, we shall evaluate three models by which such police accountability might be constructed.

THREE MODELS OF POLICE ACCOUNTABILITY

From the foregoing, it can be argued that there is sufficient evidence both in terms of incidents of police malpractice and recommendations from judicial inquiries to conclude that some form of police accountability in Canada is needed. Historically, there are three forms in which police accountability has been attempted. The first is through ***judicial inquiry*** such as the Royal Commission discussed at length above. The role of such inquiry has been to isolate on a case by case approach instances in which specific police officers have abused their authority and which ultimately result in a set of recommendations which the judiciary view as being safeguards against future infractions. While these inquiries have been successful in identifying individual cases, they have not been successful in making the police accountable nor have they been successful in eliminating either unfair policing, police abuse of powers, or police racism and sexism. It is this recognition that leads the Morand Inquiry to recommend some form of ***community monitoring group*** which will help to ensure that complaints around policing will be dealt with independently and not covered up through a procedure controlled by those being complained against. The third method

involves some form of ***consultative liaison panel*** in which members of the public, democratically elected to a panel, engage in regular meetings with police personnel in order to ensure that the police are cognizant of community concerns about crime and policing. This latter model can be contrasted with the community monitoring group in that the monitoring group is an adversarial structure while the consultative liaison panel is supposed to operate more as a vehicle of constructive public feedback.[2]

1. JUDICIAL INQUIRIES

The police shootings of two black men in the Metropolitan Toronto area and a native leader in Winnipeg generated the creation of two recent judicial inquiries, the mandates of which were to examine how the police and courts treat visible minorities: ***The Race Relations and Policing Task Force*** (Lewis *et al.*, 1989a) and the ***Manitoba Native Justice Inquiry*** (Calgary Herald, August 22, 1989). A brief overview of these investigations is provided in the discussion that follows.

A. THE RACE RELATIONS AND POLICING TASK FORCE

On December 1988, two black men, Lester Donaldson and Michael Wade Lawson, were killed in separate incidents by police officers from different departments in the Metropolitan Toronto area. These slayings caused a major breakdown in relations between visible minorities and the police. In fact, they led to what one person viewed as "an atmosphere of mutual mistrust and pessimism" (Lewis *et al.*, 1989a: 3). In response to this crisis, Joan Smith, Solicitor General of Ontario, announced the creation of the Race Relations and Policing Task Force on December 13, 1988.

On December 15, 1988, Smith told the Legislature that the Task Force was required to study and report on six specific issues:

1. The training members of police forces currently receive as it relates to visible minorities.
2. Ways to improve this training and education, for both recruits and serving officers.
3. Police hiring practices and promotional processes, including the establishment of employment equity programs.
4. Ways to improve the interaction of the police with the visible minority communities through the establishment of liaison officers, committees, community education programs and race relations training.
5. Ways in which a monitoring system may be established to provide a regular review of the interaction between visible minorities and the police.
6. The policies and practices of the police relating to the use of force (Lewis *et al.*, 1989b: 4).

The data reported in this study came from several sources. Firstly, 118 oral presentations were submitted by individual citizens, members of community groups, and representatives from police forces and commissions to public hearings in Toronto, Ottawa, Windsor, and Thunder Bay. In addition, 127

written briefs were submitted (Lewis *et al.*, 1989b: 4). Secondly, information was gleaned from 121 police forces. In total, ninety-nine questionnaires and "private information gathering sessions" with members of the Ontario Police College, the C.O. Bick Police College, the Firearms Branch of both the Centre of Forensic Sciences and the Metropolitan Toronto Police, and private consultants were completed. Thirdly, a computer-assisted review of relevant literature was conducted. Finally, a review of previous reports and recommendations made to the government was also carried out (Lewis *et al.*, 1989a: 4-5).

In the summary of their report, the Task Force stated it was convinced that:

> ...visible minority communities do not believe that they are policed in the same manner as the mainstream, white community. They do not believe that they are policed fairly, and they made a strong case for their view which cannot be ignored (Lewis *et al.*, 1989a: 5-6).

Black youths reported being both physically and verbally abused by police officers, while another example of racist policing practices was the differential policing response to victims of domestic assault. In responding to battered women, some officers gave lesser assistance to women of colour than to their white counterparts (1989a: 153-154).

To alleviate these and other related problems, 57 recommendations were presented to the Solicitor General. While it is beyond the scope of this paper to produce an exhaustive listing, the following were among the most important:

1. The development, by statute, the Ontario Race Relations and Policing Review Board consisting of three to five civilians.
2. Mandatory employment equity programs for all Ontario police forces.
3. Race relations training for police.
4. Legal restrictions on the use of deadly force and civilian members of police shooting investigation teams.
5. The inclusion of definitions of and sanctions for racism in the *Police Act.*
6. The formation of community policing and community consultation committees representative of various ethnic groups.
7. A study of native justice systems in Ontario (Lewis *et al.*, 1989b: 10-27).

The above recommendations are the result of an intensive investigation which yields such compelling evidence of rampant institutional racism that a new police act for the province of Ontario was drafted. Nevertheless, at the time of writing, the new act has been delayed in the legislature, and it is doubtful that the recommendations of the Lewis report will be operationalized in the near future. Perhaps, the recent incident of yet another black youth shot by a Metropolitan Police Constable is sufficient evidence to support our pessimistic view that this form of accountability is of limited practical utility.

Another reason for our skepticism is that recent examples of police racism are not limited to Ontario where there is a lengthy history of strained community-police relations. Minority residents in western Canadian provinces, such as Manitoba, are victims of brutality, verbal abuse, and the deadly use of force. Native people are at greater risk for being victimized by such malpractice and a recent inquiry held in Winnipeg substantiates this assertion.

B. THE MANITOBA NATIVE JUSTICE INQUIRY

Consistent with the catalyst for the creation of the Race Relations and Policing Task Force in Ontario, the March 9, 1988 police shooting of a native leader, J.J. Harper, in Winnipeg contributed to the commissioning of the Manitoba Native Justice inquiry which examined the treatment of natives by the justice system. Even though Constable Robert Cross mistook Harper for a car thief, he was cleared of any misconduct by an internal police investigation and an inquest into Harper's slaying (Canadian Press, Nov. 6, 1989). Consequently, Manitoba's native community reacted with anger, allegations of racism, and demands for a public inquiry.

The Inquiry is also, in part, a reaction to native outrage with the response of the Manitoba criminal justice system to the sexual assault and murder of Helen Betty Osborne which occurred in The Pas, Manitoba during 1971. Four men killed her; however, only one, Dwayne Archie Johnston, was convicted of second-degree murder, and then in 1987 — some 16 years later (Canadian Press, Nov. 6, 1989).

The Inquiry began in the fall of 1988 and ended on Wednesday, November 22, 1989. Seven hundred hours of testimony from 1,050 witnesses were heard and 21,000 pages of transcripts were produced. The final report has not been released, and while it is expected in the near future, its contents have not been divulged. However, during the Inquiry, a four-page suicide note written by Inspector Ken Dowson, the officer in charge of the internal police investigation into the murder of Harper, reveals that the police conducted a sloppy investigation. Judges heading the Inquiry have intimated that they will call for a separate justice system for Manitoba's native community (Canadian Press, Nov. 23, 1989).

These two inquiries help to illustrate the limitations of this model of accountability. Firstly, inquiries are generally commissioned only after a policing crisis has emerged. In this sense they are at best reactive and more concerned with political damage control than progressive social change. Secondly, to the extent that these inquiries have attempted to provide pro-active and progressive changes in the form of recommendations, if taken seriously, such recommendations often take years to implement. In the meantime, as the case of Toronto illustrates, more crises emerge and various segments of the community become disgruntled and further alienated. These inquiries are not good value for limited community resources. They are

conducted at a considerable expense; however, even when serious attempts to interview a broad cross-section of the community are made, they result in far too few briefs and testimonies to generalize to the population at large. Nevertheless, the reports of judicial inquiries do make such generalizations, contributing to the dubiousness of their scientific merit. Finally, as demonstrated by the Morand Inquiry, there is a serious danger that the inquiry will 'descend to the level' of policing discourse. Since it has been demonstrated that discursive policing practices are often sexist, racist and homophobic, adoption of this discourse by a judicial inquiry means that institutionalized biases remain unaddressed.

2. POLICE MONITORING GROUPS

Perhaps the best recent example of such a group stems from the Morand Inquiry and was formed in Toronto in 1981 (McMahon and Ericson, 1984). Ericson (1987) argues that a number of critical incidents in which allegations of police racism were unsuccessfully dealt with by the Police Complaints Board led to the formation of the Citizen's Independent Review of Police Activities (CIRPA), a police watchdog committee consisting of a number of lawyers and concerned citizens in Metropolitan Toronto. In reviewing the history of CIRPA, Ericson suggests that while at first the relationship between CIRPA and the police was quite confrontational, as time passed, CIRPA became sensitized to policing discourse and eventually became more or less co-opted. What started out as a challenge to certain police activities became an agency which facilitated police rationalization of police activities. In this way, rather than engaging in debate with police — a process which might be seen as the clash of two discourses — CIRPA found themselves adopting the policing discourse and thereby accepting the police definition of the situation. The process of co-optation to which Ericson refers is a subtle process through which CIRPA came to debate the issues on terms established by the police. Ericson (1987) concludes that such a process is inevitable for agencies such as CIRPA. Thus it might be argued that police monitoring committees, or watchdog groups such as CIRPA, historically have proven to be ineffective at bringing the police under democratic accountability.

Another contemporary example of this form of police accountability is located in London, England, where during the mid 1980s the Greater London Council (GLC) funded a number of monitoring groups. The mandate of these organizations was: (1) to take up on a case by case approach complaints against the police in an individualistic fashion, (2) to take an adversarial stance *vis à vis* the police in a fashion not dissimilar to what Ericson (1987) and McMahon and Ericson (1984) document in the early stages of CIRPA, and (3) to engage in an education/propaganda campaign which attempted to sensitize the public to the negative aspects of the Metropolitan Police. Figure 1 serves as an of example of the kind of materials which were distributed. It depicts a card produced and widely

Figure 1:
Card Distributed by Police Accountability for Community Enlightenment (P.A.C.E.)

ARRESTED?

GENERAL

DO NOT answer any police questions you have the right to remain silent

DO give your name and address

NOTE the identity of all police officers you deal with.

ALWAYS try to be polite and calm

STOP AND SEARCH

Ask why you have been stopped

If you are asked to go to the Police Station, ask if you are being arrested

The police have the right to search you on reasonable suspicion for drugs, firearms, terrorist articles and stolen goods. If you are searched ask why and try to have an independent witness present. You may be taken to the Police Station to be searched if it cannot be done in the street. This is not an arrest. You may leave the Station afterwards.

TROUBLE WITH THE POLICE? ***263-1075 24 HOURS***

TROUBLE WITH THE POLICE? ***263-1075 24 HOURS***

AT THE POLICE STATION

Apart from giving your name and address, say nothing until a solicitor is present. Ask to make a phone call and keep asking. Do not get drawn into casual conversations. Do not sign any statements or make any admissions before contacting a solicitor.

HOUSE SEARCH

The Police do not need your permission or a warrant to enter your house to arrest a person suspected of a serious offence. They should name the person. In general the police need a warrant before they can search your house for property. If your house is searched ask to see the warrant. You are entitled to demand the reason for the search, but barring their entry could be an offence. Always try to have an independent person to witness the search.

If the Police Bill becomes law, some of these points will not apply. Contact PACE for a new card.

P.A.C.E. Islington Police Monitoring Group

301 Hornsey Road London N19

distributed by Police Accountability for Community Enlightenment (PACE), a monitoring group funded by the GLC. Needless to say, the result of such publications was a concerted counter campaign undertaken by the Central Government, the media and the Metropolitan Police which characterized these groups as anti-police while depicting the members of the GLC as the 'looney left' (MacLean, 1989). While the battle for the control over the image of the police was waged in the public arena, the Thatcher Government quietly passed legislation which eliminated the County Councils in Britain, including the GLC-funded police monitoring groups (Seccombe, 1987). Thus, from the British experience, it would seem that Ericson's pessimism is well founded. Either the monitoring group adopts the policing discourse and is co-opted, as in the case of CIRPA, or they maintain an oppositional discourse which can be legislated away politically, as in the case of the GLC-funded monitoring groups.

Perhaps, one of the contributing factors to the failure of both Judicial Inquiries and community monitoring groups has been their insistence on reviewing police activities in an individualistic case by case fashion. In this reactive manner, every incident which comes to the attention of these structures of accountability can be explained in a variety of ways, so that in the unlikely case that an officer is found to be culpable, his dismissal acts as evidence for the fact that these forms of accountability are working. In this way, the structure and process of policing tends to be ignored, an examination of which is necessary for the achievement of progressive changes to the policing institution.

3. CONSULTATIVE LIAISON PANELS

A third way in which policing can be brought under democratic accountability is through the creation of some form of consultative liaison panel. In this form of accountability, a representative group of community members meets with the police in order to discuss both incidents of police indiscretion and wider policy issues. Examples of the latter might include: police training, the deployment of police resources to specific areas of the community, the split between crime control and public order, police procedures of arrest, race relations and so forth. The difficulty with this approach, however, is similar to that which Ericson (1987) identifies for police monitoring groups. Because the police have the monopoly of knowledge over crime and policing processes, such liaison panels ultimately come under police domination. Police rationalizations for specific policies and practices cannot be easily challenged by such panels because the panel lacks the empirical basis for proper debate. Both the police and the panel are dependent upon police statistics for their description of crime and policing patterns, and as a consequence, the policing discourse, which is directly related to this description, prevails in meetings. Unless such liaison panels can produce an alternative set of empirical information which describes

crime and policing processes, they will also be co-opted into policing discourse.

Unlike judicial inquiries and police monitoring groups, consultative liaison groups are yet to be firmly established in Canada. Thus the extent to which liaison panels equipped with an alternative set of information can be successful is an empirical question and can only be answered as such. However, recent developments in Britain provide some data. After the Brixton riots in 1981, Lord Scarman recommended in his report to Parliament that community liaison panels be established:

> 8.39. Community involvement in the policy and operations of policing is perfectly feasible without undermining the independence of the police or destroying the secrecy of those operations against crime which have to be kept secret. There is a need to devise means of enabling such involvement....I *recommend* that a statutory duty should be imposed on Police authorities and on Chief Officers of Police to co-operate in the establishment of such consultative arrangements. I also *recommend* that meanwhile Police Authorities and Chief Officers of Police should act at once under their existing powers to set up such arrangements...
>
> 8.40. In London, I do not recommend any change in the law substituting some other body fo the Secretary of State as Police Authority. I do, however, *recommend* that a statutory framework be developed to require local; consultation between the Metropolitan Police and the community at Borough or Police District level. The possibility of an Advisory Board or other consultative arrangements between the Home Office, the Commissioner, and the London Boroughs at force level should also be studied (Scarman, 1981:130).

Except in the London Borough of Lambeth, the location of the Brixton riots, the consultative liaison panels recommended by Scarman were optional for the London boroughs. This recommendation was rejected by Labour-controlled inner-city London Boroughs because they believed that consultative liaison was a sham constructed by the Home Office to appease public demand (Christian, 1983) and that they were a front for racism. For example, in a press release produced by the Stoke Newington and Hackney Defence Campaign, the Hackney Council is urged not to adopt consultative liaison, while the public are encouraged to lobby the Council for this purpose:

> The Stoke Newington & Hackney Defence Campaign says that the disgusting racist torturer Newman [Commissioner of The Metropolitan Police] should resign and that one and all should join with us on the 13th [September, 1982] and actively demand of Hackney Council's police committee that they resist Newman's style of 'contact between police and public' and say NO CLOAK FOR THE POLICE TO HIDE THEIR VILE DEEDS!! NO POLICE CONSULTATIVE COMMITTEE IN HACKNEY!!
>
> **CRIME IS NOT THE ISSUE — RACIST POLICING IS**
>
> (unpublished leaflet)

While the police committees of Labour-controlled London Boroughs uniformly decided not to participate in Home Office efforts to construct liaison committees, a different view was taken by The London Borough of Islington Council (LBI) which proceeded to negotiate the composition of such a committee with the Home Office. Under Home Office guidelines adopted directly from Scarman, each borough would separately negotiate the actual structure and representation of the community liaison panels. Due to the mass rejection by other boroughs, Islington succeeded in negotiating a committee which consisted of: 10 elected councillors, no more than 5 senior members of 'N' District of the Metropolitan Police, the 2 Labour MPs from Islington, the 3 local GLC councillors, and no less than 13 members of the community approved by the others[3]. Islington took the initiative to lobby tenants associations and other community organizations to produce a total of 33 members of the committee, the majority of which were sympathetic to the views on policing held by the Islington Council Police Committee (MacLean, 1989). It must be pointed out that the initial position taken by LBI Police Sub-Committee was similar to the other Labour-controlled boroughs, as illustrated in the minutes of the early meetings of the committee:

> The Policy and Programme Planning Officer informed the Sub-Committee the G.L.C. had provided funding for two staff in the financial year 1982/83 and in this connection a sum of £23,000 was proposed to be included as a committed growth item in the 1983/84 Programme Plan.
>
> Members were of the view that some provision should be made for clerical/admin[istrative] support staff for the Police Unit, campaign expenses and for grants to outside bodies such as the Independent Monitoring Group, although it was hoped such groups would also benefit from G.L.C. funding or Partnership Grants.[4]

Thus LBI was not opposed to monitoring groups but felt that the GLC should fund these as well as the committee support staff positions. And on the issue of consultative liaison, the Committee was adamant about having itself recognized by the Home Office as a Consultative Liaison Committee:

> The Sub-Committee noted that the Queen's Speech had included proposals for a statutory consultation framework and therefore any local structure may be short-lived and information available gave little indication as to the level of discretion available to the Commander. Since publication of the Speech, negotiations with the Home Office as to the role of the Islington Police Sub-Committee has ceased.
>
> Members stressed the need to maintain the Sub-Committee so as to be able to develop democratic forms of control over the Police. The Council should not agree to take part in any consultative machinery, other than to discuss normal policing issues.[5]

Thus the Islington Council was not initially unlike other Labour-controlled boroughs in that it rejected the idea of consultation as formulated by the Home Office, and in that it wanted to support the idea of monitoring groups. It did differ from other boroughs, however, by the fact that it did not fund its own committee and in wanting to depend on GLC funding for both staffing and support of police monitoring groups. Unlike the other boroughs, however, this strategy changed considerably. The new strategy can be

attributed to the influence from a left realist position on the utility of liaison as argued by Lea and Young:[6]

> In the absence of proper accountability the newly constituted liaison committees will be in a position of searching ground for significant groupings or representatives of the local community to consult. So, for example, the Home Office guidelines for the constitution of such bodies stipulate that membership should include the local Community Relations Council representatives...Despite the ambiguities of, and police opposition to, Scarman's recommendations for statutory police-community liaison, the police themselves have put a considerable effort into such schemes, particularly in areas like Brixton. This can be seen partly as an attempt to short-circuit the growing campaign of a future Labour government and partly as realization that the drift to military style policing is indeed counter-productive...Under such circumstances, police-community 'liaison' by means of a few representatives drawn from CRCs and local government which at the end of the day leaves policy-making exactly where it was to begin with, firmly in the hands of the police themselves, does nothing to end the political marginalization of the young unemployed. It is hardly surprising, therefore, that the bulk of the local community should see little point in participation in such enterprises and that the police should feel hamstrung by consultation procedures tying them to talks and discussions with local individuals whose representative credentials they regard as highly suspect....This brings us to the second issue. *In our opinion it would be a mistake to try and ignore the police liaison schemes* (1984:249-61, our emphasis).

Thus, while liaison was hardly seen as the solution, it was certainly seen as a step towards a solution and the strategy adopted by LBI was to use the structure as a means to not only strike a committee, the majority of which agreed with council initiatives, but also to provide a public forum for the open discussion of issues. Furthermore, as discussed below, this forum would be the ideal location for the challenge to the crime and policing knowledge held by the police provided by the results of a local crime survey. In short, the Islington Police Sub-Committee successfully out-maneuvered the Home Office in the formation of their Consultative Liaison Committee to the extent that the Home Office, in recognition of this, later amended their guidelines so that no more than 5 councillors from the local governments can be on these committees.[7] With the passing of the *1984 Police and Criminal Evidence Act*, it is now compulsory for all London Boroughs to have these panels, with or without the support of the Local Council (MacLean, 1989). The battle for greater council representation, which was won by Islington in taking an active role in the political developments on the police, has now been lost by other Labour controlled London Boroughs in that these committees will be struck with or without the support of the councils; however, should the councils choose to participate it is with comparatively minimal representation.

In this brief review of models of police accountability, it can be seen that none provide an optimistic potential for achieving meaningful and effective structures of police accountability. In the case of judicial inquiries and police monitoring groups, it has been argued that the tendency is to adopt policing discourse resulting in an *acceptance of* rather than *challenge to* current

policing practices. While the consultative liaison group has potential, its dependency upon police information makes it susceptible to police domination. It is with this insight that in England, where this model has been advanced, local governments failed to endorse such committees. The exception of The London Borough of Islington, however, stands as a marked contrast. Under the influence of a group of realist criminologists, the Council not only endorsed consultative liaison, but did so in combination with a commitment to conducting a program of local crime survey research. These two developments combine to form the left realist model of police accountability which requires our further attention.

THE LEFT REALIST MODEL OF POLICE ACCOUNTABILITY

In addition to their position on consultative liaison, Islington Council can be distinguished from other Labour-controlled London boroughs by their continued commitment to The Islington Crime Survey (ICS, Jones *et al*, 1986). Shortly after the Police Sub-Committee was established in 1982, it went on record as supporting the idea of a large multi-borough criminal victimization survey:

> The Police Support Unit advised members that the Middlesex Polytechnic had begun consultations with local interest groups including tenants associations and women's organizations in conjunction with the Race Relations Unit, on the victimization survey being carried out in the Borough.[8]

Researchers from the Middlesex Polytechnic had engaged five inner-city boroughs in talks aimed at carrying out such a survey in the London Boroughs of Greenwich, Newham, Camden, Hackney and Islington. While the initial response of the Police Committees was favourable, community organizations, again funded by GLC resources, lobbied their councils to vote against the proposed research while demonstrating against the project at council meetings in the various boroughs. Perhaps the strongest criticism was aimed at John Lea and Jock Young who were portrayed as racists due to their analysis of race and crime in ***Policing The Riots*** (Cowell *et al*, 1982). The result of such popular resistance by community organizations was the defeat of the proposed project in all of the boroughs, (Gutzmore, 1983), except Islington which continually reiterated its support by vote at meetings of its Police Sub-Committee. The position which had been taken by Lea and Young on surveys was later published in ***What is to be Done About Law and Order*** (1984):

> On the first issue, some boroughs are going ahead with the idea of a victimization survey conducted by the police committee. This is of considerable importance: it generates an alternative set of statistics about the incidence of crime to the police arrest statistics or statistics for victim-reported crime (much crime is unreported where it is felt that the police could not be bothered anyway). These can be used as part of a public debate about policing needs. Such surveys can also include questions not normally considered relevant by the police, such as the incidence of domestic violence, illegal acts by police officers, and the specific problems of ethnic minorities. The Community

> can then get a clearer picture of what it is facing than it can from the police statistics (1984:261).

Thus Islington was influenced by and committed to a two-pronged strategy of producing alternative statistics via the survey and the use of a liaison committee as the vehicle for making these statistics known, a position directly attributable to the left realist discourse. Since the formation of the liaison committee was already being negotiated, its utility would be severely diminished unless an alternative informational base was constructed, such as that promised by a local crime survey.

It is within the specific political and social milieu of policing and police accountability in England and Wales that the left realist model of police accountability was constructed (MacLean, 1989). More specifically, the left realists at Middlesex Polytechnic were influential in the development of this model; however, the political specificity of LBI, and the discourse in which it was framed was also influential in the construction of left realist discourse (MacLean, 1989.)[9] The product of this relationship was a *discursive practice* which included both a specific structure within which the political struggle with the police was waged, and the literature based upon it. In political conflict with other discursive practices such as that being produced by the GLC discussed above, the left realist discourse won the struggle (Pease, 1990). The result has been a host of local crime survey research funded by local councils (Bottomley, 1988) and used in tandem with consultative liaison panels endorsed by those councils (MacLean and DeKeseredy, 1990).

Despite the specificity of the left realist model of police accountability, the fact that it is a practical discourse means that it has relevance for a variety of local jurisdictions. The extent to which this may be of relevance to the Canadian need for police accountability is discussed in our conclusions which follow.

CONCLUSIONS

In our above discussion we determined that Britain provides an example of a structure of accountability which consists of community liaison panels and information gleaned from large-scale in-depth local crime surveys. Based upon the newly emerging left realist discourse, these panels make use of information from the surveys to challenge the police in the public forum rather than to accept police definitions of crime and policing processes. Left realist discourse is the practical application of discourse theory, Marxist political economy and feminism in the struggle for a more fair administration of justice and construction of social order (Currie *et al*, 1991). In particular, the struggle for democratic accountability of the police was taken up by left realists in England. However, their work provides us with the opportunity to evaluate both the potential effectiveness of police accountability and the potential importance to the Canadian administration of justice of the left

realist model of police accountability. As we have seen, there are two central aspects to this model. Firstly, the formation of community liaison panels is essential to public accountability. Such panels would consist of a representative cross-section of the community, so that changes in the social, racial and demographic character of the community would be reflected in the membership of the committee. The second aspect of the left realist strategy is to provide an alternative set of information derived from probability surveys of the community in which respondents reply to a variety of questions as indicators for crime and policing processes.

In England and Wales, left realism recognized that the Thatcher government was successful in their political agenda on law and order for two important reasons. Firstly, as the current government, they possess a monopoly on the legislative process. But secondly and, perhaps more importantly, they have a monopoly over knowledge of crime and policing. This monopoly is the result of the police having the formal responsibility for creating crime and policing statistics, allowing them to become the experts on the frequency and distribution of crime, and consequently, on the methods of dealing with these trends. Significantly, these statistics become the empirical evidence for the political arguments given by the right in public forum. For this reason the Islington Council was convinced that because the debate was framed in a neo-conservative discourse, it was necessary to generate their own information base which would serve to challenge the monopoly of knowledge and push the debate forward. In this respect, by allowing themselves to be influenced by a left realist position on crime and policing, the strategy followed by the LBI Police Sub-Committee can be distinguished from other Labour-controlled boroughs while the left realist position itself can be seen as being influenced by the concerns of LBI Council. The GLC, on the other hand, largely influenced by what Young (1979) has called the left idealists, promoted a very different strategy which eventually led to their demise. Thus what began as a struggle for dominance between left wing academics in discourse became a practical struggle between government institutions at different levels. The substance of the struggle was academic but the arena for the contest was located in the local government structures, with the ICS a direct and successful product of this struggle.

As a local crime survey, ICS paid considerable attention to measuring all moments in the crimes process, eliminating the sexist and conservative biases of other crime survey research, reducing costs of data collection through proxy interviewing while attempting to cope with the sampling error engendered by such a data collection strategy (MacLean, 1989). In so doing, the ICS became a valuable source of information for the Islington Council in its struggle for police accountability; however, the question still remains *to what extent a similar strategy might be useful within a Canadian context. While a promising alternative, where and how this technology is*

likely to develop depends upon a number of key political and academic questions. For example, how likely is it that local authorities will undertake such research initiatives independently? The recent ***Report of the Race Relations and Policing Task Force in Ontario*** (1989) was an attempt to identify the scope of police racism and to find ways to improve community-police relations, particularly in the minority communities of Metropolitan Toronto. A lengthy and expensive exercise, we have argued that it is doubtful that the findings from this form of judicial review will have much impact upon policing. Perhaps, such a body might greatly benefit from information derived from local crime surveys; however, such a step can only be decided politically and it is for this reason that critical criminologists must become more practically involved in these debates — the basic premise of left realist discourse.

Can a defensible, relatively accurate, alternative source of information be generated by such technology that will assist local councils and local police in Canada in resolving their crime and policing differences to the extent that they exist? To what extent can the descriptive statistics provided by these surveys be of use in explaining crime and policing trends? Finally, can these surveys provide a less politically-biased account of crime and policing trends than other measures of crime? Political or academic, such questions are practical and can only be answered practically. Critical criminology must be distinguished from other criminological discourses by its practice. Critical discourse divorced from critical practice degenerates into mere literary criticism, the value of which is ***a purely scholastic question.*** If the advance represented by left realist discourse and practice is to take root within the Canadian context and assist in the formation of structures for democratic police accountability, then it rests with the critical criminologists to advance such a model within practical political fora at the local level.

ENDNOTES

1. The potential for open rebellious protest in the streets is reminiscent of the gloomy prediction voiced in the King quotation at the beginning of this paper.
2. In the discussion which follows, we necessarily examine each of the three models separately. Clearly, however, at different times and in different places, these might overlap or operate in combination. Our purpose here is to articulate the logic of each model in order to identify the inherent practical limitations of each.
3. Islington Police Sub-Committee minutes of Jan. 8, 1985 (agenda item 12).
4. LBI Police Sub-Committee minutes November 11, 1982 (minute 26).
5. LBI Police Sub-Committee minutes, November, 11, 1982 (minute 28).
6. For a full discussion of the relationship between the Middlesex Group and the LBI see MacLean, 1989.
7. Home Office Guidelines adopted from the 1984 *Police and Criminal Evidence Act.*
8. LBI Police Sub-Committee minutes,November 8, 1984 (Agenda Item 12).
9. For a thorough review of the history of police in England and Wales see Crtichley, 1978; for a good discussion of the politics of policing in England and Wales see Reiner, 1985.

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